



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

**GROVER BELLERS**  
**ATTORNEY GENERAL**

Honorable Compton White  
County Auditor  
Freestone County  
Fairfield, Texas

Dear Sir:

Opinion No. O-5785  
Re: Can the balance in  
the local maintenance  
school fund of a common  
school district be legally  
invested in United States  
Defense bonds?

We are in receipt of your letter of recent  
date reading as follows:

"St. Elmo Common School District No. 46,  
Freestone County, Texas, had the following  
balances in the local maintenance school fund  
on the following dates:

At the close of school year, Sept. 1st, 1941  
\$5,042.57  
At the close of school year, Sept. 1st, 1942  
\$4,919.80  
At the close of school year, Sept. 1st, 1943  
\$4,042.29  
Estimated balance as per budget, Sept 1st  
1944, \$4,000.00

"The funds for the local tax account are  
derived from a 50 ct. tax rate per \$100.00  
valuation on all property in said common school  
district and the tax was voted by the qualified  
voters of said district for school maintenance  
purposes. Can the estimated balance of four  
thousand (\$4,000.00) Dollars as of September 1,  
1944 be legally invested in United States  
Defense Bonds?"

"If you answer the above question in the affirmative, who has the authority to make this investment, the trustees of St. Anne School or the Commissioners' Court of Freestone County?"

Replying to the above you are advised that prior to the passage of House Bill No. 746, Acts of the 48th Legislature, Regular Session, 1943, School districts did not have the authority to invest surplus funds in government bonds, but since the passage of this act it is our opinion that they now have such authority. Section 1 of the act reads as follows:

"All political subdivisions of the State of Texas which have balances remaining in their accounts at the end of any fiscal year may invest such balances in defense bonds or other obligations of the United States of America; provided, however, that when such funds are needed the obligations of the United States in which such balances are invested shall be sold or redeemed and the proceeds of said obligations shall be deposited in the accounts from which they were originally drawn."

The foregoing Act authorizes all political subdivisions of the State (which includes common school districts) that have balances remaining in their accounts at the end of any fiscal year to invest such balances in defense bonds or other obligations of the United States of America.

Article 2749, Revised Statutes 1925, which deals with the powers and duties of school trustees, contains the following sentence: "they shall approve all claims against school funds of their district." We think the trustees of the district, with the approval of the County Superintendent of schools, would have the authority to make the investment.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED  
JAN 10 1944  
*Wm. Allan*  
ATTORNEY GENERAL OF TEXAS

*C. F. Gibson*  
C. F. Gibson  
Assistant

CFC:ned

ok.  
J.D.

