

ATTACHMENT II
Text of Current and Proposed New 19 TAC

**Chapter 33. Statement of Investment Objectives, Policies, and Guidelines of the Texas
Permanent School Fund**

§33.1. Constitutional Authority and Constitutional Restrictions.

- (a) The Texas Permanent School Fund (PSF) is comprised of the principal of all bonds and other funds, and the principal arising from the sale of the lands set apart for the PSF, including dividends and other income to the fund. The total amount distributed from the permanent school fund to the available school fund:
- (1) must be an amount that is not more than 6.0% of the average of the market value of the permanent school fund, excluding real property belonging to the fund on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:
 - (A) a vote of two-thirds of the total membership of the State Board of Education, taken before the regular session of the legislature convenes; or
 - (B) the legislature by general law or appropriation, if the State Board of Education does not adopt a rate as provided by subparagraph (A) of this paragraph; and
 - (2) over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years, may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.
- (b) In managing the assets of the PSF, the State Board of Education (SBOE) may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas Growth Fund created by the Texas Constitution, Article XVI, §70, that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

§33.2. Distributions to the Available School Fund.

Each year, the State Board of Education (SBOE) shall determine whether a distribution to the Available School Fund (ASF) shall be made for the current state fiscal year. The SBOE shall determine whether such distribution is permitted under the Texas Constitution, Article VII, §5(a)(2). The annual determination for the current fiscal year shall include a projection of the expected total return of the Permanent School Fund (PSF) at the end of the current fiscal year and the realized returns during the nine preceding state fiscal years. Any one year distribution to the ASF shall not exceed 6.0% of the fair value of the PSF.