

1-1 By: Ellis S.J.R. No. 13  
1-2 (In the Senate - Filed January 15, 2003; February 6, 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.J.R. No. 13 By: Ogden

1-8 SENATE JOINT RESOLUTION

1-9 proposing a constitutional amendment relating to the use of income  
1-10 and appreciation of the permanent school fund.

1-11 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 5, Article VII, Texas Constitution, is  
1-13 amended to read as follows:

1-14 Sec. 5. (a) The permanent school fund consists of all land  
1-15 appropriated for public schools by this constitution or the other  
1-16 laws of this state, other properties belonging to the permanent  
1-17 school fund, and all revenue derived from the land or other  
1-18 properties. The available school fund consists of the  
1-19 distributions made to it from the total return on all investment  
1-20 assets of [principal of all bonds and other funds, and the principal  
1-21 arising from the sale of the lands hereinbefore set apart to said  
1-22 school fund, shall be] the permanent school fund, [and all the  
1-23 interest derivable therefrom and] the taxes [herein] authorized by  
1-24 this constitution or general law to be part of [and levied shall be]  
1-25 the available school fund, and appropriations made to the available  
1-26 school fund by the legislature. The total amount distributed from  
1-27 the permanent school fund to the available school fund:

1-28 (1) in each year of a state fiscal biennium must be an  
1-29 amount that is not more than six percent of the average of the  
1-30 market value of the permanent school fund, excluding real property  
1-31 belonging to the fund, on the last day of each of the 16 state fiscal  
1-32 quarters preceding the regular session of the legislature that  
1-33 begins before that state fiscal biennium, in accordance with the  
1-34 rate adopted by:

1-35 (A) a vote of two-thirds of the total membership  
1-36 of the State Board of Education, taken before the regular session of  
1-37 the legislature convenes; or

1-38 (B) the legislature by general law or  
1-39 appropriation, if the State Board of Education does not adopt a rate  
1-40 as provided by Paragraph (A) of this subdivision; and

1-41 (2) over the five-year period consisting of the  
1-42 current state fiscal year and the four preceding state fiscal years  
1-43 may not exceed the total return on all investment assets of the  
1-44 permanent school fund over the same five-year period.

1-45 (b) The expenses of managing permanent school fund land and  
1-46 investments shall be paid by the permanent school fund.

1-47 (c) The available school fund shall be applied annually to  
1-48 the support of the public free schools. Except as provided by this  
1-49 section, the legislature may not enact a [no] law [shall ever be  
1-50 enacted] appropriating any part of the permanent school fund or  
1-51 available school fund to any other purpose. The permanent school  
1-52 fund and the available school fund may not [whatever, nor shall the  
1-53 same, or any part thereof ever] be appropriated to or used for the  
1-54 support of any sectarian school. The[, and the] available school  
1-55 fund [herein provided] shall be distributed to the several counties  
1-56 according to their scholastic population and applied in the [such]  
1-57 manner [as may be] provided by law.

1-58 (d) [(b)] The legislature by law may provide for using the  
1-59 permanent school fund [and the income from the permanent school  
1-60 fund] to guarantee bonds issued by school districts or by the state  
1-61 for the purpose of making loans to or purchasing the bonds of school  
1-62 districts for the purpose of acquisition, construction, or  
1-63 improvement of instructional facilities including all furnishings

2-1 thereto. If any payment is required to be made by the permanent  
2-2 school fund as a result of its guarantee of bonds issued by the  
2-3 state, an amount equal to this payment shall be immediately paid by  
2-4 the state from the treasury to the permanent school fund. An amount  
2-5 owed by the state to the permanent school fund under this section  
2-6 shall be a general obligation of the state until paid. The amount  
2-7 of bonds authorized hereunder shall not exceed \$750 million or a  
2-8 higher amount authorized by a two-thirds record vote of both houses  
2-9 of the legislature. If the proceeds of bonds issued by the state  
2-10 are used to provide a loan to a school district and the district  
2-11 becomes delinquent on the loan payments, the amount of the  
2-12 delinquent payments shall be offset against state aid to which the  
2-13 district is otherwise entitled.

2-14 (e) [~~(e)~~] The legislature may appropriate part of the  
2-15 available school fund for administration of [~~the permanent school~~  
2-16 ~~fund or of~~] a bond guarantee program established under this  
2-17 section.

2-18 (f) [~~(d)~~] Notwithstanding any other provision of this  
2-19 constitution, in managing the assets of the permanent school fund,  
2-20 the State Board of Education may acquire, exchange, sell,  
2-21 supervise, manage, or retain, through procedures and subject to  
2-22 restrictions it establishes and in amounts it considers  
2-23 appropriate, any kind of investment, including investments in the  
2-24 Texas growth fund created by Article XVI, Section 70, of this  
2-25 constitution, that persons of ordinary prudence, discretion, and  
2-26 intelligence, exercising the judgment and care under the  
2-27 circumstances then prevailing, acquire or retain for their own  
2-28 account in the management of their affairs, not in regard to  
2-29 speculation but in regard to the permanent disposition of their  
2-30 funds, considering the probable income as well as the probable  
2-31 safety of their capital.

2-32 (g) Notwithstanding Subsection (a) of this section, the  
2-33 total amount distributed from the permanent school fund to the  
2-34 available school fund for the state fiscal years beginning  
2-35 September 1, 2003, and September 1, 2004, must be an amount equal to  
2-36 the lesser of:

2-37 (1) five percent of the average of the market value of  
2-38 the permanent school fund, excluding real property belonging to the  
2-39 fund, on the last day of each of the 16 state fiscal quarters  
2-40 preceding the regular session of the 78th Legislature; or

2-41 (2) a portion of the total return on all investment  
2-42 assets of the permanent school fund such that the portion of the  
2-43 total return retained in the permanent school fund is sufficient,  
2-44 as determined by the comptroller of public accounts, to preserve  
2-45 the purchasing power of the permanent school fund for the current  
2-46 fiscal year and the next nine fiscal years.

2-47 (h) Subsection (g) of this section and this subsection  
2-48 expire December 1, 2006.

2-49 SECTION 2. This proposed constitutional amendment shall be  
2-50 submitted to the voters at an election to be held November 4, 2003.  
2-51 The ballot shall be printed to permit voting for or against the  
2-52 proposition: "The constitutional amendment relating to the use of  
2-53 income and appreciation of the permanent school fund."

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