

By: Ellis

S.J.R. No. 13

1 SENATE JOINT RESOLUTION

2 proposing a constitutional amendment relating to the use of income  
3 and appreciation of the permanent school fund.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 5, Article VII, Texas Constitution, is  
6 amended to read as follows:

7 Sec. 5. (a) The permanent school fund consists of all land  
8 appropriated for public schools by this constitution or the other  
9 laws of this state, other properties belonging to the permanent  
10 school fund, and all revenue derived from the land or other  
11 properties. The available school fund consists of the  
12 distributions made to it from the total return on all investment  
13 assets of [~~principal of all bonds and other funds, and the principal~~  
14 ~~arising from the sale of the lands hereinbefore set apart to said~~  
15 ~~school fund, shall be~~] the permanent school fund, [and all the  
16 interest derivable therefrom and] the taxes [~~herein~~] authorized by  
17 this constitution or general law to be part of [and levied shall be]  
18 the available school fund, and appropriations made to the available  
19 school fund by the legislature. The total amount distributed from  
20 the permanent school fund to the available school fund:

21 (1) in each year of a state fiscal biennium must be an  
22 amount that is not more than six percent of the average of the  
23 market value of the permanent school fund, excluding real property  
24 belonging to the fund that is managed, sold, or acquired under

1 Section 4 of this article, on the last day of each of the 16 state  
2 fiscal quarters preceding the regular session of the legislature  
3 that begins before that state fiscal biennium, in accordance with  
4 the rate adopted by:

5 (A) a vote of two-thirds of the total membership  
6 of the State Board of Education, taken before the regular session of  
7 the legislature convenes; or

8 (B) the legislature by general law or  
9 appropriation, if the State Board of Education does not adopt a rate  
10 as provided by Paragraph (A) of this subdivision;

11 (2) over the five-year period consisting of the  
12 current state fiscal year and the four preceding state fiscal years  
13 may not exceed the total return on all investment assets of the  
14 permanent school fund over the same five-year period; and

15 (3) may not exceed a portion of the total return on all  
16 investment assets of the permanent school fund such that the  
17 portion of the total return retained in the permanent school fund is  
18 sufficient, as determined by the comptroller of public accounts, to  
19 preserve the purchasing power of the permanent school fund for the  
20 current fiscal year and the next nine fiscal years.

21 (b) The expenses of managing permanent school fund land and  
22 investments shall be paid by appropriation from the permanent  
23 school fund.

24 (c) The available school fund shall be applied annually to  
25 the support of the public free schools. Except as provided by this  
26 section, the legislature may not enact a [no] law [~~shall ever be~~  
27 ~~enacted~~] appropriating any part of the permanent school fund or

1 available school fund to any other purpose. The permanent school  
2 fund and the available school fund may not ~~[whatever; nor shall the~~  
3 ~~same, or any part thereof ever]~~ be appropriated to or used for the  
4 support of any sectarian school. The ~~[, and the]~~ available school  
5 fund ~~[herein provided]~~ shall be distributed to the several counties  
6 according to their scholastic population and applied in the ~~[such]~~  
7 manner ~~[as may be]~~ provided by law.

8 (d) ~~[(b)]~~ The legislature by law may provide for using the  
9 permanent school fund ~~[and the income from the permanent school~~  
10 ~~fund]~~ to guarantee bonds issued by school districts or by the state  
11 for the purpose of making loans to or purchasing the bonds of school  
12 districts for the purpose of acquisition, construction, or  
13 improvement of instructional facilities including all furnishings  
14 thereto. If any payment is required to be made by the permanent  
15 school fund as a result of its guarantee of bonds issued by the  
16 state, an amount equal to this payment shall be immediately paid by  
17 the state from the treasury to the permanent school fund. An amount  
18 owed by the state to the permanent school fund under this section  
19 shall be a general obligation of the state until paid. The amount  
20 of bonds authorized hereunder shall not exceed \$750 million or a  
21 higher amount authorized by a two-thirds record vote of both houses  
22 of the legislature. If the proceeds of bonds issued by the state  
23 are used to provide a loan to a school district and the district  
24 becomes delinquent on the loan payments, the amount of the  
25 delinquent payments shall be offset against state aid to which the  
26 district is otherwise entitled.

27 (e) ~~[(c)]~~ The legislature may appropriate part of the

1 available school fund for administration of [~~the permanent school~~  
2 ~~fund or of~~] a bond guarantee program established under this  
3 section.

4 (f) [~~(d)~~] Notwithstanding any other provision of this  
5 constitution, in managing the assets of the permanent school fund,  
6 the State Board of Education may acquire, exchange, sell,  
7 supervise, manage, or retain, through procedures and subject to  
8 restrictions it establishes and in amounts it considers  
9 appropriate, any kind of investment, including investments in the  
10 Texas growth fund created by Article XVI, Section 70, of this  
11 constitution, that persons of ordinary prudence, discretion, and  
12 intelligence, exercising the judgment and care under the  
13 circumstances then prevailing, acquire or retain for their own  
14 account in the management of their affairs, not in regard to  
15 speculation but in regard to the permanent disposition of their  
16 funds, considering the probable income as well as the probable  
17 safety of their capital.

18 (g) Notwithstanding Subsection (a) of this section, the  
19 total amount distributed from the permanent school fund to the  
20 available school fund for the state fiscal years beginning  
21 September 1, 2003, and September 1, 2004, must be an amount equal to  
22 the lesser of:

23 (1) five percent of the average of the market value of  
24 the permanent school fund, excluding real property belonging to the  
25 fund that is managed, sold, or acquired under Section 4 of this  
26 article, on the last day of each of the 16 state fiscal quarters  
27 preceding the regular session of the 78th Legislature; or

1           (2) a portion of the total return on all investment  
2 assets of the permanent school fund such that the portion of the  
3 total return retained in the permanent school fund is sufficient,  
4 as determined by the comptroller of public accounts, to preserve  
5 the purchasing power of the permanent school fund for the current  
6 fiscal year and the next nine fiscal years.

7           (h) Subsection (g) of this section and this subsection  
8 expire December 1, 2006.

9           SECTION 2. This proposed constitutional amendment shall be  
10 submitted to the voters at an election to be held November 4, 2003.  
11 The ballot shall be printed to permit voting for or against the  
12 proposition: "The constitutional amendment relating to the use of  
13 income and appreciation of the permanent school fund."