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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1668 Session of  
2017

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INTRODUCED BY WHITE, STURLA, DRISCOLL, A. HARRIS, PHILLIPS-HILL,  
ROTHMAN, McCLINTON, TOOHL, PICKETT, D. COSTA, TAYLOR AND  
KAUFFMAN, JULY 19, 2017

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REFERRED TO COMMITTEE ON EDUCATION, JULY 19, 2017

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AN ACT

1 Establishing the Education Endowment Board and the Education  
2 Endowment Fund; and providing additional funding for public  
3 schools in this Commonwealth.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Investing in  
8 Our Kids' Future Act.

9 Section 2. Purpose.

10 The purpose of this act is to provide additional funding for  
11 public schools in this Commonwealth.

12 Section 3. Definitions.

13 The following words and phrases when used in this act shall  
14 have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 "Board." The Education Endowment Board.

17 "Fund." The Education Endowment Fund.

18 "Right-to-Know Law." The act of February 14, 2008 (P.L.6,

1 No.3), known as the Right-to-Know Law.

2 Section 4. Education Endowment Board.

3 (a) Establishment and composition.--The Education Endowment  
4 Board is established as an independent administrative board and  
5 shall consist of the following members:

6 (1) The State Treasurer or a designee.

7 (2) The Secretary of Education or a designee.

8 (3) Three members appointed by the Governor.

9 (4) Two members of the Senate appointed by the President  
10 pro tempore of the Senate.

11 (5) Two members of the House of Representatives  
12 appointed by the Speaker of the House of Representatives.

13 (b) Structure and terms.--

14 (1) The chairperson of the board shall be designated by  
15 the Governor from among the members of the board.

16 (2) The members of the board appointed by the Governor  
17 shall be appointed for staggered terms. One shall be  
18 appointed for an initial term of one year, one shall be  
19 appointed for an initial term of two years and one shall be  
20 appointed for an initial term of three years.

21 (3) The legislative members of the board:

22 (i) From each House shall consist of a majority and  
23 minority member.

24 (ii) Shall serve on the board for the duration of  
25 the member's legislative terms and shall continue to  
26 serve until 30 days after the convening of the next  
27 regular session of the General Assembly after the  
28 expiration of the member's respective legislative terms  
29 or until a successor is appointed for the new term,  
30 whichever occurs first.

1           (4) Vacancies among appointed members shall be filled by  
2           the appointing entity and shall serve for the remainder of  
3           the vacant term.

4           (c) Oath of office.--Each member of the board shall take an  
5           oath of office that the member will, so far as it devolves upon  
6           the member, diligently and honestly administer the affairs of  
7           the board and that the member will not knowingly violate or  
8           willfully permit to be violated any provisions of law applicable  
9           to this act. The oath shall be subscribed by the member taking  
10          the oath and certified by the officer before whom the oath is  
11          taken and shall be immediately filed in the office of the  
12          Secretary of the Commonwealth.

13          (d) Compensation.--Members of the board shall serve without  
14          compensation but may be reimbursed for itemized expenses  
15          associated with the member's service on the board.

16          (e) Administrative duties.--The board shall have the  
17          following duties:

18               (1) Monitoring and oversight of the fund, including  
19               investment of the fund's revenues so as to maximize returns  
20               on the fund while taking appropriate measures to ensure  
21               viability of the fund.

22               (2) Making annual recommendations to the General  
23               Assembly regarding appropriations to the fund.

24               (3) Providing an annual report to the General Assembly  
25               on the fund, including interest earnings and corporate and  
26               individual donations to the fund.

27               (4) Consulting and coordinating with the Pennsylvania  
28               nonprofit corporation that the board enters into a  
29               cooperative agreement with under section 6 to solicit money  
30               for the fund from nongovernment sources.

1 (5) Adopting an investment policy.

2 (6) Any other duties deemed necessary by the board  
3 relating to the fund.

4 Section 5. Records.

5 (a) Duty.--The board shall keep a record of all proceedings  
6 which shall be open to inspection by the public, except as  
7 otherwise provided under this act or another law.

8 (b) Public record.--Except as provided under subsection (c),  
9 a record, material or data received, prepared, used or retained  
10 by the board relating to an investment shall not constitute a  
11 public record subject to public inspection under the Right-to-  
12 Know Law, if, in the reasonable judgment of the board, the  
13 inspection would do any of the following:

14 (1) For an alternative investment or alternative  
15 investment vehicle, involve the release of sensitive  
16 investment or financial information relating to the  
17 alternative investment or alternative investment vehicle  
18 which the fund was able to obtain only upon agreeing to  
19 maintain the information's confidentiality.

20 (2) Cause substantial competitive harm to the person  
21 from whom sensitive investment or financial information  
22 relating to the investment was received.

23 (3) Have a substantial detrimental impact on the value  
24 of an investment to be acquired, held or disposed of by the  
25 fund or would cause a breach of the standard of care or  
26 fiduciary duty provided under this act.

27 (c) Exceptions.--The following shall apply:

28 (1) The sensitive investment or financial information  
29 excluded from inspection under subsection (b) (1), to the  
30 extent not otherwise excluded from inspection, shall

1 constitute a public record subject to public inspection under  
2 the Right-to-Know Law once the board is no longer required by  
3 the board's agreement to maintain confidentiality.

4 (2) The sensitive investment or financial information  
5 excluded from inspection under subsection (b) (2), to the  
6 extent not otherwise excluded from inspection, shall  
7 constitute a public record subject to public inspection under  
8 the Right-to-Know Law once:

9 (i) the inspection no longer causes substantial  
10 competitive harm to the person from whom the information  
11 was received; or

12 (ii) the entity in which the investment was made is  
13 liquidated; whichever is later.

14 (3) The sensitive investment or financial information  
15 excluded from inspection under subsection (b) (3), to the  
16 extent not otherwise excluded from inspection, shall  
17 constitute a public record subject to public inspection under  
18 the Right-to-Know Law once:

19 (i) the inspection no longer has a substantial  
20 detrimental impact on the value of an investment of the  
21 fund and would not cause a breach of the standard of care  
22 or fiduciary duty provided under this act; or

23 (ii) the entity in which the investment was made is  
24 liquidated; whichever is later.

25 (d) Construction.--Except for subsection (c), nothing under  
26 this section shall be construed to designate a record, material  
27 or data received, prepared, used or retained by the board or the  
28 board's employees, investment professionals or agents relating  
29 to an investment as a public record subject to public inspection  
30 under the Right-to-Know Law.

1 Section 6. Cooperative agreement.

2 (a) Administration.--The board shall enter into a  
3 cooperative agreement with a nonprofit corporation to administer  
4 section 8. A nonprofit corporation entering into a cooperative  
5 agreement with the board must adhere to the following governance  
6 provisions:

7 (1) The nonprofit must be a nonprofit corporation  
8 organized under 15 Pa.C.S. Pt. II Subpt. C (relating to  
9 nonprofit corporations) and must comply with section 501(c)  
10 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,  
11 26 U.S.C. § 501(c)(3)).

12 (2) The nonprofit must comply with the limitations on  
13 lobbying provided in section 501(c)(3) of the Internal  
14 Revenue Code.

15 (3) A State officer or employee may not serve on the  
16 board of the nonprofit corporation.

17 (4) The governing board of the nonprofit corporation  
18 shall meet at least quarterly at the call of the governing  
19 board of the nonprofit corporation's chairperson.

20 (5) The nonprofit corporation must perform the following  
21 duties:

22 (i) Provide assistance and recommendation to the  
23 board on the board's duties.

24 (ii) Assist the board in raising money for the fund  
25 for corporate and individual donors.

26 (iii) Provide a financial report of the nonprofit  
27 corporation to the board.

28 (b) Benefits.--An officer, employee or member of a governing  
29 board of a nonprofit corporation that enters into a cooperative  
30 agreement with the board under this act shall not be considered

1 a State employee and shall not be entitled to State-funded  
2 benefits, including membership in the State Employees'  
3 Retirement System.

4 Section 7. Education Endowment Fund.

5 (a) Establishment.--A special fund is established within the  
6 State Treasury to be known as the Education Endowment Fund. The  
7 fund shall not lapse.

8 (b) Purpose.--Money in the fund shall be used exclusively to  
9 provide distributions to school districts as provided for under  
10 this act.

11 (c) Deposits.--The fund shall consist of:

12 (1) Appropriations made to the fund by the General  
13 Assembly.

14 (2) Proceeds of gifts, grants or contributions to the  
15 Commonwealth that are specifically designated for inclusion  
16 in the fund.

17 (3) Any accrued interest.

18 (d) Management.--

19 (1) The members of the board shall be the trustees of  
20 the fund.

21 (2) Notwithstanding any other provision of law governing  
22 the investments of funds under the control of an  
23 administrative board of the Commonwealth, the trustees shall  
24 have exclusive control and management of the fund and full  
25 power to invest the fund in accordance with this section.

26 (3) The trustees shall have the power to hold, purchase,  
27 sell, lend, assign, transfer or dispose of:

28 (i) The securities and investments in which money in  
29 the fund has been invested and the proceeds of the  
30 investments, including directed commissions which have

1           accrued to the benefit of the fund as a consequence of  
2           the investments.

3           (ii) Any money belonging to the fund.

4           (4) The power of the trustees under this subsection  
5           shall be subject to the exercise of the degree of judgment,  
6           skill and care under the circumstances prevailing at the time  
7           the power is exercised which a person of prudence, discretion  
8           and intelligence, who is familiar with the matters, exercises  
9           in the management of the person's own affairs not in regard  
10          to speculation but in regard to the permanent disposition of  
11          the funds, considering the probable income to be derived from  
12          the disposition and as the probable safety of the person's  
13          capital.

14          (e) Custodian.--The State Treasurer shall be the custodian  
15          of the fund.

16          (f) Payments.--All payments from the fund shall be made by  
17          the State Treasurer in accordance with requisitions signed by  
18          the secretary of the board, or the secretary's designee, and  
19          ratified by resolution of the board.

20          (g) Fiduciary status.--The members of the board, employees  
21          of the board and agents of the board shall stand in a fiduciary  
22          relationship to the fund regarding the investments and  
23          disbursements of any of the money of the fund and may not profit  
24          either directly or indirectly with respect to the investments  
25          and disbursements. The board may, when possible and consistent  
26          with the board's fiduciary duties imposed under this subsection  
27          or other law, including the board's obligation to invest and  
28          manage the fund for the exclusive benefit of the members of the  
29          fund, consider whether an investment in a project or business  
30          enhances and promotes the general welfare of this Commonwealth



1 and its citizens, including, but not limited to, investments  
2 that increase and enhance the employment of Commonwealth  
3 residents, encourage the construction and retention of adequate  
4 housing and stimulate further investment and economic activity  
5 in this Commonwealth. The board shall, through the Governor,  
6 submit to the General Assembly annually, at the same time the  
7 board submits the board's budget covering administrative  
8 expenses, a report identifying the nature and amount of each  
9 existing investment made under this subsection.

10 (h) Name for transacting business.--

11 (1) Except as provided under paragraph (2), the  
12 following shall be transacted by the name of "Education  
13 Endowment Fund":

14 (i) Business of the fund.

15 (ii) Investment of funds.

16 (iii) Requisitions for money drawn and payments  
17 made.

18 (iv) Holding of cash, securities and other property.

19 (2) Notwithstanding any other law, the board may  
20 establish a nominee registration procedure for the purpose of  
21 registering securities in order to facilitate the purchase,  
22 sale or other disposition of securities pursuant to this act.

23 (i) Venture capital, private placement and alternative  
24 investments.--The board in the board's prudent discretion may  
25 make venture capital investment, private placement investment or  
26 other alternative investment of any kind, structure or manner  
27 which meets the standard of prudence under subsection (d)(4).

28 (j) Vehicles for authorized investments.--The board in the  
29 board's prudent discretion may make investments which meet the  
30 standard of prudence provided in subsection (d)(4) by acquiring

1 any type of interest in a business organization existing under  
2 the laws of any jurisdiction if the liability of the fund is  
3 limited to the amount of the board's investment.

4 (k) Legislative declaration.--The General Assembly finds and  
5 declares that authorized investments of the fund made by or on  
6 behalf of the board under this section by which the board  
7 becomes a joint owner or stockholder in a company, corporation,  
8 association or other lawful business organization are outside  
9 the scope of the original intent of and therefore do not violate  
10 the prohibition provided in section 8 of Article VIII of the  
11 Constitution of Pennsylvania.

12 Section 8. Distribution of funds to school districts.

13 (a) Certification.--By July 15, 2018, and each July 15  
14 thereafter, the State Treasurer shall certify the amount of  
15 interest earned by the fund in the prior fiscal year.

16 (b) Amount and manner.--The State Treasurer shall distribute  
17 60% of the interest earned by the fund in the prior fiscal year  
18 to each school district in the same manner as a basic education  
19 line item in the General Appropriation Act.

20 Section 9. Effective date.

21 This act shall take effect in 60 days.