

Regular Session, 2013

SENATE BILL NO. 229

BY SENATORS BROOME, APPEL, CLAITOR, DONAHUE, GUILLORY AND  
WALSWORTH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FUNDS/FUNDING. Provides that the Louisiana Education Quality Trust Fund shall be known as the "Kevin P. Reilly, Sr. Louisiana Education Quality Trust Fund." (gov sig)

1 AN ACT

2 To amend and reenact R.S. 17:3801(A)(1), 3802(C)(4), 3803(B)(1)(d), (h), (i), and (E)(1),

3 and 3804(B), R.S. 39:99(C)(2) and (D)(1)(b), R.S. 46:2691(C)(2) and R.S.

4 49:308.4(C) and 329(A) and to enact R.S. 17:3801.1, relative to certain Louisiana

5 education funds; to provide that the Louisiana Education Quality Trust Fund shall

6 be known as the "Kevin P. Reilly, Sr. Louisiana Education Quality Trust Fund"; to

7 provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 17:3801(A)(1), 3802(C)(4), 3803(B)(1)(d), (h), (i) and (E)(1), and

10 3804(B) are hereby amended and reenacted and R.S. 17:3801.1 is hereby enacted to read as

11 follows:

12 PART I. LOUISIANA EDUCATION QUALITY TRUST FUND, hereinafter also

13 known as the "KEVIN P. REILLY, SR. LOUISIANA EDUCATION QUALITY

14 TRUST FUND"

15 §3801. Louisiana Education Quality Trust Fund, hereinafter referred in this Part

16 as the "Kevin P. Reilly, Sr. Louisiana Education Quality Trust

17 Fund"

1           A.(1) There shall be established in the state treasury as a special permanent  
 2 trust fund, ~~the Louisiana Education Quality Trust Fund, hereinafter the "Kevin P.~~  
 3 **Reilly, Sr. Louisiana Education Quality Trust Fund"**, henceforth referred to as  
 4 the "Permanent Trust Fund". After allocation of money to the Bond Security and  
 5 Redemption Fund as provided in Article VII, Section 9(B) of the constitution, and  
 6 notwithstanding Article XIV, Section 10 of the constitution, the treasurer shall  
 7 deposit in and credit to the Permanent Trust Fund all money which is received from  
 8 the federal government under Section 1337(g) of Title 43 of the United States Code  
 9 which is attributable to mineral production activity or leasing activity on the Outer  
 10 Continental Shelf which has been held in escrow pending a settlement between the  
 11 United States and the state of Louisiana, except the first one hundred million dollars  
 12 so received; twenty-five percent of the recurring revenues received under Section  
 13 1337(g) of Title 43 of the United States Code which are attributable to mineral  
 14 production activity or leasing activity on the Outer Continental Shelf; twenty-five  
 15 percent of the interest income earned on investment of monies in the Permanent  
 16 Trust Fund; and seventy-five percent of realized capital gains and twenty-five  
 17 percent of dividend income earned on investment of the Permanent Trust Fund. No  
 18 appropriation shall be made from the Permanent Trust Fund.

19   \*       \*       \*

20           **§3801.1 "Kevin P. Reilly, Sr. Louisiana Education Quality Trust Fund"**

21           **A. The late Kevin P. Reilly, Sr. served as a member of the Louisiana**  
 22 **House of Representatives from 1972 to 1988. During that time, Representative**  
 23 **Reilly was chairman of the House Committee on Appropriations for fourteen**  
 24 **years of his sixteen-year tenure in the House of Representatives.**

25           **B. In 1985, as a member of the House of Representatives, Kevin P.**  
 26 **Reilly, Sr. pushed for and provided key leadership in the formation of the**  
 27 **Louisiana Education Quality Trust Fund, also known as the "8(g) Fund" or the**  
 28 **"8(g) Trust Fund". This trust fund earmarks certain oil and natural gas**  
 29 **royalties for elementary, secondary, and higher education funding purposes.**

1 The initial trust fund balance was five hundred forty-one million dollars.

2 C. In 2013, the "Kevin P. Reilly, Sr. Louisiana Education Quality Trust  
3 Fund", has a current balance of one billion one hundred fifty million dollars,  
4 of which forty-two million four hundred thousand dollars is forecast to be  
5 available for allocation to elementary, secondary, and higher education funding  
6 purposes in Fiscal Year 2012-2013. Since inception, the trust fund has provided  
7 in excess of one billion four hundred thirty million dollars to a variety of  
8 education enhancements and opportunities for Louisiana students at every level  
9 of education, which is an increase of one hundred twelve percent over the life  
10 of the fund.

11 §3802. Appropriations; procedure; limitation; administration

12 \* \* \*

13 C.

14 \* \* \*

15 (4) Costs attributable to the state treasurer exercising responsibility for the  
16 custody, investment, and disbursement of the monies in the ~~Louisiana Education~~  
17 ~~Quality Trust Fund~~ "Kevin P. Reilly, Sr. Louisiana Education Quality Trust  
18 Fund", and the Support Fund are administrative costs properly paid out of Support  
19 Fund monies, and shall be paid by appropriation from the Support Fund. Such costs  
20 include costs attributable to fees charged by any financial institution for providing  
21 custodial services not to exceed two percent of amounts managed costs incurred for  
22 outside investment managers for the investment and management of the Permanent  
23 Trust Fund not to exceed two percent of amounts managed and other direct costs  
24 incurred by the treasurer. Other costs related to these funds shall be paid by  
25 appropriation from the state general fund. All appropriations made to, or upon the  
26 request of, the state treasurer, related to the management of either the ~~Louisiana~~  
27 ~~Education Quality Trust Fund~~ "Kevin P. Reilly, Sr. Louisiana Education Quality  
28 Trust Fund", or the Support Fund shall be subject to review of the education funds  
29 committee.

\* \* \*

§3803. Investment authority; treasurer

\* \* \*

B. Grant of authority.

(1) The state treasurer is hereby authorized and directed to invest offshore revenues which are deposited into any fund created pursuant to the constitution or statutes of the state which are determined by the state treasurer to be available for investment in the following permitted investments:

\* \* \*

(d) Stocks of any corporation listed on the New York Stock Exchange, the American Stock Exchange, the National Association of Securities Dealers Automated Quotations System, or other such stock exchange domiciled in the United States and registered with the United States Securities and Exchange Commission, provided that the total investment in such stocks at any one time shall not exceed thirty-five percent of the market value of all funds held by the treasurer in the ~~Louisiana Education Quality Trust Fund~~ **"Kevin P. Reilly, Sr. Louisiana Education Quality Trust Fund"**.

\* \* \*

(h) Tax exempt bonds and other taxable governmental bonds. In addition to all other investment authority related to the ~~Louisiana Education Quality Trust Fund~~ **"Kevin P. Reilly, Sr. Louisiana Education Quality Trust Fund"**, the state treasurer may invest in tax exempt bonds as defined in R.S. 49:342(C), and in taxable bonds issued by any state or a political subdivision or public corporation of any state, provided that such taxable bonds are rated at the time the investment is made by a nationally recognized rating agency in one of the three highest rating categories of that rating agency.

(i) Bonds, debentures, notes, or other similar obligations issued in the United States market, denominated in United States dollars and are the direct legal obligations of a foreign nation which the International Monetary Fund lists as an

1 industrial country, for which investments in and/or business transactions with are not  
 2 prohibited or restricted by any law, regulation, or rule of the United States or the  
 3 state of Louisiana, and for which the full faith and credit of such nation has been  
 4 pledged for the payment of principal and interest; provided that any such security  
 5 shall be rated at least A- or better by Standard & Poor's Corporation or A3 or better  
 6 by Moody's, Inc., or an equivalent investment grade by a securities ratings  
 7 organization accepted by the National Association of Insurance Commissioners; and,  
 8 provided further that the total investment in such foreign securities at any one time  
 9 shall not exceed five percent of the market value of all investments held by the  
 10 treasurer in the ~~Louisiana Education Quality Trust Fund~~ **"Kevin P. Reilly, Sr.**  
 11 **Louisiana Education Quality Trust Fund"**, or any other fund or investment of  
 12 funds subject to this investment authority.

13 \* \* \*

14 E. Repurchase agreements.

15 (1) In addition to all other investment authority related to the ~~Louisiana~~  
 16 ~~Education Quality Trust Fund~~ **"Kevin P. Reilly, Sr. Louisiana Education Quality**  
 17 **Trust Fund"**, the state treasurer may enter into direct security repurchase  
 18 agreements, reverse security repurchase agreements, and securities lending contracts  
 19 in order to generate passive income.

20 \* \* \*

21 §3804. Legislative oversight

22 \* \* \*

23 B. The purpose of the education funds committee is to oversee the operation  
 24 of the ~~Louisiana Educational Quality Trust Fund~~ **"Kevin P. Reilly, Sr. Louisiana**  
 25 **Education Quality Trust Fund"**, and the Louisiana Quality Education Support  
 26 Fund. The education funds committee may recommend revisions in the program and  
 27 budget of either board. The education funds committee shall forward its  
 28 recommendations to the appropriate board.

29 \* \* \*

1 Section 2. R.S. 39:99(C)(2) and (D)(1)(b) are hereby amended and reenacted to read  
2 as follows:

3 §99. Investment contracts; definitions; obligations of state treasurer; obligations of  
4 participating school boards; contractual requirements

5 \* \* \*

6 C. Each contract entered into pursuant to this Section shall contain:

7 \* \* \*

8 (2) The authority necessary for the treasurer to invest any money entrusted  
9 to his investment pursuant to this Section with the same authority and limitations  
10 applicable to his investment of the monies in the Louisiana Education Quality Trust  
11 **Fund, also known as the "Kevin P. Reilly, Sr. Louisiana Education Quality**  
12 **Trust Fund"**.

13 \* \* \*

14 D. Each local school board which wishes to enter into such a contract shall  
15 agree to:

16 (1) Withdraw and expend monies from its account only as provided in this  
17 Paragraph and in the following order of priority:

18 \* \* \*

19 (b) If, after withdrawing earnings pursuant to Subparagraph (a) of this  
20 Paragraph, any earnings remain, withdraw and expend earnings to provide or  
21 enhance the provision of age-appropriate early childhood education for four-year-old  
22 children at least equal to that provided pursuant to the early childhood education  
23 program requirements in the 2001-2002 school year of the program funded with  
24 Louisiana Education Quality Trust Fund, **also known as the "Kevin P. Reilly, Sr.**  
25 **Louisiana Education Quality Trust Fund"**, money who would be eligible to attend  
26 kindergarten in a school over which the board has jurisdiction who are at risk of  
27 academic failure until all such children are provided such services.

28 \* \* \*

29 Section 3. R.S. 46:2691(C)(2) is hereby amended and reenacted to read as follows:

1 §2691. Medicaid Trust Fund for the Elderly

2 \* \* \*

3 C.

4 \* \* \*

5 (2) The state treasurer is hereby authorized and directed to invest the monies  
6 deposited in and credited to the fund that are available for investment in the  
7 investments permitted for the Louisiana Education Quality Trust Fund, **also known**  
8 **as the "Kevin P. Reilly, Sr. Louisiana Education Quality Trust Fund"**, as set  
9 forth in R.S. 17:3803(B), (D), and (E). In establishing investment goals and policies  
10 for monies in the Medicaid Trust Fund for the Elderly, the state treasurer shall  
11 consult no less frequently than semiannually with the secretary of the Department  
12 of Health and Hospitals as to the anticipated cash withdrawals from the fund during  
13 the next twelve months.

14 \* \* \*

15 Section 4. R.S. 49:308.4(C) and 329(A) are hereby amended and reenacted to read  
16 as follows:

17 §308.4. Use of funds on deposit; repayment to special funds

18 \* \* \*

19 C. This Section shall not apply to or otherwise provide for the use of the  
20 money in the Louisiana Education Quality Trust Fund, **also known as the "Kevin**  
21 **P. Reilly, Sr. Louisiana Education Quality Trust Fund"**, (Constitution Article  
22 VII, Section 10.1) and the Transportation Trust Fund (Constitution Article VII,  
23 Section 27).

24 \* \* \*

25 §329. Nominee name for the Louisiana Education Quality Trust Fund, **also known**  
26 **as the "Kevin P. Reilly, Sr. Louisiana Education Quality Trust**  
27 **Fund"**

28 A. The state treasurer may invest available funds and hold, purchase, sell,  
29 assign, transfer, and dispose of any of the securities of the Louisiana Education

1           Quality Trust Fund, **also known as the "Kevin P. Reilly, Sr. Louisiana Education**  
2           **Quality Trust Fund"**, in its nominee name, "LEQTF & Co.".

3    \*        \*        \*

4           Section 5. This Act shall become effective upon signature by the governor  
5           or, if not signed by the governor, upon expiration of the time for bills to become law without  
6           signature by the governor, as provided by Article III, Section 18 of the Constitution of  
7           Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act  
8           shall become effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Jay Lueckel.

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#### DIGEST

Broome (SB 229)

Present law provides relative to the Louisiana Education Quality Trust Fund which was created as a special permanent trust fund in the state treasury with monies received from the federal government attributable to mineral production or leasing activity on the Outer Continental Shelf. Establishes a Support Fund which shall be available for appropriation for educational purposes, including funding for elementary, secondary, and higher education.

Proposed law provides that the Louisiana Education Quality Trust Fund shall hereinafter also be known as the "Kevin P. Reilly, Sr. Louisiana Education Quality Trust Fund". Proposed law makes name changes, but retains all other provisions of present law. Proposed law makes similar name changes throughout the various statutes where Louisiana Education Quality Trust Fund occurs.

Proposed law provides a brief history of the late Kevin P. Reilly, Sr. who served as a member of the Louisiana House of Representatives from 1972 to 1988, as Chairman of the House Committee on Appropriations for 14 of his 16-year tenure in the House of Representatives, and, in 1985, provided key leadership in the formation of the Louisiana Education Quality Trust Fund, also known as the "8g Fund" or the "8g Trust Fund". Today, the fund has a current balance of \$1.15 billion of which \$42.4 million is forecast to be available for allocation to elementary, secondary, and higher education funding purposes this fiscal year.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17: 3801(A)(1), 3802(C)(4), 3803(B)(1)(d), (h), (i), and (E)(1), and 3804(B), R.S. 39:99(C)(2) and (D)(1)(b), R.S. 46:2691(C)(2) and R.S. 49:308.4(C) and 329(A); adds R.S. 17:3801.1)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Education to the original bill

1.     Technical changes.