

1-1 By: Taylor S.B. No. 1232
 1-2 (In the Senate - Filed March 9, 2021; March 18, 2021, read
 1-3 first time and referred to Committee on Education; May 3, 2021,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 10, Nays 0; May 3, 2021, sent to printer.)

1-6 COMMITTEE VOTE

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

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 1232 By: Taylor

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

1-22 relating to the management and investment of the permanent school
 1-23 fund, including authorizing the creation of the Texas Permanent
 1-24 School Fund Corporation to manage and invest the fund and limiting
 1-25 the authority of the School Land Board to manage and invest the fund
 1-26 if the corporation is created.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 ARTICLE 1. STATE BOARD OF EDUCATION'S MANAGEMENT OF PERMANENT
 1-29 SCHOOL FUND

1-30 SECTION 1.01. Sections 43.001, 43.002, 43.003, 43.0031,
 1-31 43.0032, 43.0033, 43.0034, 43.004, 43.005, 43.0051, 43.006,
 1-32 43.007, 43.009, 43.010, 43.011, 43.012, 43.013, 43.014, 43.015,
 1-33 43.016, 43.017, 43.018, 43.019, and 43.020, Education Code, are
 1-34 redesignated as Subchapter A, Chapter 43, Education Code, and a
 1-35 heading for Subchapter A is added to read as follows:

1-36 SUBCHAPTER A. GENERAL PROVISIONS

1-37 SECTION 1.02. Section 43.001(a), Education Code, is amended
 1-38 to read as follows:

1-39 (a) Except as provided by Subsection (b), the permanent
 1-40 school fund, which is a perpetual endowment for the public schools
 1-41 of this state, consists of:

1-42 (1) all land appropriated for the public schools by
 1-43 the constitution and laws of this state;

1-44 (2) all of the unappropriated public domain remaining
 1-45 in this state, including all land recovered by the state by suit or
 1-46 otherwise except pine forest land as described ~~defined~~ by Section
 1-47 88.111 and property described by Section 12.128;

1-48 (3) all proceeds from the authorized sale of permanent
 1-49 school fund land;

1-50 (4) all proceeds from the lawful sale of any other
 1-51 properties belonging to the permanent school fund;

1-52 (5) all investments authorized by Section 43.003 of
 1-53 assets ~~properties~~ belonging to the permanent school fund; and

1-54 (6) all income from the mineral development of
 1-55 permanent school fund land, including income from mineral
 1-56 development of riverbeds and other submerged land.

1-57 SECTION 1.03. Section 43.003, Education Code, is amended to
 1-58 read as follows:

1-59 Sec. 43.003. INVESTMENT OF PERMANENT SCHOOL FUND. The ~~In~~
 1-60 ~~compliance with this section, the~~ State Board of Education may

2-1 invest the permanent school fund as authorized by Section 5(f),
2-2 Article VII, Texas Constitution [~~in the types of securities, which~~
2-3 ~~must be carefully examined by the State Board of Education and be~~
2-4 ~~found to be safe and proper investments for the fund as specified~~
2-5 ~~below:~~

2-6 [~~(1) securities, bonds, or other obligations issued,~~
2-7 ~~insured, or guaranteed in any manner by the United States~~
2-8 ~~Government or any of its agencies and in bonds issued by this state,~~

2-9 [~~(2) obligations and pledges of The University of~~
2-10 ~~Texas,~~

2-11 [~~(3) corporate bonds, debentures, or obligations of~~
2-12 ~~United States corporations of at least "A" rating,~~

2-13 [~~(4) obligations of United States corporations that~~
2-14 ~~mature in less than one year and are of the highest rating available~~
2-15 ~~at the time of investment,~~

2-16 [~~(5) bonds issued, assumed, or guaranteed by the~~
2-17 ~~Inter-American Development Bank, the International Bank of~~
2-18 ~~Reconstruction and Development (the World Bank), the African~~
2-19 ~~Development Bank, the Asian Development Bank, and the International~~
2-20 ~~Finance Corporation,~~

2-21 [~~(6) bonds of counties, school districts,~~
2-22 ~~municipalities, road precincts, drainage, irrigation, navigation,~~
2-23 ~~and levee districts in this state, subject to the following~~
2-24 ~~requirements:~~

2-25 [~~(A) the securities, before purchase, must have~~
2-26 ~~been diligently investigated by the attorney general both as to~~
2-27 ~~form and as to legal compliance with applicable laws,~~

2-28 [~~(B) the attorney general's certificate of~~
2-29 ~~validity procured by the party offering the bonds, obligations, or~~
2-30 ~~pledges must accompany the securities when they are submitted for~~
2-31 ~~registration to the comptroller, who must preserve the~~
2-32 ~~certificates,~~

2-33 [~~(C) the public securities, if purchased, and~~
2-34 ~~when certified and registered as specified under Paragraph (B), are~~
2-35 ~~incontestable unless issued fraudulently or in violation of a~~
2-36 ~~constitutional limitation, and the certificates of the attorney~~
2-37 ~~general are prima facie evidence of the validity of the bonds and~~
2-38 ~~bond coupons, and~~

2-39 [~~(D) after the issuing political subdivision has~~
2-40 ~~received the proceeds from the sales of the securities, the issuing~~
2-41 ~~agency is estopped to deny their validity, and the securities are~~
2-42 ~~valid and binding obligations,~~

2-43 [~~(7) preferred stocks and common stocks that the State~~
2-44 ~~Board of Education considers proper investments for the permanent~~
2-45 ~~school fund, subject to the following requirements:~~

2-46 [~~(A) in making all of those investments, the~~
2-47 ~~State Board of Education shall exercise the judgment and care under~~
2-48 ~~the circumstances then prevailing that persons of ordinary~~
2-49 ~~prudence, discretion, and intelligence exercise in the management~~
2-50 ~~of their own affairs, not in regard to speculation but in regard to~~
2-51 ~~the permanent disposition of their funds, considering the probable~~
2-52 ~~income as well as the probable safety of their capital,~~

2-53 [~~(B) the company issuing the stock must be~~
2-54 ~~incorporated in the United States, and the stocks must have paid~~
2-55 ~~dividends for five consecutive years or longer immediately before~~
2-56 ~~the date of purchase and the stocks, except for bank stocks and~~
2-57 ~~insurance stocks, must be listed on an exchange registered with the~~
2-58 ~~Securities and Exchange Commission or its successors, and~~

2-59 [~~(C) not more than one percent of the permanent~~
2-60 ~~school fund may be invested in stock issued by one corporation and~~
2-61 ~~not more than five percent of the voting stock of any one~~
2-62 ~~corporation will be owned, and~~

2-63 [~~(8) notwithstanding any other law or provision of~~
2-64 ~~this code, first lien real estate mortgage securities insured by~~
2-65 ~~the Federal Housing Administration under the National Housing Act~~
2-66 ~~of the United States, or in any other first lien real estate~~
2-67 ~~mortgage securities guaranteed in whole or in part by the United~~
2-68 ~~States].~~

2-69 SECTION 1.04. Section 43.0033, Education Code, is amended

3-1 to read as follows:

3-2 Sec. 43.0033. REPORTS OF EXPENDITURES. A consultant,

3-3 advisor, broker, or other person providing services to the State

3-4 Board of Education relating to the management and investment of the

3-5 permanent school fund shall file with the board regularly, as

3-6 determined by the board, a report that describes in detail any

3-7 expenditure of more than \$50 made by the person on behalf of:

3-8 (1) a member of the board;

3-9 (2) the commissioner; or

3-10 (3) an employee of the agency [~~or of a nonprofit~~

3-11 ~~corporation created under Section 43.006~~].

3-12 SECTION 1.05. Section 43.006(a), Education Code, is amended

3-13 to read as follows:

3-14 (a) The State Board of Education may delegate investment

3-15 authority for the investment of the permanent school fund to the

3-16 Texas Permanent School Fund Corporation as provided by Subchapter B

3-17 [~~same extent as an institution with respect to an institutional~~

3-18 ~~fund under Chapter 163, Property Code~~].

3-19 SECTION 1.06. Chapter 43, Education Code, is amended by

3-20 adding Subchapter B to read as follows:

3-21 SUBCHAPTER B. TEXAS PERMANENT SCHOOL FUND CORPORATION

3-22 Sec. 43.051. DEFINITIONS. In this subchapter:

3-23 (1) "Board of directors" means the board of directors

3-24 of the corporation.

3-25 (2) "Chief executive officer" means the chief

3-26 executive officer of the corporation employed under Section 43.054.

3-27 (3) "Corporation" means the Texas Permanent School

3-28 Fund Corporation.

3-29 Sec. 43.052. CREATION OF CORPORATION. (a) The State Board

3-30 of Education may incorporate the Texas Permanent School Fund

3-31 Corporation and delegate to the corporation the board's authority

3-32 to manage and invest:

3-33 (1) the permanent school fund under Section 43.003;

3-34 and

3-35 (2) the charter district bond guarantee reserve fund

3-36 under Section 45.0571.

3-37 (b) The State Board of Education shall adopt the initial

3-38 articles of incorporation for the corporation.

3-39 (c) The corporation is a special-purpose governmental

3-40 corporation and instrumentality of the state with necessary and

3-41 implied powers to accomplish its purpose. The corporation is

3-42 subject to regulation and limitation only as provided by this

3-43 subchapter.

3-44 Sec. 43.053. BOARD OF DIRECTORS; MEETINGS. (a) The board

3-45 of directors is composed of the following nine members:

3-46 (1) five members of the State Board of Education,

3-47 appointed by the board in accordance with board policy;

3-48 (2) the commissioner of the General Land Office;

3-49 (3) one member appointed by the commissioner of the

3-50 General Land Office who has substantial background and expertise in

3-51 investments and asset management; and

3-52 (4) two members appointed by the governor, with the

3-53 advice and consent of the senate, from a list of the following six

3-54 nominees, each of whom must have substantial background and

3-55 expertise in investments and asset management and may not be

3-56 members of the State Board of Education or the School Land Board:

3-57 (A) three individuals nominated by the State

3-58 Board of Education; and

3-59 (B) three individuals nominated by the School

3-60 Land Board.

3-61 (b) The State Board of Education by rule shall establish the

3-62 terms of members of the board of directors appointed under

3-63 Subsection (a)(1).

3-64 (c) Members of the board of directors appointed under

3-65 Subsections (a)(3) and (4) serve staggered six-year terms, with the

3-66 term of one member expiring on January 1 of each odd-numbered year.

3-67 (d) The initial members described by Subsection (c) shall

3-68 determine by lot which one of the initial members will serve a term

3-69 expiring January 1 of the first odd-numbered year following the

4-1 establishment of the corporation, which one of the initial members
 4-2 will serve a term expiring January 1 of the second odd-numbered year
 4-3 following the establishment of the corporation, and which one of
 4-4 the initial members will serve a term expiring January 1 of the
 4-5 third odd-numbered year following the establishment of the
 4-6 corporation.

4-7 (e) Appointments to the board of directors must be made
 4-8 without regard to the race, color, disability, sex, religion, age,
 4-9 or national origin of the appointees.

4-10 (f) The board of directors shall elect officers of the board
 4-11 in accordance with the corporation's bylaws.

4-12 (g) The board of directors shall meet at least three times
 4-13 per year.

4-14 Sec. 43.054. CHIEF EXECUTIVE OFFICER. (a) The corporation
 4-15 shall employ a chief executive officer to manage and carry out the
 4-16 policies of the corporation. The board of directors shall
 4-17 determine the process for hiring the chief executive officer.

4-18 (b) The chief executive officer serves at the will of the
 4-19 board of directors.

4-20 Sec. 43.055. EMPLOYEES. (a) The chief executive officer
 4-21 is responsible for hiring all employees of the corporation.

4-22 (b) Employees of the corporation serve at the will of the
 4-23 chief executive officer.

4-24 (c) The chief executive officer or the chief executive
 4-25 officer's designee shall develop a system of compensation for
 4-26 employees of the corporation as necessary to retain qualified
 4-27 staff.

4-28 (d) The chief executive officer or the chief executive
 4-29 officer's designee shall develop a system of annual performance
 4-30 evaluations. Merit pay for corporation employees must be based on
 4-31 the system established under this subsection.

4-32 (e) The chief executive officer or the chief executive
 4-33 officer's designee shall prepare and maintain a written policy
 4-34 statement to assure implementation of a program of equal employment
 4-35 opportunity under which all personnel decisions are made without
 4-36 regard to race, color, disability, sex, religion, age, or national
 4-37 origin.

4-38 (f) The chief executive officer may appoint an internal
 4-39 auditor for the corporation, who may be an employee of the
 4-40 corporation. The appointment of the internal auditor must be
 4-41 approved by the board of directors. The board of directors may
 4-42 require the internal auditor to submit specified reports directly
 4-43 to the board of directors.

4-44 (g) Except as otherwise provided by this subchapter,
 4-45 employees of the corporation are state employees for all purposes,
 4-46 including:

4-47 (1) accrual of leave time, insurance benefits, and
 4-48 retirement benefits;

4-49 (2) Chapter 104, Civil Practice and Remedies Code; and

4-50 (3) Chapter 501, Labor Code.

4-51 Sec. 43.056. SOVEREIGN IMMUNITY. (a) The corporation, the
 4-52 board of directors, and the officers and employees of the
 4-53 corporation are entitled to sovereign immunity to the same extent
 4-54 as any other state agency or officer or employee of a state agency.

4-55 (b) No action taken by the corporation, including the
 4-56 acceptance of benefits under a contract, may be construed to waive
 4-57 the corporation's sovereign immunity, including immunity from suit
 4-58 or from liability.

4-59 (c) Subchapter C, Chapter 2260, Government Code, does not
 4-60 apply to the corporation.

4-61 Sec. 43.057. LIABILITY INSURANCE FOR BOARD MEMBERS AND
 4-62 EMPLOYEES. (a) The corporation may purchase or otherwise acquire
 4-63 insurance to protect members of the board of directors and
 4-64 employees of the corporation, subject to Subsection (c).

4-65 (b) Insurance purchased or acquired by the corporation
 4-66 under this section may:

4-67 (1) protect against any type of liability to third
 4-68 persons that might be incurred while conducting corporation
 4-69 business; and

5-1 (2) provide for all costs of defending a cause of
 5-2 action for such liability, including court costs and attorney's
 5-3 fees.

5-4 (c) This section does not authorize the purchase or
 5-5 acquisition of insurance to protect against liability not described
 5-6 in Subsection (b).

5-7 Sec. 43.058. ETHICS POLICY; CONFLICTS OF INTEREST.

5-8 (a) The board of directors shall adopt an ethics policy that
 5-9 provides standards of conduct relating to the management and
 5-10 investment of the permanent school fund in accordance with Section
 5-11 43.0031(a). The ethics policy must include provisions applicable
 5-12 to:

5-13 (1) members of the board of directors;

5-14 (2) employees of the corporation; and

5-15 (3) any person who provides services to the
 5-16 corporation relating to the management or investment of the
 5-17 permanent school fund.

5-18 (b) A member of the board of directors, an employee of the
 5-19 corporation, and a person who provides services to the corporation
 5-20 relating to the management or investment of the permanent school
 5-21 fund shall disclose in writing to the corporation any business,
 5-22 commercial, or other relationship that could reasonably be expected
 5-23 to diminish the person's independence of judgment in the
 5-24 performance of the person's responsibilities relating to the
 5-25 management or investment of the permanent school fund.

5-26 (c) The board of directors shall define in the ethics policy
 5-27 adopted under Subsection (a) the types of relationships that may
 5-28 create a possible conflict of interest.

5-29 (d) A person who makes a written disclosure under Subsection
 5-30 (b) stating a possible conflict of interest may not give advice or
 5-31 make decisions about a matter affected by the possible conflict of
 5-32 interest unless the board of directors expressly waives this
 5-33 prohibition. The board of directors may delegate the authority to
 5-34 waive the prohibition established by this subsection.

5-35 Sec. 43.059. APPLICABILITY OF CERTAIN LAWS. (a) Except as
 5-36 otherwise provided by and to the extent consistent with this
 5-37 subchapter, Title 1, Business Organizations Code, and Chapter 22,
 5-38 Business Organizations Code, apply to the corporation.

5-39 (b) Subject to Section 43.060, the corporation is a
 5-40 governmental body for purposes of Chapter 551, Government Code.

5-41 (c) The corporation is exempt from:

5-42 (1) Chapters 654 and 660, Government Code, and
 5-43 Subchapter K, Chapter 659, Government Code, to the extent the board
 5-44 of directors determines that an exemption from those provisions is
 5-45 necessary for the corporation to perform the board's fiduciary
 5-46 duties under this subchapter;

5-47 (2) all state laws regulating or limiting purchasing
 5-48 by state agencies, including Subtitle D, Title 10, Government Code,
 5-49 and Chapters 2254, 2261, and 2262, Government Code;

5-50 (3) the franchise tax under Chapter 171, Tax Code; and

5-51 (4) any filing costs or other fees imposed by the state
 5-52 on a corporation.

5-53 Sec. 43.060. EXCEPTION TO OPEN MEETING REQUIREMENTS FOR
 5-54 CERTAIN CONSULTATIONS CONCERNING INVESTMENTS. (a) In this
 5-55 section, "private investment fund," "reinvestment," and
 5-56 "restricted securities" have the meanings assigned by Section
 5-57 552.143, Government Code.

5-58 (b) The board of directors may conduct a closed meeting in
 5-59 accordance with Subchapter E, Chapter 551, Government Code, to
 5-60 deliberate or confer with one or more employees, consultants, or
 5-61 legal counsel of the corporation or with a third party if the only
 5-62 purpose of the meeting is to receive information from or question
 5-63 the employees, consultants, or legal counsel or third party
 5-64 relating to:

5-65 (1) investment transactions or potential investment
 5-66 transactions if, before conducting the closed meeting, a majority
 5-67 of the board of directors in an open meeting vote that deliberating
 5-68 or conferring in an open meeting would have a detrimental effect on
 5-69 the corporation's position in negotiations with third parties or

6-1 put the corporation at a competitive disadvantage in the market;
 6-2 (2) the purchase, holding, or disposal of restricted
 6-3 securities or a private investment fund's investment in restricted
 6-4 securities if, under Section 552.143, Government Code, the
 6-5 information discussed would be confidential and excepted from the
 6-6 requirements of Section 552.021, Government Code, if the
 6-7 information were included in the records of a governmental body; or
 6-8 (3) a procurement proposed to be awarded by the board
 6-9 of directors if, before conducting the closed meeting, a majority
 6-10 of the board of directors in an open meeting vote that deliberating
 6-11 or conferring in an open meeting would have a detrimental effect on
 6-12 the corporation's position in negotiations with third parties.
 6-13 (c) Any vote or final action taken on a procurement
 6-14 described by Subsection (b)(3) must be conducted in an open
 6-15 meeting.
 6-16 Sec. 43.061. RECORD RETENTION. (a) Subchapter L, Chapter
 6-17 441, Government Code, does not apply to the corporation.
 6-18 (b) The corporation may establish record retention policies
 6-19 for the corporation. In establishing the policies under this
 6-20 section, the corporation may consider relevant rules and guidelines
 6-21 adopted by the Texas State Library and Archives Commission.
 6-22 Sec. 43.062. INFORMATION TECHNOLOGY AND ASSOCIATED
 6-23 RESOURCES. (a) Chapters 2054 and 2055, Government Code, do not
 6-24 apply to the corporation or to any state agency with respect to a
 6-25 contract entered into between the agency and the corporation for
 6-26 information technology or associated resources.
 6-27 (b) The corporation shall control all aspects of, and may
 6-28 contract with third parties for, the corporation's information
 6-29 technology and associated resources, including:
 6-30 (1) computer, data management, and telecommunications
 6-31 operations;
 6-32 (2) procurement of hardware, software, and middleware
 6-33 and telecommunications equipment and systems;
 6-34 (3) location, operation, and replacement of
 6-35 computers, computer systems, software provided as a service, and
 6-36 telecommunications systems;
 6-37 (4) data processing;
 6-38 (5) security;
 6-39 (6) disaster recovery; and
 6-40 (7) storage.
 6-41 (c) The Department of Information Resources shall assist
 6-42 the corporation at the request of the corporation, and the
 6-43 corporation may use any service that is available through that
 6-44 department.
 6-45 Sec. 43.063. GENERAL POWERS AND DUTIES OF CORPORATION. (a)
 6-46 The corporation may amend the articles of incorporation adopted by
 6-47 the State Board of Education when the corporation was established,
 6-48 subject to board approval.
 6-49 (b) The corporation may adopt and amend:
 6-50 (1) subject to State Board of Education approval,
 6-51 bylaws for the corporation;
 6-52 (2) resolutions and policies of the corporation; and
 6-53 (3) any other document necessary to carry out the
 6-54 corporation's purpose.
 6-55 (c) The corporation may engage in any activity necessary to
 6-56 manage the investments of the permanent school fund, including
 6-57 entering into any contract in connection with the investment of the
 6-58 permanent school fund, to the extent the activity complies with
 6-59 applicable fiduciary duties.
 6-60 (d) The corporation shall make all purchases of goods and
 6-61 services in accordance with applicable fiduciary duties and may use
 6-62 purchasing methods that ensure the best value to the corporation.
 6-63 In determining best value, the corporation may consider the best
 6-64 value standards applicable to state agencies under Section
 6-65 2155.074, Government Code.
 6-66 (e) The corporation may:
 6-67 (1) delegate investment authority for the investment
 6-68 of the permanent school fund to one or more private professional
 6-69 investment managers; or

7-1 (2) contract with one or more private professional
 7-2 investment managers to assist the corporation in making investments
 7-3 of the permanent school fund.

7-4 (f) The corporation may receive, transfer, and disburse
 7-5 money and securities of the fund as provided by statute or the Texas
 7-6 Constitution, except that the corporation may not distribute money
 7-7 from the permanent school fund to the available school fund except
 7-8 as authorized under Section 43.066.

7-9 (g) The corporation may enter into a contract with a state
 7-10 agency, a governmental body, or another entity to manage or invest
 7-11 funds on behalf of the agency, body, or entity.

7-12 Sec. 43.064. CONTRACTING FOR FACILITIES AND NECESSARY
 7-13 SUPPORT. The corporation may contract with a state agency or
 7-14 another entity to provide operational support, facilities,
 7-15 information and data technology, staff, or other support for the
 7-16 corporation. The corporation may but is not required to request
 7-17 allocation of space to the corporation under Subchapter C, Chapter
 7-18 2165, Government Code.

7-19 Sec. 43.065. WRITTEN INVESTMENT OBJECTIVES; PERFORMANCE
 7-20 EVALUATION. In accordance with Section 43.004, the board of
 7-21 directors shall:

7-22 (1) develop written investment objectives concerning
 7-23 the investment of the permanent school fund; and

7-24 (2) employ a well-recognized performance measurement
 7-25 service to evaluate and analyze the investment results of the
 7-26 permanent school fund.

7-27 Sec. 43.066. DISTRIBUTIONS BY CORPORATION FROM PERMANENT
 7-28 SCHOOL FUND TO AVAILABLE SCHOOL FUND. (a) The corporation may
 7-29 distribute from the permanent school fund to the available school
 7-30 fund under Section 5(g), Article VII, Texas Constitution, an amount
 7-31 not to exceed the limitation under that section that is determined
 7-32 in accordance with a policy established by the corporation.

7-33 (b) In developing the policy for distributions under
 7-34 Subsection (a), the corporation shall develop procedures for
 7-35 determining the minimum amount the corporation will distribute from
 7-36 the permanent school fund to the available school fund each state
 7-37 fiscal year. In developing the procedures under this subsection,
 7-38 the corporation shall consider:

7-39 (1) transfers made from the permanent school fund to
 7-40 the available school fund under Section 43.002 in accordance with
 7-41 Section 5(a), Article VII, Texas Constitution;

7-42 (2) factors that relate to the current and future
 7-43 public school students in the state; and

7-44 (3) any other factors the corporation determines
 7-45 relevant.

7-46 Sec. 43.067. BOND GUARANTEE PROGRAM. The corporation, the
 7-47 State Board of Education, and the agency shall coordinate to
 7-48 determine the corporation's role in the operation and management of
 7-49 the permanent school fund in connection with the bond guarantee
 7-50 program under Subchapter C, Chapter 45, to ensure the proper and
 7-51 efficient operation of the program, including the handling of any
 7-52 associated reimbursements, transfers, and disbursements.

7-53 Sec. 43.068. ANNUAL AUDIT. (a) Not less than once each
 7-54 year, the board of directors shall submit to the Legislative Budget
 7-55 Board an audit report regarding the operations of the corporation.

7-56 (b) The corporation may contract with a certified public
 7-57 accountant or the state auditor to conduct an independent audit of
 7-58 the operations of the corporation.

7-59 (c) This section does not affect the state auditor's
 7-60 authority to conduct an audit of the corporation in accordance with
 7-61 Chapter 321, Government Code.

7-62 Sec. 43.069. ANNUAL INVESTMENT REPORT. The corporation
 7-63 shall annually submit to the State Board of Education and the
 7-64 General Land Office a report on the allocation of assets and
 7-65 investment performance of the portion of the permanent school fund
 7-66 for which the corporation is responsible.

7-67 Sec. 43.070. REPORT ON ANTICIPATED TRANSFER TO AVAILABLE
 7-68 SCHOOL FUND. Not later than November 1 of each even-numbered year,
 7-69 the corporation shall submit to the legislature, comptroller, State

8-1 Board of Education, and Legislative Budget Board a report that in
 8-2 detail specifically states the date a transfer will be made and the
 8-3 amount the corporation will transfer during the subsequent state
 8-4 fiscal biennium from the permanent school fund to the available
 8-5 school fund under Section 43.066.

8-6 Sec. 43.071. GIFTS, GRANTS, AND DONATIONS. The corporation
 8-7 may accept, and establish a nonprofit corporation or other entity
 8-8 for the purpose of accepting, a gift, grant, donation, or bequest of
 8-9 money, securities, property, or any other assets from any public or
 8-10 private source for the permanent school fund.

8-11 SECTION 1.07. Sections 43.006(b), (c), (d), (e), (f), (g),
 8-12 (h), (i), (j), and (k), Education Code, are repealed.

8-13 ARTICLE 2. SCHOOL LAND BOARD'S MANAGEMENT OF PERMANENT SCHOOL FUND

8-14 SECTION 2.01. Section 51.001, Natural Resources Code, is
 8-15 amended by adding Subdivisions (13) and (14) to read as follows:

8-16 (13) "Real property holding" means any direct or
 8-17 indirect interest in real property located in the state or any
 8-18 interest in a joint venture whose primary purpose is the
 8-19 acquisition, development, holding, and disposing of real property
 8-20 located in the state. The term does not include an interest in an
 8-21 investment vehicle.

8-22 (14) "Investment vehicle" means:

8-23 (A) a multi-investment separately managed
 8-24 account or similar investment fund;

8-25 (B) a multi-asset closed-end or open-end
 8-26 investment fund sponsored and managed by a third party;

8-27 (C) a real estate investment trust;

8-28 (D) an investment managed by a third party
 8-29 alongside a multi-asset closed-end or open-end investment fund that
 8-30 is also managed by the third party or by any of the third party's
 8-31 related persons or affiliates; or

8-32 (E) a corporation, partnership, limited
 8-33 liability company, or other entity whose primary purpose is to:

8-34 (i) sponsor and manage investments on
 8-35 behalf of third parties, including institutional investors; or

8-36 (ii) operate assets or provide brokerage or
 8-37 other services to third parties under circumstances in which the
 8-38 entity does not directly or indirectly own the underlying assets.

8-39 SECTION 2.02. Section 51.011, Natural Resources Code, is
 8-40 amended by amending Subsections (a) and (a-1) and adding Subsection
 8-41 (a-3) to read as follows:

8-42 (a) Any land, mineral or royalty interest, or real property
 8-43 holding, and ~~estate investment, or other interest, including~~
 8-44 revenue received from any land or real property holding ~~[those~~
 8-45 ~~sources]~~, that is set apart to the permanent school fund under the
 8-46 constitution and laws of this state together with the mineral
 8-47 estate in riverbeds, channels, and the tidelands, including
 8-48 islands, shall be subject to the sole and exclusive management and
 8-49 control of the School Land Board ~~[school land board]~~ and the
 8-50 commissioner under the provisions of this chapter and other
 8-51 applicable law.

8-52 (a-1) The board may acquire, sell, lease, trade, improve,
 8-53 maintain, protect, or otherwise manage, control, or use land,
 8-54 mineral and royalty interests, or real property holdings, and
 8-55 ~~[estate investments, or other interests, including]~~ revenue
 8-56 received from land or real property holdings ~~[those sources]~~, that
 8-57 are set apart to the permanent school fund in any manner, at such
 8-58 prices, and under such terms and conditions as the board finds to be
 8-59 in the best interest of the fund.

8-60 (a-3) All revenue received from mineral or royalty
 8-61 interests described by Subsection (a), including bonus payments,
 8-62 mineral lease rental revenues, royalties, and any other type of
 8-63 revenue received from those interests, less any amount specified by
 8-64 appropriation to be retained by the board under this subsection,
 8-65 shall be transferred each month to the Texas Permanent School Fund
 8-66 Corporation for investment in the permanent school fund.

8-67 SECTION 2.03. Section 51.017, Natural Resources Code, is
 8-68 amended to read as follows:

8-69 Sec. 51.017. FURNISHING DATA TO TEXAS PERMANENT SCHOOL FUND

9-1 CORPORATION [~~BOARD OF EDUCATION~~]. On request, the commissioner
 9-2 shall furnish to the Texas Permanent School Fund Corporation [~~State~~
 9-3 ~~Board of Education~~] all available data.

9-4 SECTION 2.04. Section 51.401(a), Natural Resources Code, is
 9-5 amended to read as follows:

9-6 (a) The board may designate funds or revenue received from
 9-7 any land or real property holdings, and any proceeds received from
 9-8 the sale of any mineral or royalty interest, [~~real estate~~
 9-9 ~~investment, or other interest, including revenue received from~~
 9-10 ~~those sources,~~] that is set apart to the permanent school fund under
 9-11 the constitution and laws of this state together with the mineral
 9-12 estate in riverbeds, channels, and the tidelands, including
 9-13 islands, for deposit in the real estate special fund account of the
 9-14 permanent school fund in the State Treasury to be used by the board
 9-15 as provided by this subchapter.

9-16 SECTION 2.05. Section 51.402(a), Natural Resources Code, is
 9-17 amended to read as follows:

9-18 (a) The [~~Except as provided by Subsection (c), the~~] board
 9-19 may use funds designated under Section 51.401 for any of the
 9-20 following purposes:

9-21 (1) to add to a tract of public school land to form a
 9-22 tract of sufficient size to be manageable;

9-23 (2) to add contiguous land to public school land;

9-24 (3) to acquire, as public school land, interests in
 9-25 real property for biological, residential, commercial, geological,
 9-26 cultural, or recreational purposes;

9-27 (4) to acquire mineral and royalty interests for the
 9-28 use and benefit of the permanent school fund;

9-29 (5) to protect, maintain, or enhance the value of
 9-30 public school land and mineral or royalty interests on that land;

9-31 (6) to acquire real property holdings [~~interests in~~
 9-32 ~~real estate~~];

9-33 (7) to pay reasonable fees for professional services
 9-34 related to a permanent school fund investment; or

9-35 (8) to acquire, sell, lease, trade, improve, maintain,
 9-36 protect, or use land, mineral and royalty interests, or real
 9-37 property holdings [~~estate investments, an investment or interest in~~
 9-38 ~~public infrastructure, or other interests~~], at such prices and
 9-39 under such terms and conditions the board determines to be in the
 9-40 best interest of the permanent school fund.

9-41 SECTION 2.06. Section 51.4021, Natural Resources Code, is
 9-42 amended to read as follows:

9-43 Sec. 51.4021. APPOINTMENT OF [~~SPECIAL FUND MANAGERS,~~]
 9-44 INVESTMENT CONSULTANTS[~~7~~] OR ADVISORS. (a) The board may appoint
 9-45 investment [~~managers,~~] consultants[~~7~~] or advisors to [~~invest or~~
 9-46 assist the board in using [~~investing~~] funds designated under
 9-47 Section 51.401 in a manner authorized under Section 51.402 by
 9-48 contracting for professional [~~investment management or~~] investment
 9-49 advisory services with one or more organizations that are in the
 9-50 business of [~~managing or~~] advising on the management of real estate
 9-51 investments.

9-52 (b) To be eligible for appointment under this section, an
 9-53 investment [~~manager,~~] consultant[~~7~~] or advisor shall agree to abide
 9-54 by the policies, requirements, or restrictions, including ethical
 9-55 standards and disclosure policies and criteria for determining the
 9-56 quality of investments and for the use of standard rating services,
 9-57 that the board adopts for real estate investments of the permanent
 9-58 school fund. Funds designated under Section 51.401 may not be
 9-59 invested in a real estate investment trust, as defined by Section
 9-60 200.001, Business Organizations Code.

9-61 (c) Compensation paid to an investment [~~manager,~~]
 9-62 consultant[~~7~~] or advisor by the board must be consistent with the
 9-63 compensation standards of the investment industry and compensation
 9-64 paid by similarly situated institutional investors.

9-65 (d) Chapter 2263, Government Code, applies to investment
 9-66 [~~managers,~~] consultants and[~~7 or~~] advisors appointed under this
 9-67 section. The board by rule shall adopt standards of conduct for
 9-68 investment [~~managers,~~] consultants and[~~7 or~~] advisors appointed
 9-69 under this section as required by Section 2263.004, Government

10-1 Code, and shall implement the disclosure requirements of Section
 10-2 [2263.005](#) of that code.

10-3 SECTION 2.07. The heading to Section [51.412](#), Natural
 10-4 Resources Code, is amended to read as follows:

10-5 Sec. 51.412. REPORT ON USE OF CERTAIN MONEY [~~REPORTS TO~~
 10-6 ~~LEGISLATURE~~].

10-7 SECTION 2.08. Sections [51.412](#)(a) and (c), Natural Resources
 10-8 Code, are amended to read as follows:

10-9 (a) Not later than September 1 of each even-numbered year,
 10-10 the board shall submit to the legislature, the Texas Permanent
 10-11 School Fund Corporation, and the Legislative Budget Board a report
 10-12 that, specifically and in detail, assesses the direct and indirect
 10-13 economic impact, as anticipated by the board, of the use
 10-14 [~~investment~~] of funds:

10-15 (1) retained by the board as provided by Section
 10-16 [51.011\(a-3\)](#); or

10-17 (2) designated under Section [51.401](#) for deposit in the
 10-18 real estate special fund account of the permanent school fund.

10-19 (c) The report must include the following information:

10-20 (1) the total amount of the funds designated by
 10-21 Section [51.401](#) for deposit in the real estate special fund account
 10-22 of the permanent school fund that the board intends to use in a
 10-23 manner authorized under Section [51.402](#) [~~invest~~];

10-24 (2) the amount of funds retained by [~~rate of return~~]
 10-25 the board as provided by Section [51.011\(a-3\)](#) and the purposes for
 10-26 which the board intends to use those funds [~~expects to attain on the~~
 10-27 ~~investment~~];

10-28 (3) the amount of the funds the board expects to
 10-29 distribute to the available school fund or the Texas Permanent
 10-30 School Fund Corporation [~~State Board of Education~~] for investment
 10-31 in the permanent school fund under Section [51.413](#) [~~after making the~~
 10-32 ~~investments~~];

10-33 (4) [~~the distribution of the board's investments by~~
 10-34 ~~county,~~

10-35 [~~(5) the effect of the board's investments on the level~~
 10-36 ~~of employment, personal income, and capital investment in the~~
 10-37 ~~state,~~

10-38 [~~(6)~~] the amounts of all fees or other compensation
 10-39 paid by the board to investment [~~managers,~~] consultants and [~~, or~~]
 10-40 advisors appointed or organizations contracted with under Section
 10-41 [51.4021](#); and

10-42 (5) [~~(7)~~] any other information the board considers
 10-43 necessary to include in the report.

10-44 SECTION 2.09. Section [51.413](#), Natural Resources Code, is
 10-45 amended to read as follows:

10-46 Sec. 51.413. TRANSFERS FROM THE REAL ESTATE SPECIAL FUND
 10-47 ACCOUNT TO THE AVAILABLE SCHOOL FUND AND THE PERMANENT SCHOOL FUND.

10-48 (a) The board may, by a resolution adopted at a regular meeting,
 10-49 release from the real estate special fund account funds previously
 10-50 designated under Section [51.401](#) or managed, used, or encumbered
 10-51 under Section [51.402](#) or Section [51.4021](#) to be deposited in the State
 10-52 Treasury to the credit of:

10-53 (1) the available school fund; or

10-54 (2) the Texas Permanent School Fund Corporation [~~State~~
 10-55 ~~Board of Education~~] for investment in the permanent school fund.

10-56 (b) The board shall adopt rules to establish the procedure
 10-57 that will be used by the board to determine the date a transfer will
 10-58 be made and the amount of the funds that will be transferred to the
 10-59 available school fund or to the Texas Permanent School Fund
 10-60 Corporation [~~State Board of Education~~] for investment in the
 10-61 permanent school fund from the real estate special fund account as
 10-62 provided by Subsection (a).

10-63 SECTION 2.10. The following provisions are repealed:

10-64 (1) Section [43.0052](#), Education Code;

10-65 (2) Sections [32.0161](#) and [32.068](#), Natural Resources
 10-66 Code;

10-67 (3) Section [51.402](#)(c), Natural Resources Code, as
 10-68 amended by Chapters 493 (H.B. 4388) and 524 (S.B. 608), Acts of the
 10-69 86th Legislature, Regular Session, 2019; and

11-1 (4) Sections 51.4131 and 51.414, Natural Resources
11-2 Code.

11-3 SECTION 2.11. (a) Subject to Subsection (b) of this
11-4 section, as soon as practicable after the effective date of this
11-5 article and on the date agreed to by the State Board of Education,
11-6 the Texas Education Agency, the School Land Board, and the Texas
11-7 Permanent School Fund Corporation, as applicable:

11-8 (1) all powers, duties, functions, programs, and
11-9 activities of the State Board of Education and the Texas Education
11-10 Agency relating to the management and investment of the permanent
11-11 school fund transfer to the Texas Permanent School Fund Corporation
11-12 by operation of law; and

11-13 (2) all powers, duties, functions, programs, and
11-14 activities of the School Land Board relating to assets or
11-15 investments of the permanent school fund described by Section
11-16 2.15(a)(1) of this article transfer to the Texas Permanent School
11-17 Fund Corporation by operation of law.

11-18 (b) The Texas Permanent School Fund Corporation may delay
11-19 the transfer of any power, duty, function, program, or activity
11-20 under Subsection (a) of this section if the corporation determines
11-21 that the transfer would have an adverse impact on or is not in the
11-22 best interest of the permanent school fund.

11-23 (c) All rules, policies, and procedures relating to the
11-24 management and investment of the permanent school fund adopted by
11-25 the State Board of Education or the School Land Board before the
11-26 transfer under this section remain in effect until the Texas
11-27 Permanent School Fund Corporation adopts substitute rules,
11-28 policies, or procedures. In the event of a conflict between rules,
11-29 policies, or procedures adopted by the State Board of Education and
11-30 rules, policies, or procedures adopted by the School Land Board,
11-31 the corporation shall determine which rules, policies, or
11-32 procedures control.

11-33 SECTION 2.12. On the date the transfers under Section
11-34 2.11(a) of this article occur:

11-35 (1) an employee of the permanent school fund division
11-36 of the Texas Education Agency or the investment management division
11-37 of the General Land Office becomes an employee of the Texas
11-38 Permanent School Fund Corporation; and

11-39 (2) any employee compensation plan, program,
11-40 agreement, or arrangement, including any incentive compensation
11-41 plan and outstanding balance or award, relating to each employee
11-42 described by Subdivision (1) of this section transfers from the
11-43 Texas Education Agency or the General Land Office, as applicable,
11-44 to the Texas Permanent School Fund Corporation.

11-45 SECTION 2.13. (a) As soon as practicable after the
11-46 effective date of this article but not later than the date the
11-47 transfers under Section 2.11(a) of this article occur, the State
11-48 Board of Education shall enter into a memorandum of understanding
11-49 with any state agency the board determines necessary to provide for
11-50 the transfer to or continued use by the Texas Permanent School Fund
11-51 Corporation for a period determined by the board of any property,
11-52 facilities, information and data technology, services, and support
11-53 staff of the state agency used in connection with operations
11-54 relating to the management or investment of the permanent school
11-55 fund.

11-56 (b) On the date the transfers under Section 2.11(a) of this
11-57 article occur, the unexpended and unobligated balance of any money
11-58 appropriated to a state agency relating to the powers, duties,
11-59 programs, functions, and activities that are transferred to the
11-60 Texas Permanent School Fund Corporation is transferred to that
11-61 corporation.

11-62 SECTION 2.14. (a) Not later than March 30, 2023, the State
11-63 Board of Education and the Texas Education Agency shall provide to
11-64 the Texas Permanent School Fund Corporation all financial,
11-65 contract, and investment records and documents maintained by the
11-66 board, the agency, or a service provider of the board or agency
11-67 relating to the management or investment of the permanent school
11-68 fund.

11-69 (b) Except as provided by Subsection (c) or (d) of this

12-1 section, as soon as practicable after the effective date of this
 12-2 article and not later than the date the transfers under Section
 12-3 2.11(a) of this article occur, all assets and investments of the
 12-4 permanent school fund held by the State Board of Education or the
 12-5 Texas Education Agency and any related contracts are transferred to
 12-6 the Texas Permanent School Fund Corporation by operation of law in
 12-7 accordance with applicable law and any governing documentation
 12-8 applicable to those assets, investments, or contracts, including
 12-9 any applicable limited partnership agreement, limited liability
 12-10 company agreement, subscription agreement, letter agreement, or
 12-11 side letter.

12-12 (c) The State Board of Education and the Texas Education
 12-13 Agency shall retain any assets or investments that would otherwise
 12-14 be transferred to the Texas Permanent School Fund Corporation under
 12-15 Subsection (b) of this section if the corporation determines that:

12-16 (1) the asset or investment cannot be transferred to
 12-17 the corporation, either because the corporation cannot properly
 12-18 hold custody of the asset or investment or for some other reason; or

12-19 (2) the transfer of the asset or investment:

12-20 (A) would have an adverse effect on the permanent
 12-21 school fund or on any asset or investment set apart to the permanent
 12-22 school fund; or

12-23 (B) is not in the best interest of the permanent
 12-24 school fund.

12-25 (d) If an asset or investment required to be transferred to
 12-26 the Texas Permanent School Fund Corporation under Subsection (b) of
 12-27 this section cannot be transferred to the corporation in a timely
 12-28 manner, the State Board of Education, the Texas Education Agency,
 12-29 and the corporation shall coordinate concerning the appropriate
 12-30 timing of the transfer or other disposition of the asset or
 12-31 investment.

12-32 (e) The State Board of Education and the Texas Permanent
 12-33 School Fund Corporation shall coordinate the ongoing management or
 12-34 other disposition of any assets or investments retained by the
 12-35 board or the Texas Education Agency under Subsection (c) or (d) of
 12-36 this section, including:

12-37 (1) providing direction to the Texas Education Agency
 12-38 regarding the asset or investment;

12-39 (2) the funding of any outstanding commitments related
 12-40 to the asset or investment;

12-41 (3) the handling of any distributions, income, or
 12-42 revenues from the asset or investment; and

12-43 (4) the making of any decisions required with respect
 12-44 to the asset or investment.

12-45 SECTION 2.15. (a) Not later than January 31, 2023, the
 12-46 School Land Board shall provide to:

12-47 (1) the Texas Permanent School Fund Corporation a list
 12-48 of each asset and investment acquired on or after September 1, 2001,
 12-49 and held by the board on January 31, 2023, other than sovereign or
 12-50 other state lands, mineral or royalty interests, or real property
 12-51 holdings, as that term is defined by Section 51.001, Natural
 12-52 Resources Code, as amended by this article, and information on
 12-53 unfunded commitments and funding obligations related to the asset
 12-54 or investment; and

12-55 (2) the general partner or other managing entity of
 12-56 each asset or investment identified under Subdivision (1) of this
 12-57 subsection notice of the transfer of the asset or investment to the
 12-58 Texas Permanent School Fund Corporation under this section.

12-59 (b) Not later than March 30, 2023, the School Land Board
 12-60 shall provide to the Texas Permanent School Fund Corporation all
 12-61 financial, contract, and investment records and documents
 12-62 maintained by the board, the General Land Office, or a service
 12-63 provider of the board or office relating to the operations
 12-64 associated with or the management of an asset or investment
 12-65 identified under Subsection (a)(1) of this section.

12-66 (c) Except as provided by Subsection (d) or (e) of this
 12-67 section, not later than December 31, 2023, all assets and
 12-68 investments identified under Subsection (a)(1) of this section and
 12-69 any related contracts are transferred from the School Land Board to

13-1 the Texas Permanent School Fund Corporation by operation of law in
13-2 accordance with applicable law and any governing documentation
13-3 applicable to those assets, investments, or contracts, such as any
13-4 applicable limited partnership agreement, limited liability
13-5 company agreement, subscription agreement, letter agreement, or
13-6 side letter.

13-7 (d) The School Land Board shall retain any assets or
13-8 investments that would otherwise be transferred to the Texas
13-9 Permanent School Fund Corporation under Subsection (c) of this
13-10 section if the corporation determines that:

13-11 (1) the asset or investment cannot be transferred to
13-12 the corporation, either because the corporation cannot properly
13-13 hold custody of the asset or investment or for some other reason; or

13-14 (2) the transfer of the asset or investment:

13-15 (A) would have an adverse effect on the permanent
13-16 school fund or on any asset or investment set apart to the permanent
13-17 school fund; or

13-18 (B) is not in the best interest of the permanent
13-19 school fund.

13-20 (e) If an asset or investment required to be transferred to
13-21 the Texas Permanent School Fund Corporation under Subsection (c) of
13-22 this section cannot be transferred to the corporation by December
13-23 31, 2023, the School Land Board and the corporation shall
13-24 coordinate concerning the appropriate timing of the transfer or
13-25 other disposition of the asset or investment.

13-26 (f) The School Land Board and the Texas Permanent School
13-27 Fund Corporation shall coordinate the ongoing management or other
13-28 disposition of any assets or investments retained by the board
13-29 under Subsection (d) or (e) of this section, including:

13-30 (1) the funding of any outstanding commitments related
13-31 to the asset or investment;

13-32 (2) the handling of any distributions, income, or
13-33 revenues from the asset or investment; and

13-34 (3) the making of any decisions required with respect
13-35 to the asset or investment.

13-36 (g) Not later than December 31, 2023, all cash holdings
13-37 related to or derived from permanent school fund assets held by the
13-38 School Land Board shall be transferred to the Texas Permanent
13-39 School Fund Corporation for deposit to the credit of the permanent
13-40 school fund.

13-41 (h) On the date on which the Texas Permanent School Fund
13-42 Corporation determines that all outstanding commitments required
13-43 to be paid from the permanent school fund liquid account have been
13-44 fully resolved, the account is abolished and the balance of that
13-45 account is transferred to the permanent school fund.

13-46 SECTION 2.16. This article takes effect December 31, 2022,
13-47 but only if the State Board of Education incorporates the Texas
13-48 Permanent School Fund Corporation under Subchapter B, Chapter 43,
13-49 Education Code, as added by this Act, on or before that date. If the
13-50 State Board of Education does not incorporate the Texas Permanent
13-51 School Fund Corporation on or before December 31, 2022, this
13-52 article has no effect.

13-53 ARTICLE 3. EFFECTIVE DATE

13-54 SECTION 3.01. Except as otherwise provided by this Act,
13-55 this Act takes effect September 1, 2021.

13-56 * * * * *