

1-1 By: Ellis S.B. No. 206  
1-2 (In the Senate - Filed January 15, 2003; February 3, 2003,  
1-3 read first time and referred to Committee on Education;  
1-4 May 2, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; May 2, 2003, sent  
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 206 By: Zaffirini

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the composition of the permanent school fund and the  
1-11 available school fund and to transfers from the permanent school  
1-12 fund to the available school fund.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsections (a) and (b), Section 43.001,  
1-15 Education Code, are amended to read as follows:

1-16 (a) Except as provided by Subsection (b), the [The]  
1-17 permanent school fund, which is a perpetual endowment for the  
1-18 public schools of this state, consists of:

1-19 (1) all land appropriated for the public schools by  
1-20 the constitution and laws of this state;

1-21 (2) all of the unappropriated public domain remaining  
1-22 in this state, including all land recovered by the state by suit or  
1-23 otherwise except pine forest land as defined by Section 88.111;

1-24 (3) all proceeds from the authorized sale of permanent  
1-25 school fund land;

1-26 (4) all proceeds from the lawful sale of any other  
1-27 properties belonging to the permanent school fund;

1-28 (5) all investments authorized by Section 43.003 of  
1-29 properties belonging to the permanent school fund; and

1-30 (6) all income from the mineral development of  
1-31 permanent school fund land, including income from mineral  
1-32 development of riverbeds and other submerged land.

1-33 (b) The available school fund, which shall be apportioned  
1-34 annually to each county according to its scholastic population,  
1-35 consists of:

1-36 (1) the distributions to the fund from the permanent  
1-37 school fund as provided by Section 5(a), Article VII, Texas  
1-38 Constitution [interest and dividends arising from any securities or  
1-39 funds belonging to the permanent school fund];

1-40 (2) [all interest derivable from the proceeds of the  
1-41 sale of land set apart for the permanent school fund;

1-42 [(3) all money derived from the lease of land  
1-43 belonging to the permanent school fund;

1-44 [(4)] one-fourth of all revenue derived from all state  
1-45 occupation taxes, exclusive of delinquencies and cost of  
1-46 collection;

1-47 (3) [(5)] one-fourth of revenue derived from state  
1-48 gasoline and special fuels excise taxes as provided by law; and

1-49 (4) [(6)] all other appropriations to the available  
1-50 school fund made by the legislature for public school purposes.

1-51 SECTION 2. Section 43.002, Education Code, is amended to  
1-52 read as follows:

1-53 Sec. 43.002. TRANSFERS FROM PERMANENT SCHOOL FUND AND  
1-54 GENERAL REVENUE FUND TO AVAILABLE SCHOOL FUND. (a) On the first  
1-55 working day of each month in a state fiscal year, the comptroller  
1-56 shall transfer from the permanent school fund to the available  
1-57 school fund an amount equal to one-twelfth of the annual  
1-58 distribution from the permanent school fund to the available school  
1-59 fund as provided by Section 5(a), Article VII, Texas Constitution,  
1-60 for the fiscal year.

1-61 (a-1) Notwithstanding Subsection (a), for the fiscal year  
1-62 beginning September 1, 2003, the comptroller shall transfer from  
1-63 the permanent school fund to the available school fund:

2-1 (1) on January 2, 2004, an amount equal to  
 2-2 five-twelfths of the annual distribution from the permanent school  
 2-3 fund to the available school fund for that fiscal year as provided  
 2-4 by Section 5(g), Article VII, Texas Constitution; and

2-5 (2) on the first working day of each month after  
 2-6 January 2004, an amount equal to one-twelfth of the annual  
 2-7 distribution from the permanent school fund to the available school  
 2-8 fund for that fiscal year as provided by Section 5(g), Article VII,  
 2-9 Texas Constitution.

2-10 (a-2) Subsection (a-1) and this subsection expire September  
 2-11 1, 2004.

2-12 (b) Of the amounts available for transfer from the general  
 2-13 revenue fund to the available school fund for the months of January  
 2-14 and February of each fiscal year, no more than the amount necessary  
 2-15 to enable the comptroller to distribute from the available school  
 2-16 fund an amount equal to 9-1/2 percent of the estimated annual  
 2-17 available school fund apportionment to category 1 school districts,  
 2-18 as defined by Section 42.259, and 3-1/2 percent of the estimated  
 2-19 annual available school fund apportionment to category 2 school  
 2-20 districts, as defined by Section 42.259, may be transferred from  
 2-21 the general revenue fund to the available school fund. Any  
 2-22 remaining amount that would otherwise be available for transfer for  
 2-23 the months of January and February shall be transferred from the  
 2-24 general revenue fund to the available school fund in equal amounts  
 2-25 in June and in August of the same fiscal year.

2-26 SECTION 3. Subsection (e), Section 31.301, Natural  
 2-27 Resources Code, is amended to read as follows:

2-28 (e) Before approving the trade, the appropriate board shall  
 2-29 make a finding that no loss to the permanent ~~[available]~~ school fund  
 2-30 or the available university fund will occur as a result of the  
 2-31 trade.

2-32 SECTION 4. Sections 33.016, 51.069, and 51.300, Natural  
 2-33 Resources Code, are amended to read as follows:

2-34 Sec. 33.016. DISPOSITION OF OTHER FUNDS. Money received by  
 2-35 the board for the grant of any interest not under Section ~~[33.014~~  
 2-36 ~~or]~~ 33.015 of this code shall be deposited in the State Treasury to  
 2-37 the credit of the permanent ~~[available]~~ school fund.

2-38 Sec. 51.069. DISPOSITION OF PAYMENTS ON PUBLIC SCHOOL LAND.  
 2-39 ~~[(a)]~~ Payments on public school land received by the commissioner,  
 2-40 including payments received as interest on the purchase of public  
 2-41 school land, shall be transmitted to the comptroller to be credited  
 2-42 to the [proper fund].

2-43 ~~[(b) The comptroller shall credit payments received on the~~  
 2-44 ~~purchase price of public school land to the] permanent school fund~~  
 2-45 ~~[and payments received as interest on the purchase of public school~~  
 2-46 ~~land to the available school fund].~~

2-47 Sec. 51.300. DISPOSITION OF INCOME. Income received by the  
 2-48 commissioner under this subchapter from public school land shall be  
 2-49 credited to the permanent ~~[available]~~ school fund, and income  
 2-50 received from university land shall be credited to the available  
 2-51 university fund. Other income received by the commissioner on  
 2-52 other land under this subchapter shall be credited to the General  
 2-53 Revenue Fund.

2-54 SECTION 5. Subsection (b), Section 51.401, Natural  
 2-55 Resources Code, is amended to read as follows:

2-56 (b) The special fund account must be an interest-bearing  
 2-57 account, and the interest received on the account shall be  
 2-58 deposited in the State Treasury to the credit of the permanent  
 2-59 ~~[available]~~ school fund.

2-60 SECTION 6. Subsection (b), Section 52.137, Natural  
 2-61 Resources Code, is amended to read as follows:

2-62 (b) The commissioner, upon receipt of such payment made  
 2-63 under protest as authorized by this section, shall send to the  
 2-64 comptroller the payment and a written statement that the payment  
 2-65 was made under protest. Immediately upon receipt, the comptroller  
 2-66 shall:

2-67 (1) place the payment in state depositories bearing  
 2-68 interest in the same manner that other funds are required to be  
 2-69 placed in state depositories at interest;

3-1 (2) allocate the interest earned on these funds;  
3-2 (3) credit the amount allocated to an account  
3-3 established for this purpose until the status of the protest is  
3-4 finally determined; and

3-5 (4) upon final determination that some or all of the  
3-6 protested funds belong to the state, deposit the principal and the  
3-7 allocated interest to the ~~[proper funds as provided by law. All~~  
3-8 ~~protest payments finally determined to belong to the]~~ permanent  
3-9 school fund ~~[shall be deposited to that fund upon such~~  
3-10 ~~determination, and interest earned and allocated on those funds~~  
3-11 ~~shall be deposited to the available school fund].~~

3-12 SECTION 7. Subsection (d), Section 52.297, Natural  
3-13 Resources Code, is amended to read as follows:

3-14 (d) The special fund account must be an interest-bearing  
3-15 account, and the interest received on the account shall be  
3-16 deposited in the State Treasury to the credit of the permanent  
3-17 ~~[available]~~ school fund.

3-18 SECTION 8. Subsection (d), Section 53.155, Natural  
3-19 Resources Code, is amended to read as follows:

3-20 (d) The special fund account must be an interest-bearing  
3-21 account, and the interest received on the account shall be  
3-22 deposited in the State Treasury to the credit of the permanent  
3-23 ~~[available]~~ school fund.

3-24 SECTION 9. Section 5, Chapter 314, Acts of the 56th  
3-25 Legislature, Regular Session, 1959 (Article 5337-2, Vernon's Texas  
3-26 Civil Statutes), is amended to read as follows:

3-27 Sec. 5. All income received by the Land Commissioner under  
3-28 this Act from Public School Lands shall be credited to the Permanent  
3-29 ~~[Available]~~ School Fund.

3-30 SECTION 10. Section 43.008, Education Code, is repealed.

3-31 SECTION 11. This Act takes effect January 1, 2004, but only  
3-32 if the constitutional amendment proposed by H.J.R. No. 66 or S.J.R.  
3-33 No. 13, 78th Legislature, Regular Session, 2003, is approved by the  
3-34 voters. If the proposed constitutional amendment is not approved  
3-35 by the voters, this Act has no effect.

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