ATTACHMENT I

Statutory Citations Relating to Review of 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund

Rule Review

Texas Government Code, §2001.039. Agency Review of Existing Rules:

(a) A state agency shall review and consider for readoption each of its rules in accordance with this section.

(b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.

(c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.

(d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.

(e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund

Texas Education Code, §7.102. State Board of Education Powers and Duties (excerpts):

(c)(31) The board may invest the permanent school fund within the limits of the authority granted by Section 5, Article VII, Texas Constitution, and Chapter 43.

(33) The board shall adopt an annual report on the status of the guaranteed bond program and may adopt rules as necessary for the administration of the program as provided under Chapter C, Chapter 45.

Texas Education Code, §43.0031. Permanent School Fund Ethics Policy:

(a) In addition to any other requirements provided by law, the State Board of Education shall adopt and enforce an ethics policy that provides standards of conduct relating to the management and investment of the permanent school fund. The ethics policy must include provisions that address the following issues as they apply to the management and investment of the permanent school fund and to persons responsible for managing and investing the fund:

(1) general ethical standards;

(2) conflicts of interest;

(3) prohibited transactions and interests;

(4) the acceptance of gifts and entertainment;

(5) compliance with applicable professional standards;

(6) ethics training; and

(7) compliance with and enforcement of the ethics policy.

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

(1) members of the State Board of Education;

(2) the commissioner;

(3) employees of the agency; and

(4) any person who provides services to the board relating to the management or investment of the permanent school fund.

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

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

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

Texas Education Code, §43.0032. <u>Conflicts of Interest</u>:

(a) A member of the State Board of Education, the commissioner, an employee of the agency, or a person who provides services to the board that relate to the management or investment of the permanent school fund who has a business, commercial, or other relationship that could reasonably be expected to diminish the person's independence of judgment in the performance of the person's responsibilities relating to the management or investment of the fund shall disclose the relationship in writing to the board.

(b) The board or the board's designee shall, in the ethics policy adopted under Section 43.0031, define the kinds of relationships that may create a possible conflict of interest.

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

Texas Education Code, §43.0033. Reports of Expenditures:

A consultant, advisor, broker, or other person providing services to the State Board of Education relating to the management and investment of the permanent school fund shall file with the board regularly, as determined by the board, a report that describes in detail any expenditure of more than $50 made by the person on behalf of:

(1) a member of the board;

(2) the commissioner; or

(3) an employee of the agency or of a nonprofit corporation created under Section 43.006.

Texas Education Code, §43.0034. Forms; Public Information:

(a) The board shall prescribe forms for:

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

(2) reports of expenditures under Section 43.0033.

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

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

Texas Education Code, §43.004. Written Investment Objectives; Performance Evaluation:

(a) The State Board of Education shall develop written investment objectives concerning the investment of the permanent school fund. The objectives may address desired rates of return, risks involved, investment time frames, and any other relevant considerations.

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

Texas Education Code, §45.063. Rules:

The board may adopt rules necessary for the administration of the bond guarantee program.

Texas Government Code, §2263.004. Ethics Requirements for Outside Financial Advisors or Service Providers:

(a) The governing body of a state governmental entity by rule shall adopt standards of conduct applicable to financial advisors or service providers who are not employees of the state governmental entity, who provide financial services to the state governmental entity or advise the state governmental entity or a member of the governing body of the state governmental entity in connection with the management or investment of state funds, and who:

(1) may reasonably be expected to receive, directly or indirectly, more than $10,000 in compensation from the entity during a fiscal year; or

(2) render important investment or funds management advice to the entity or a member of the governing body of the entity, as determined by the governing body.

(b) A contract under which a financial advisor or service provider renders financial services or advice to a state governmental entity or other person as described by Subsection (a) is voidable by the state governmental entity if the financial advisor or service provider violates a standard of conduct adopted under this section.

Texas Constitution, Article VII, §5. <u>Permanent School Fund; Available School Fund; Use of Funds; Distribution of Available School Fund</u> (excerpts):

(a) The permanent school fund consists of all land appropriated for public schools by this constitution or the other laws of this state, other properties belonging to the permanent school fund, and all revenue derived from the land or other properties. The available school fund consists of the distributions made to it from the total return on all investment assets of the permanent school fund, the taxes authorized by this constitution or general law to be part of the available school fund, and appropriations made to the available school fund by the legislature. The total amount distributed from the permanent school fund to the available school fund:

(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.

(d) The legislature by law may provide for using the permanent school fund to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed $750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.

(f) Notwithstanding any other provision of this constitution, in managing the assets of the permanent school fund, the State Board of Education 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 Article XVI, Section 70, of this constitution, 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.