

Grace Schmitt

FINANCE  
COMMITTEE  
REPORT

August 15, 1973

Note: THIS IS A REPORT WHICH REPRESENTS THE VIEWS  
OF THE FINANCE COMMITTEE AND DOES NOT REFLECT  
THE FINAL DECISIONS OF THE TEXAS CONSTITUTIONAL  
REVISION COMMISSION.

FINANCE COMMITTEE:

Mr. Beeman Fisher, Chairman  
Mr. John Mark McLaughlin, Vice-Chairman  
Mr. M. F. Frost  
Mrs. Faye Holub  
Dr. Janice May



## PREFACE

Several sections in the present Constitution of the State of Texas were assigned to the Finance Committee for study. This report presents the Committee's recommendations for revision of those sections. A complete, unannotated draft of the Committee's recommended constitutional language is included in Appendix A. Also included in this report, on yellow and green paper, are several alternatives to the Committee's recommendations.

For purposes of study, the assigned sections were organized according to their subject matter. This report is directed toward a discussion of general subjects rather than specific existing sections. Appendix B is included as a short-hand explanation of the Committee's recommendation for each section.

Under each subject covered in this report, there are three divisions:

1. Constitutional Language - The first item to appear in each portion of the report, beginning with Finance, Section 1 (p.10), is recommended language for the revised Constitution. If the term "No Recommended Provision" appears (e.g. p.26), the Committee recommendation is that the new Constitution not include a provision on the subject.
2. Source - Immediately following the constitutional language is an item titled "source". This indicates where the recommended language may be found in the present Constitution or, if not in the present Constitution, where it was derived.



3. Comment - The last item highlights the Committee's considerations on the subject and explains the rationale behind the Committee's recommendation.

This report represents the views of the Finance Committee and does not represent the final decisions of the Texas Constitutional Revision Commission.

## FINANCE COMMITTEE REPORT

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Note - For an account of the Committee's recommendation on each section see Appendix B.



## TAXATION

### General Discussion

Taxation is a complex subject. Understanding is made more difficult because the present Taxation Article of the Constitution is a rambling, disorganized and, occasionally inconsistent collection of authorizations for and restrictions on the powers of government to tax or to exempt from taxation. A brief survey of the constitutional aspects of taxation, as found by the Finance Committee, may be helpful.

The State's power to tax is plenary. Unless some limitation is placed on that power by the State or Federal Constitution, no constitutional authorization to tax or to exempt is necessary. But once constitutional rules or limitations are established, specific constitutional authorization is necessary to provide for exceptions. Most tax provisions in the Texas Constitution are exceptions to a few limitations.

The Texas Constitution is virtually silent on the subject of non-property taxation, requiring only that (1) taxes be levied and collected by general law; (2) the power to tax corporations not be surrendered; and (3) occupation taxes be equal and uniform upon the same class of subjects within the limits of the authority levying the tax. Otherwise the Legislature's ability to enact and to authorize local governments to enact non-property taxes has been unrestrained by the State Constitution. The fact that amendment of the Constitution has been unnecessary to allow the myriad of present taxes is evidence of the unrestrictive nature of existing constitutional limitations on non-property taxation.



Most of the present Taxation Article is devoted to the subject of property taxation. The Constitution imposes several limitations: (1) all property in the State shall be taxed; (2) property shall be taxed in proportion to value; and (3) taxation shall be equal and uniform. Because of these limitations, specific constitutional authorizations are necessary to permit exempting property and to allow special methods for valuing property. Through amendment of the Constitution, a number of such exceptions have been created.

A major issue faced by the Finance Committee has been whether to retain constitutional limitations on the Legislature's power to tax property. The Committee's recommendation for revision of the Taxation Article has been affected by the nature of existing property tax problems and by the need for constitutional direction for solving these problems.



## TAXATION

### COMMITTEE RECOMMENDATION

In general, the Finance Committee recommends the reorganization and simplification of existing constitutional provisions to more clearly indicate the nature and applicability of existing limitations and of exceptions to those limitations. The Constitution should continue to provide rather specific directions for property taxation. This is an exception to the proposition that a constitution should remain silent on the subject of particular taxes. It is the consensus of the Committee that the property tax is of such unique and traditional importance that a reorganization and simplification of existing provisions, with such changes as seem desirable to promote the correction of identifiable problems, is preferable to an outright deletion of property tax limitations from the Constitution.

Although the relative importance of the property tax as a source of government revenue in Texas has declined somewhat, particularly at the state level, it continues to provide approximately 87% of local tax revenue and 40% of state and local tax revenue. In 1971, revenues from the property tax in Texas totaled \$1.5 billion. It is likely that the property tax will continue to be the single greatest source of local government revenue.

Despite its great importance, the local property tax has been characterized as the "least fair" of taxes in a recent public opinion poll by the Advisory Commission on Intergovernmental Relations. Among particular characteristics identified by the Finance Committee are:



1. The Constitution of Texas yields one set of principles for property taxation, but practice and practicality yield another. The Constitution requires that all property be taxed equally and uniformly, but there is not a tax roll in the State that conforms to the Constitutional standard. A recent study indicates that because of the gap, inconsistencies in legal doctrine are commonplace and the individual taxpayer suffers in his inability to identify and to challenge even flagrant violation of the property tax laws.
2. Despite a constitutional mandate that all property be taxed much property escapes taxation. Local tax assessors report that they find it impossible to tax all property. As a result, many make no effort to tax more than that which can be easily located and valued. It has been estimated that much of the property in Texas escapes taxation. Most of this property is personal property which, as a rule, is highly mobile, easily concealed and can be legally manipulated to avoid taxation. The great burden of the property tax is on the owner of real property.
3. There is considerable intrajurisdictional disparity in assessment and taxation. Much of this disparity concerns personal property, at least in part because of the difficulty in setting a value for certain kinds of personal property. Assessing property at a fraction of full market value is universally practiced in Texas as it is in most states. Such a policy may not be objectionable if assessments are uniform



within the taxing jurisdiction. But in Texas, the assessment ratio often varies between types of property and between similar pieces of property, all within the same jurisdiction.

4. There is considerable interjurisdictional disparity in assessment and taxation. Property taxing rules and philosophy vary greatly between taxing jurisdictions. Some types of personal property are taxed in one jurisdiction, but entirely escape taxation in others. Assessment ratios on taxed property also vary.

There have been a number of reasons advanced for the inequitable nature of the local property tax system in Texas. Some are administrative (e.g. local assessors' lack of training). Some are political (e.g. the unwillingness of taxpayers to accept an assessment of property at 100% of market value). Some are legal. Possible solutions to all or part of the problem have been proposed and are being studied by a variety of state and private authorities. Most of these solutions are statutory in nature and some could be enacted under the present Constitution. The Finance Committee has largely directed its attention to those which are impossible without constitutional change.

In general, the Finance Committee recommendation is:

1. To retain the general limitations on the general property tax.
2. To avoid constitutional changes that would restrict the Legislature's ability to eliminate property tax inequities.

The possibility has been discussed of a statewide board to vigorously assist in local tax assessing or to assure



the equalization of local tax assessments. A study of this approach, as it operates in other states, is underway and a memorandum on the subject should be available shortly. It can be observed, however, that a State Tax Board is now in existence in Texas. It is the conclusion of a recent study conducted for the Legislative Property Tax Committee that there is no constitutional objection to increasing the power of the Board. On the other hand, there are many political reasons for continuing local property tax assessments. The Finance Committee does not intend to constitutionally foreclose any of the Legislature's alternatives in this area.

3. To recommend constitutional change that would provide the Legislature with new power to create a more administrable tax program by allowing the classification and exemption of personal property.

Experience has proven that it is impossible to administer a property tax that applies equally and uniformly on all types of property. An increasing number of states have acted to exempt all personal property from the general ad valorem tax - the latest being Illinois where all personalty will be exempt by 1979 by constitutional fiat. Even more states have acted to exempt household goods and business inventories which are the most troublesome types of tangible personal property. Virtually all states have taken steps to exempt all or the greater part of intangible personalty (stocks, bonds, bank deposits, etc.) and this, above all, is the problem of the property tax in Texas. In actual practice,



Texas assessors do not assess and tax intangibles with the single exception of the capital stock of banks. The Legislature should either make a real effort to make intangibles taxable, or it should act to recognize the impossibility of doing so and exempt intangibles. The present Constitution does not present this choice.

Separate treatment of personal property would allow the Legislature to exempt certain classes of personal property, such as intangibles, which cannot now be effectively taxed and to enact "in lieu" taxes which would tax the property indirectly or would tax the property on something other than an ad valorem basis. This could result in the taxing of a greater portion of the wealth in Texas and relieve the unequal burden now present on the owners of real property. In addition, the Legislature would have greater flexibility to deal with interjurisdictional and intrajurisdictional disparities. For example, the Legislature could replace irregular local personal property taxation with a uniformly administered state program which could return some revenues to local government. If the Legislature acts to establish a constitutionally acceptable property tax system, the courts could more effectively enforce local tax rolls and could provide greater taxpayer protection.

4. To encourage the elimination of the State general property tax. This tax, unlike the local general property tax, is being phased out of existence. In 1968, an amendment to the Constitution called for the end of the tax by 1978, except for the 10¢ per \$100 valuation dedicated to institutions of



higher education under Article VII, Section 17. Presently, the state property tax represents only approximately 2.5% of State tax revenue. The tax is even more inequitable than the local property tax because, though applied state-wide, it is based on local assessments. As a result, the tax is probably in violation of the Federal Constitution. In addition, it complicates the local tax situation because tax assessors are encouraged to keep assessments low to avoid paying the State tax. Although elimination of the State general property tax is desirable, a uniformly enforced selective state property tax (e.g. on intangibles) could be a fair and valuable source of future state revenue.

Finance Committee recommendations would not produce property tax revision, but would set the stage for the Legislature to act if it so desired. There are existing statutory provisions which track the present constitutional language and which would continue to govern until the Legislature elects a different course. Without constitutional change, the alternatives available to the Legislature are limited.



FINANCE COMMITTEE RECOMMENDATION

ARTICLE \_\_\_\_\_ FINANCE

Section 1. GENERAL LIMITATIONS

- (a) Taxes shall be levied and collected by general laws for public purposes only.
- (b) The power of taxation shall never be surrendered, suspended, or contracted away.
- (c) Taxation shall be equal and uniform within the jurisdiction of the taxing authority.

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SOURCE

- (a) From Article VIII, Section 3.
- (b) From Article VIII, Section 4. The language is broadened to apply to the general power of taxation rather than only the power to tax corporations.
- (c) Combination of first sentence of Article VIII, Section 1 with clause from Article VIII, Section 2(a) - "within the limits of the authority levying the tax." This is in line with the holdings of Texas courts in most ad valorem tax cases. It does make it clear that it is not unconstitutional to have differing rates of assessment *among* local taxing jurisdictions so long as the ratio is equal and uniform *within* each jurisdiction.

This section would be in place of Article VIII, Section 1 (in part), 2 (in part), 3 and 4.

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COMMENT

It is the consensus of the committee that these limitations are fundamental principles of taxation and are ascribed to by most people and states.

The Finance Committee is not irrevocably committed to including section 1 (b) in the new Constitution. Some observers feel that it is directed toward an abuse that was present in 1876, but that is not likely today. The Committee recommends retaining the prohibition



unless indications are that the provision, rather than protecting the taxpayer, interferes with the State's taxing ability by preventing the use of Federal tax standards.

The joining of "equal and uniform" with "within the limits of the authority levying the tax" is consistent with holdings in Texas courts. It is a recognition of the wide diversity in local taxing needs and circumstances. Narrowing the constitutional requirement for equality and uniformity to within the jurisdiction, rather than among jurisdictions should encourage a greater effort to eliminate intrajurisdictional disparities in taxation by providing a clearer mandate and a more administrable standard. Moreover, the provision is a minimum constitutional requirement and should not interfere with the State exacting a uniformity among jurisdictions, particularly for State taxes or State functions, such as the financing of education.



## Section 2. SPECIFIC LIMITATIONS

- (a) No general property tax shall be levied for state purposes other than the tax levied for permanent improvements at institutions of higher learning.
- (b) Three thousand dollars (\$3,000) of the assessed taxable value of all residence homesteads shall be exempt from all taxation for all State purposes.
- (c) No State tax shall be imposed upon any political subdivision of the State.
- (d) No tax shall be imposed upon the property of the State except that lands belonging to the Permanent University Fund shall be subject to taxation for county purposes to the same extent as lands privately owned.

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 SOURCE

- (a) This was effectively from Article VIII, Section 1-e. The language was intended to allow for the continuation of the State property tax for permanent improvements at institutions of higher learning now authorized under Article VII, Section 17.
- (b) Article VIII, Section 1-b (words "as now defined by law" omitted).
- (c) New general language intended to replace the current prohibition against taxing municipal corporations (Article VIII, Section 1).
- (d) Intended to replace the language of Article VII, Section 16 (erroneously numbered as such in 1930).

This section would be in place of Article VIII, Sections 1 (in part), 1b, 1e, and Article VII, Section 16 (1930).

A transition schedule may be necessary to preserve the basis for county changes for assessing and collecting the state property tax (2%) and for giving delinquent taxes to the college building fund. Similar schedule provision should be made if necessary for the payment of pensions to Rangers and Ranger widows.

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 COMMENT

All of these provisions are in the present Constitution and relate to the taxation of property. It should be noted that (a), (b) and (c) apply only to the State property tax and not to the local property tax.



The term "general" property tax is utilized in (a) to allow the State to enact selective ad valorem taxes on specific types of property, such as intangibles.



## Section 3. THE PROPERTY TAX

- (a) All property, except as hereinafter provided, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The Legislature, by general law, may specify classes of personal property for purposes of valuation and may exempt, or authorize local political subdivisions to exempt, any of such classes of property from ad valorem taxation. The Legislature, by general law, shall prescribe formulas for the valuation of real property in order to promote the establishment and preservation of open space lands devoted to ranch, farm, and forest purposes or used as recreation areas, scenic resources, nature preserves, greenbelt areas, or historic sites.
- (b) There shall be exempt from all ad valorem taxation:
1. All household goods and personal effects not used for the production of income.
  2. All farm products in the hands of the producer and family supplies for home and farm use.
  3. All public property used for public purposes.
- (c) The Legislature, by general laws, may exempt from ad valorem taxation:
1. Property used exclusively for educational, religious, benevolent and charitable purposes or as a nonprofit cemetery.
  2. Up to three thousand dollars (\$3,000) of the assessed value of property owned by a disabled veteran of the armed services of the United States or the surviving spouse and surviving minor children of a disabled veteran of the armed forces of the United States.
  3. Up to three thousand dollars (\$3,000) of the property owned by the surviving spouse or surviving minor children of any member of the armed services of the United States who loses his life while on active duty.



- (d) The governing body of any political subdivision may exempt not less than three thousand dollars (\$3,000) of the assessed value of residences owned and occupied by persons sixty-five (65) years of age or older from all ad valorem taxes thereafter levied by the political subdivision. As an alternative, upon receipt of a petition signed by twenty percent (20%) of the voters who voted in the last preceding election held by the political subdivision, the governing body of the subdivision shall call an election to determine by majority vote whether an amount not less than three thousand dollars (\$3,000) as provided in the petition, of the assessed value of residences owned and occupied by persons sixty-five (65) years of age or older shall be exempt from ad valorem taxes thereafter levied by the political subdivision.
- (e) The Legislature may enact general laws providing relief from residential ad valorem taxation for persons determined to be in need of such relief because of age, disability, or economic circumstances. Any such general law shall provide for the reimbursement of local taxing jurisdictions for revenue losses occasioned by such relief.

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SOURCE

- (a) The first sentence is from Article VIII, Section 1. The second sentence is new and is intended to allow the Legislature to classify, value and exempt personal property. The third sentence is new and is intended to allow the Legislature to specify a method of assessing certain open space lands to promote their preservation.

A transition schedule would continue the present agricultural assessment provision in effect until the Legislature acted. (Article VIII, Section 1d).

- (b) (1) From Article VIII, Section 1. This language would enlarge the present household exemption from \$250.
- (2) From Article VIII, Section 19. This language would eliminate the present power of the Legislature to remove the exemption by 2/3 vote.
- (3) From Article XI, Section 9. This language enlarges the exemption to include all public lands.
- (c) (1) In place of Article VIII, Section 2(a). This language would somewhat enlarge the authority of the Legislature to allow property exemptions.
- (2) From Article VIII, Section 2, subsection (b).
- (3) From Article VIII, Section 2, subsection (b). The amount is increased from \$2,500.



A transition schedule should assure continuation of the existing specifics for exempting the property of handicapped veterans.

(d) From Article VIII, Section 1b. The local option and public initiative aspects of the present provision are retained.

(e) This is new language. It would allow the Legislature to provide relief from property taxes for certain "social" reasons. No change in present law would occur unless the Legislature enacts such legislation. This language would require that if the Legislature acts, it must provide for reimbursement of the lost revenues to local government.

This section would replace Article VIII, Section 1 (in part), 1d, 1e, 2 (in part), 19, Article XI, Section 9.

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#### COMMENT

The Committee's approach to the subject of property taxation has been discussed above. Subsection (a) reflects the Committee's recommendations for allowing the Legislature the latitude to deal with personal property separately and distinctly from real property.

Existing exemptions to the property tax are continued in simplified form in (b), (c) and (d). It should be noted that some exemptions are automatic because the Constitution itself grants the exemption. Others are permissible because the Constitution merely authorizes the Legislature to exempt.

Under the present Constitution and the version recommended by the Finance Subcommittee, the Legislature may not exempt real property from taxation except as specifically allowed by the Constitution. Amendment is necessary to authorize new exemptions. In anticipation of possible future exemptions for social reasons, the Finance Subcommittee recommends including in this revision an authorization for the Legislature to provide tax relief for those found



to be in need of relief because of age, disability or economic circumstance. This would allow the Legislature to enact, without constitutional amendment, such tax relief if it is found to be desirable. The Finance Subcommittee recommends requiring that if the Legislature provides for such social exemptions, it must simultaneously provide for reimbursement of local jurisdictions for lost revenue. By July 1, 1973, every state had enacted some form of property tax relief program. Only 13 states require their localities to provide relief but do not put up any money. Six states have adopted the approach of authorizing rather than requiring local governments to provide relief.

The Finance Committee recommendation in (a) would direct the Legislature to prescribe special formulas for the valuation of open space lands. The need for legislation to relieve the tax impact on rural realty has been recognized in over 20 states, including Texas. Without relief, some land owners, actively engaged in agricultural pursuits, face the choice of selling their land or of paying taxes that approach or are in excess of their income from the land. The problem has been particularly acute for the small land owner, who depends on the land for his livelihood. A solution would be to assess the property based on its use rather than on what it could be sold for in a market where land prices have skyrocketed as a result of inflation, land speculation and urban sprawl.

Concern has been expressed for the impact that reduced assessments could have on the local tax base and for the abuse that could occur if the advantages of the special formula for valuation were



extended to too broad a class (e.g. land speculators). These are valid concerns, but they are directed toward the form and substance of the enacting statute and not the constitutional provision which merely authorized the Legislature to act. A great variety of statutory specifics are available to control these effects: limiting eligible classes (e.g. only natural persons); income requirement; tax penalties on termination of use; long-term contracts; required productivity and the exclusion of certain types of land. In addition, the effect on local taxing jurisdictions has been to shift the tax burden and not to deplete the tax base.



## Section 4. HIGHWAY-USER REVENUES

Subject to legislative appropriation, allocation and direction, all net revenues from (a) motor vehicle registration fees and (b) three quarters of net revenues from all taxes, except gross production and ad valorem taxes, on fuels and lubricants used to propel motor vehicles over public roadways, shall be deposited in the State Highway Fund. Such revenues shall be used for the sole purpose of acquiring rights-of-way, constructing and maintaining a State highway system; for policing public roadways, and for the administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads. One-fourth (1/4) of net revenues from such taxes shall be allocated to the Available School Fund. The net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be retained by each County under the laws in effect on January 1, 1945.

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SOURCE

## Section 4.

From Article VIII, Section 7-a. The language would preserve the present use of the funds by specifically limiting their use to a State Highway System in place of "public roadways."

A transition schedule should provide the the payment of the county and Road district debt which will be retired in 1977.

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COMMENT

This section represents a simplified version of the present constitutional provision (Article VIII, Section 7a) which dedicates highway-user revenues for public roadways. The Committee recommendation would continue to dedicate 25% of the net revenues of the motor fuel tax to the Available School Fund and to preserve the county share of motor vehicle registration fees.



It would also introduce the new term, "State Highway System", which would reflect the present use of the revenues and would not allow the money to be spent on streets or roadways that are not part of state-maintained highways.

Some 28 states have constitutional provisions which dedicate state motor vehicle and gasoline taxes for highway purposes. Even recently revised constitutions, such as Montana's have retained such dedications.

Constitutional dedication of highway-user revenues is even more appropriate in Texas than in other states. Texas has the largest state highway system of any state (70,000 miles). The system constitutes the only state-wide transportation system and affords considerable benefits through increased citizen mobility and through lower costs for food and other essential commodities. This system has been built at a remarkably low cost. For example, Texas built its share of the Interstate system at almost 1/3 less than the average cost per mile of the entire system. In addition, the Texas gasoline tax (5¢) is two cents less than any other in the nation. The presence of constitutionally dedicated funds has been the foundation for the successful Texas system because it has allowed thoughtful advanced planning with the assurance of revenue and without the political pressures and uncertainties of legislative appropriation.

The need for dedicated funds for the future is likely to increase rather than to diminish. One disadvantage of having the



largest highway system in the nation is that costly upkeep, maintenance and revamping is required. It is important to public safety that roads and bridges be constantly improved and updated to accomodate increased traffic and different types of vehicles. Texas should not allow its excellent road system to deteriorate.

The Committee considered the alternatives of: (1) eliminating the constitutional earmarking, (2) allowing the future use of the revenues for other purposes, such as mass transit; or (3) allowing a change in the ratio of the revenue allotted to the highway system and the Available Fund. The Committee recognizes the general undesirability of earmarked taxes, but the highway-user taxes are directly related to the use of the facilities built with these funds and thus constitute a logical exception to the general rule. The Committee is aware that money is needed for other government responsibilities and programs and does not oppose such programs, but the Committee feels that successful operation of the Texas highway system would be endangered if presently pledged sources of revenue were made available for agencies other than the Highway Commission or for purposes other than a highway system.



COMMISSION DIRECTED ALTERNATIVE

HIGHWAY-USE

REVENUE

Removal of the Highway-User Revenue Section from the  
Constitution

Constitutionally dedicated funds are an unnecessary and unwise restraint on the fiscal flexibility of the State. The Finance Committee recommendation is even more objectionable than the existing section because it is more restrictive. Existing language ("public roadways") could, someday, be interpreted to allow using the earmarked funds for city streets and mass transit systems, whereas the new term "state highway system" would not. The best alternative is to remove dedicated funds from the Constitution and to allow the Legislature to establish spending priorities.



COMMISSION DIRECTED ALTERNATIVE

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REVENUE

Removal of the Highway-User Revenue Section from the  
Constitution

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## Section 5. STATE TAXES ON INCOME

Any income tax levied by the Legislature: may be either on personal or corporate income or both; may be graduated or otherwise; and may define income by reference to provisions of the laws of the United States as they then exist or as prospectively enacted, with such modification as may be prescribed by the law of this State.

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SOURCE

## Section 5

From Article VIII, Section 1. It would continue to allow the Legislature to enact an income tax and would permit the tax to be graduated and to be based on the Federal Income Tax.

This section would replace Article VIII, Section 1 (inpart).

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## COMMENT

The Texas Constitution specifically authorizes the Legislature to "tax incomes of both natural persons and corporations other than municipals." Authorizations to tax are unnecessary, but concern has been expressed that under the present Constitution: (1) an income tax could not be enacted unless it taxed "both" corporate and personal incomes; (2) a graduated income tax would be violative of the constitutional requirement that "Taxation shall be equal and uniform" (Article VIII, Section 1); and (3) a State tax on income could not be based on the Federal Income Tax. The Finance Committee recommendation would overcome these objections and would allow the Legislature to enact an income tax if it were found to be desirable.



Whether Texas should enact an income tax, or how such a tax should be patterned, are questions which arouse considerable debate. It is the view of the Finance Committee that these are questions which should be considered carefully, but which should be considered in the legislative process. An increasing number of states have found a tax on income to be a valuable and legitimate source of revenue. If the day arrives when such a tax is found to be desirable for Texas, the Constitution should not prevent its enactment.

The Finance Committee recommendation specifically overcomes the three most common constitutional objections to a State income tax. It may be possible that even if the new Constitution does not contain an authorization such as that recommended by the Finance Committee, a graduated tax on the income of either corporations or individuals and utilizing the definition available in the IRS code could be enacted.

Language in the present Constitution may require that if an income tax is enacted, it must be upon the income of "both" persons and corporations. This argument has been presented during past legislative sessions. Without existing constitutional language, the requirement would not be present. Thus deletion of the existing provision should remove the restriction, and specifically authorizing a tax on either should be unnecessary.

A graduated income tax may be possible under the present Constitution. Many states have enacted graduated income taxes without constitutional amendment. The argument has been made to



the Finance Committee that this would be possible in Texas because the "equal and uniform" requirement of the Constitution would not apply to an income tax as such a tax would be an excise tax and not a tax on property. If it is true that the equal and uniform requirement is applicable only to property taxes, the movement of the equal and uniform provision (Finance, Section 1(d)) to the property tax section (Finance, Section 3) would make this clear and allow a graduated income tax under the new Constitution.

It may be possible to utilize the definition and provisions of the Federal Income Tax without unconstitutionally delegating the power of the State. Several states have recently amended their constitutions to include language similar to that recommended by the Finance Committee, but the Advisory Commission on Intergovernmental Relations (ACIR) has suggested a method, presently in use in Michigan, which would make such amendment unnecessary. Whether this method would be desirable or could be successfully utilized in Texas is unknown.

It is recognized that specifically mentioning the income tax in a proposed constitutional revision could create opposition from voters even though an authorization for the tax is now present in the Constitution. But the Finance Committee recommendation is the surest method for allowing the Legislature to enact such a tax in the future without constitutional amendment.



LOCAL TAX LIMITS  
(No recommended provision)

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SOURCE

Present local tax limits include:

Rural Fire Prevention Districts - 3¢ per \$100 valuation (Article III, Section 48d).

Cities and Towns (5,000 population or less) - \$1.50 per \$100 valuation (Article XI, Section 4).

Cities and Towns (more than 5,000 population) - \$2.50 per \$100 valuation (Article XI, Section 5).

Counties - 80¢ per \$100 valuation (Article VIII, Section 9)  
15¢ per \$100 valuation (Article VIII, Section 9)  
30¢ per \$100 valuation (Article VIII, Section 1a)

Total \$1.25 per \$100 valuation

Hospital Districts - generally 75¢ per \$100 valuation (Article IX, Sections 4, 5, 6, 7, 8, 9, 11).

Airport Authorities - 75¢ per \$100 valuation (Article IX, Section 12)

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COMMENT

It is the consensus of the Finance Subcommittee that the Constitution should not attempt to impose statistical ceilings on local property taxation. An individual limit for each type of political subdivision is dysfunctional because it fails to effectively limit total taxation due to the overlap and stacking of various jurisdictions and districts and because it unnecessarily clutters the Constitution and causes repeated amending to increase limits or to create new taxing districts. Any effort to impose a general tax ceiling on the total of all ad valorem taxes levied



by overlapping taxing jurisdictions would create severe administrative problems for apportioning the limit among the various jurisdictions. If statistical limits are to exist, they should be imposed by statute and not by the Constitution.

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COMMISSION DIRECTED ALTERNATIVE

ARTICLE \_\_\_\_\_ FINANCE

Section 1. GENERAL LIMITATIONS

- (a) Taxes shall be levied and collected by general laws for public purposes only.
- (b) The power of taxation shall never be surrendered, suspended, or contracted away.
- (c) Taxation shall be equal and uniform within the jurisdiction of the taxing authority.

Section 2. SPECIFIC LIMITATIONS

- (a) Three thousand dollars (\$3,000) of the assessed taxable value of all residence homesteads shall be exempt from all taxation for all State purposes.
- (b) No State tax shall be imposed upon any political subdivision of the State.
- (c) No tax shall be imposed upon the property of the State except that lands belonging to the Permanent University Fund shall be subject to taxation for county purposes to the same extent as lands privately owned.

Section 3. THE PROPERTY TAX

- (a) Where a property tax is levied by a government, all property shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The Legislature, by general law, shall specify classes of personal property for purposes of valuation and taxation. The Legislature, by general law, shall prescribe formulas for the valuation and taxation of real property.
- (b) There shall be exempt from all ad valorem taxation:
  - 1. All household goods and personal effects not used for the production of income.



2. All farm products in the hands of the producer and family supplies for home and farm use.
  3. All public property used for public purposes.
- (c) The Legislature, by general law, may exempt from ad valorem taxation:
1. Property used exclusively for educational, religious, benevolent and charitable purposes or as a nonprofit cemetery.
  2. Up to three thousand dollars (\$3,000) of the assessed value of property owned by a disabled veteran of the armed services of the United States or the surviving spouse and surviving minor children of a disabled veteran of the armed forces of the United States.
  3. Up to three thousand dollars (\$3,000) of the property owned by the surviving spouse or surviving minor children of any member of the armed services of the United States who loses his life while on active duty.
- (d) The governing body of any political subdivision may exempt not less than three thousand dollars (\$3,000) of the assessed value of residences owned and occupied by persons sixty-five (65) years of age or older from ad valorem taxes thereafter levied by the political subdivision. As an alternative, upon receipt of a petition signed by twenty percent (20%) of the voters who voted in the last preceding election held by the political subdivision, the governing body of the subdivision shall call an election to determine by majority vote whether an amount not less than three thousand dollars (\$3,000) as provided in the petition, of the assessed value of residences owned and occupied by persons sixty-five (65) years of age or older shall be exempt from ad valorem taxes thereafter levied by the political subdivision.
- (e) The Legislature may enact general laws providing relief from residential ad valorem taxation for persons determined to be in need of such relief because of age, disability, or economic circumstances. Any such general law shall provide for the reimbursement of local taxing jurisdictions for revenue losses occasioned by such relief.



## Section 4. HIGHWAY-USER REVENUES

Subject to legislative appropriation, allocation and direction, all net revenues from (a) motor vehicle registration fees and (b) three quarters of net revenues from all taxes, except gross production and ad valorem taxes, on fuels and lubricants used to propel motor vehicles over public roadways, shall be deposited in the State Highway Fund. Such revenues shall be used for the sole purpose of acquiring rights-of-way, constructing and maintaining a State highway system; for policing public roadways, and for the administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads. One-fourth (1/4) of net revenues from such taxes shall be allocated to the Available School Fund. The net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be retained by each County under the laws in effect on January 1, 1945.

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COMMENT

The Commission Directed Alternative differs from the Finance Committee recommendations in three ways:

- (1) Section 2 no longer includes a prohibition against a State general property tax;
- (2) Section 3 (a) has been reworded to eliminate the Committee recommendation for allowing the Legislature to classify, value and exempt personal property separate from real property; and
- (3) Section 3(a) has been reworded to eliminate the Committee recommendation for directing the Legislature to prescribe special methods of valuation for open-space lands.



The argument in favor of eliminating the prohibition against a State property tax is that the State needs all methods of taxation. The Constitution should not prohibit any taxes. Retaining the present use of State property taxes for only permanent improvements at institutions of higher education is too restrictive. The State should be able to change both the rate of taxation and the use of the revenues. Moreover, by prohibiting a State property tax, the Constitution may prevent the future acceptance of a legal doctrine which would hold the property taxes of localities to be only a form of a State tax and thus a responsibility of the State to administer.

There is some uncertainty concerning the effects of the Commission directed language in Section 3(a). After study, it would appear likely that the language would not substantially affect the powers now present in the Legislature. For that reason, the following discussion proceeds on the assumption that the Commission Directed Alternative for Section 3(a) would maintain the constitutional status quo in regard to the local property tax.

The argument against allowing the Legislature to classify, value and exempt personal property is that all property should be taxed equally. If the Legislature could exempt property, it could prohibit taxing the owner of one type of property, but require the taxing of another. For example, the Legislature could exempt all personal property, but continue to tax real property. If the Legislature could classify and value property, it could tax some property at one rate and other property at another rate.

The argument against allowing the Legislature to specially assess certain types of real property is that special tax advantages may be given to undeserving classes of property owners. For example, reduced



assessments for timberlands would improve the profit situation of large corporations, but would not help the smaller property owner. Moreover, requiring the special assessment of certain types of property could adversely affect the local tax base and reduce local revenues.

In regard to the Commission Directed Alternative, it should be noted:

1. Preservation of the status quo in regard to the power of the Legislature to exempt and value personal property would continue existing limitations on the ability of the Legislature to provide for improvements in the property tax system.
  2. If the decision is made not to allow a general authority to the Legislature for specially assessing open-space lands, the Commission should direct its attention toward retaining the specific exception for agricultural lands which is in the present Constitution (Article VIII, Section 1d).
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## TAXATION

Alternative Proposed By  
Commissioner Keeton

### Taxation

#### Section 1. Taxation

Taxes shall be levied and collected by general law.

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#### COMMENT

The argument in favor of adopting this alternative as the only limitation on state taxation is that more extensive tax provisions in a Constitution are unnecessary and may create more problems than they resolve.

There is no rule that a Constitution must include lengthy instructions for taxation. The Model State Constitution and the Constitution of at least one state, Connecticut, contain no provisions. This is reasonable because even if the state Constitution is silent on taxation, the equal protection requirement of the 14th amendment to the U.S. Constitution assures the taxpayer of reasonable classifications for taxation and of uniform taxation within the class.

The present property tax morass in Texas is due, in part, to the unrealistic limitations imposed by the present Constitution. Rather than providing a basis for preventing tax inequities, the



Constitution has contributed to legislative inactivity and judicial confusion. Removing constitutional limitations could afford the flexibility necessary for tax reform.

It must be noted, however, that the arguments which have been made against allowing the Legislature to classify and exempt property and to provide for special formulas for the valuation of real property are applicable to this alternative. Once the constitutional limitations are removed, the Legislature could enact such legislation without constitutional authorization or mention.

If this alternative is adopted, those constitutional provisions which merely authorize the Legislature to act are clearly unnecessary. But the Commission may wish to consider whether the Constitution should:

- (1) Continue the automatic exemptions to the property tax;
- (2) Continue the dedication of highway-user revenues; and
- (3) Contain an authorization for a state income tax based on I.R.S. definitions.



## Section 6. STATE DEBT

- (a) No State debt shall be incurred except as provided in this section.
- (b) For the purpose of this section, "State Debt" means bonds or other evidences of indebtedness which are secured by the general credit of the State or are required to be repaid, directly or indirectly, from tax revenue and which are incurred for the State or for an agency of the State.
- (c) State debt may be incurred by general law to refund outstanding State debt if the refunding debt matures within the term of the outstanding State debt.
- (d) State debt may be incurred if approved by two-thirds vote of the total membership of each house of the Legislature and submitted to the electors and approved by a majority of the qualified electors voting thereon.

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## SOURCE

### Section 6.

- (a) From Article III, Section 49.
- (b) This is new language, adopted from the new Illinois Constitution (Article IX, Section 9). It is intended to provide a constitutional definition for "State debt" which continues to include those bonds and obligations held to be "debt" by court interpretation and which is expanded to include those bonds or obligations which are to be repaid indirectly from tax revenues.
- (c) This is new language. It is adopted from the new Illinois Constitution (Article IX, Section 9) and is intended to allow the State to refund outstanding obligations to take advantage of new, reduced interest rates.
- (d) This is new language. Presently amendment of the Constitution is necessary to authorize State debt. This language would retain the existing requirement for voter approval, but would allow the technical language to appear in statute rather than in the Constitution.



#### COMMENT

Presently, the Texas Constitution prohibits all "debt created by or on behalf of the State." (Article III, Section 49). This grants a very false assurance to the reader. The prohibition has not prevented State borrowing. For example, between 1961 and 1970 the public debt of Texas (including state agencies and senior colleges) increased 300%, from \$330 million to \$1 billion. Since 1970, the figure has climbed to approximately \$1.4 billion in 1973.

State borrowing has come about through three methods. First, the Constitution has been amended to authorize \$1.2 billion (\$750 million having been issued) in debt for particular purposes, including Veteran Land Bonds, Student Loan Bonds, Water Development Bonds and Texas Park Development Bonds. Other constitutional sections (article VII, Sections 17 and 18) authorize certain senior colleges to issue bonds which are backed by tax revenue or by revenue from the University Permanent Fund.

A second method of borrowing has been through bonds issued by State agencies and senior colleges without constitutional authorization. These bonds are revenue-supported obligations which are designed to be self-liquidating from non-tax revenue of the issuing agency or enterprise. Examples include bonds backed by revenue from college dormitory housing rentals and traffic facility tolls. Traditionally, such bonds have not been prohibited by the Constitution because they do not obligate the general credit or tax revenue of the State.



During recent years, borrowing without constitutional authorization has come in the guise of bonds designated as revenue bonds, but which depend on State taxes for retirement. Examples include state building authorities which pledge rents paid by the State and senior colleges which pledge revenues which otherwise would go to the State and which must be replaced by money from general tax sources. In either case, the ultimate source of the money is State tax revenue. Indebtedness which is repaid indirectly from tax revenues is recognized by authorities as a subterfuge for circumventing the constitutional debt limitation. It is an expensive subterfuge since the bonds are sold by the state agency or college at a higher rate of interest than state full faith and credit obligations. Moreover, the borrowing is accomplished with a minimum of legislative control, even though some courts have recognized that retirement of the indebtedness is at least a "moral obligation" of the State. Such borrowing has only recently reached major proportions in Texas. But because the legal precedent is established, the Finance Committee is concerned that Texas is vulnerable to the gross abuses that can be identified in other states.

The overwhelming experience in Texas and other states has been that a flat prohibition against debt is unrealistic, ineffective and leads to more expensive methods of borrowing and to some loss of legislative control over the debt incurring activities of the State. The Finance Committee recommends a constitutional approach which would define debt in a manner



designed: (1) to encourage that State borrowing be backed by the Full Faith and Credit of the State (to reduce interest costs); (2) to promote greater legislative control over State borrowing; (3) to assure that the citizen is aware of the debt being incurred by his State government; and (4) to afford the citizen an opportunity to judge the desirability of such borrowing.

The Committee considered many alternatives for approving State debt, ranging from the continuation of the present provision to the deletion of all constitutional limitations. A variety of possibilities may be found in the constitutions of other states. Several states have recently adopted provisions which permit the legislature to incur debt, without public referendum, under particular circumstances or up to specific ceilings (E.g. Illinois, Pennsylvania and Hawaii). Illinois also allows unlimited debt to be incurred by either a vote of three-fifths of the General Assembly or by referendum. On the other hand, many states continue to require constitutional amendment.

Under the Finance Committee recommendation, State debt would continue to require a 2/3 vote of the total membership of both houses of the Legislature and approval at a statewide election, but the authorization for specific bond issuances (E.g. Veterans Land Bonds, Art. III, Sec. 49b; Water Development Bonds, Art. III, Sec. 49c, 49d; Water Quality Bonds, Art. III, Sec. 49d-1; Park Development Bonds, Art. III, Sec. 49e; and Student Loan Bonds, Art. III, Sec. 50b, 50b-1) would no longer be part of the Constitution. These authorizations are necessarily detailed and technical, and make it difficult for the average citizen to read and understand the Constitution. Moreover,



having the specifics of bond administration cemented in the Constitution causes inflexibility in fiscal management. For example, because of constitutional limits on bond interest rates, the State became unable to market its bonds. An amendment in 1972 was necessary to raise the limit. The Finance Committee recommends removing such limits from the Constitution because the bond market offers the only real protection.

A transition schedule should: (1) guarantee the sanctity of outstanding bonds; (2) assure the right to issue authorized, but unissued bonds; (3) preserve the substance of the deleted bond authorization sections as State law; and (4) continue the increase in allowable interest rates until legislative action is taken.



## Section 7. APPROPRIATIONS

- (a) Money may not be drawn from the state treasury except in accordance with specific appropriations made by statute.
- (b) A statute appropriating money from the state treasury expires two years after its effective date.
- (c) No bill containing an appropriation shall be considered as passed or be sent to the Governor for consideration until and unless the [Comptroller of Public Accounts] endorses his certificate thereon showing that the amount appropriated is within the revenue estimate.
- (d) No appropriation in excess of the revenue estimate is valid unless it is made in response to imperative public necessity and approved by four-fifths vote of the membership of each house of the Legislature.

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### SOURCE

#### Section 7.

- (a) From Article VIII, Section 6. No change in law is intended. The language is adopted from the simplification prepared by Seth Searcy.
- (b) From Article VIII, Section 6. No change in law is intended. The language is adopted from the simplification prepared by Seth Searcy.
- (c) From Article III, Section 49a. No change in law is intended.
- (d) From Article III, Section 49a. No change in law is intended.

This section would be in place of Article III, Section 49a and Article VIII, Section 6.

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### Comment

The proposed section is a shortened, but substantively unchanged, version of the present constitutional requirement for a "pay-as-you-go" policy for legislative appropriations. The section continues to require that money be drawn from the State Treasury only by specific appropriation and that the appropriation be limited to two years and be no greater than the revenue estimated to be available for that



period. Spending in excess of the revenue estimate is permitted only in response to imperative public necessity on the four-fifths vote of both houses of the Legislature.

Despite some difficulties in implementation, the "pay-as-you-go" policy has succeeded in keeping state appropriations near actual revenues and in avoiding the need for state borrowing to meet deficit spending. For example, at the conclusion of the last fiscal period, August 31, 1972, the State General Revenue Fund showed a cash balance of \$53 million. The success of the policy for appropriations has contributed to the high ratings for State general obligation bonds and to the resulting decrease in the cost of State borrowing for specific purposes.

Essential to the policy is the requirement that appropriations be certified by an independent state fiscal officer. Presently the function is performed by an elected official, the Comptroller of Public Accounts. The Finance Committee strongly recommends that the independence of the certifying official continue to be assured through election or by long-term (10-15 year) appointment.



## Section 8. LOCAL GOVERNMENT DEBT

No county, city, town or other political subdivision of the State may issue bonds or other evidences of indebtedness which are to be repaid more than one-year beyond their date of issue and which are secured by the general credit or are to be repaid, directly or indirectly, from tax revenue until submitted to the electors of the political subdivision and approved by a majority of the qualified electors voting thereon.

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### SOURCE

#### Section 8.

This is new language. Presently, the Constitution imposes the requirement for referendum only on certain types of local government and only for borrowing for certain purposes. This language would impose a uniform requirement for referendum on all local government and on all borrowing except revenue bonds. It would not prevent the imposition of a referendum requirement on revenue bonds by the Legislature.

This section would be in place of Article III, Section 52, Subsections (b) and (c).

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### COMMENT

Appearing haphazardly through the present Constitution are a variety of limits on the ability of local government to incur debt, including statistical restrictions on local indebtedness and requirements for local referendum. The Finance Committee recommends deletion of the statistical restrictions in favor of a single provision which uniformly applies the requirement of referendum to all forms of local indebtedness except revenue-supported obligations, which are to be repaid more than one year from their date of issue.

Statistical limits, such as on the amount of debt that local government can incur or on the taxes that local government can levy for debt retirement, have proven to be of doubtful value in preventing excessive or unwise local borrowing. Instead, in the case



of tax limits, they impair the ability of local government to repay borrowed money and may adversely affect the saleability of bonds. Statistical ceilings on the amount of debt that local governments may incur are misleading and dysfunctional because they fail to limit total debt due to the overlapping of various jurisdictions. Efforts to adjust or to avoid debt limits result in repeated amending of the Constitution. If statistical limits are to exist, they should be imposed by statute, where they can be more easily structured to accommodate individual need and changing circumstance.

A constitutional requirement for referendum for local government borrowing is new in several ways. Presently, the Constitution requires an election in only certain circumstances for county borrowing and does not require any election for debt incurred by cities. A requirement for an election for bonds is imposed, with certain exceptions, in statute (TEX. REV. CIV. STAT. ANN. art. 701, art. 1112 and art. 718). But certificates of obligation and time warrants may be issued without an election. (TEX. REV. CIV. STAT. ANN. art. 2368a and 2368a.1). These evidences of indebtedness may be refunded for bonds. The constitutional language recommended by the Finance Committee would require a referendum for general obligation bonds, time warrants and certificates of indebtedness, if they were issued for more than one year. The Finance Committee is aware that its recommendation would impose a new limitation on the issue of time warrants and certificates of obligation. The consensus of the Committee is that voter approval for long-term borrowing is of fundamental importance and lends itself to constitutional protection. Together with the indirect



effects of the bond market, it is the citizen's basic safeguard against unwise or excessive government borrowing. Moreover, voter approval improves the salability of local bonds and decreases the cost of borrowing.

There are certain circumstances which make an election impractical or improvident. For example, election requirements may be justifiably dispensed with for dire emergencies, obligations to be paid from current income and revenue-supported bonds. The language recommended by the Finance Committee would afford some flexibility for local government by allowing borrowing for up to one year or through revenue bonds without an election. But the Legislature could continue to impose a statutory requirement for referendum (See TEX. REV. CIV. STAT. ANN. art. 1112) on such borrowing.

An additional change evidenced in the language recommended by the Finance Committee is that constitutional qualifications for a resident elector in a local bond referendum election would be the same as for a qualified elector of the State. There is a legally supportable rationale for the present principle of limiting voters in all local bond elections to resident qualified voters who own taxable property (*Montgomery Independent School District v. Martin*, 464 S.W. 2d 638 (Tex. 1971)). (See also *Salyer Land Co. v. Tulane Lake Basin Water Storage District*, 93 S. ct. 1224 (1973) ). The majority of the Committee (3-2) felt that this was outweighed by the possibility that the restriction might be in violation of the U.S. Constitution because it unconstitutionally infringes on the



right to equal protection of the resident non-property owner. Uncertainty concerning the validity of bonds issued under such a system affects the ratings of the bonds and increases the cost of government borrowing. A provision allowing all qualified electors residing within the jurisdiction issuing the bonds to vote in the bond election would remove the uncertainty in favor of a clearly constitutional solution.



## Section 9. PUBLIC FUNDS

Public money and public credit shall be used for public purposes only.

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### SOURCE

#### Section 9.

This is new language, adapted from the simplification prepared by Seth Searcy. This section would be in place of Article III, Sections 50, 51, 52 and Article XVI, Section 6.

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### COMMENT

Due to the confused and inconsistent wording of the several sections in the present Constitution which purport to prohibit the use of public money (grants) or credit (loans) for private purposes, uncertainty has occurred in regard to the specific nature of the rule. Recent legal opinions have indicated that together the various restrictions simply require that public money and public credit be used only for "public purposes". The Finance Committee recommends revising the Constitution to reflect these opinions.

Because of confusion over the extent of existing restrictions, repeated and, perhaps, unnecessary amending of the Constitution has occurred to authorize retirement and pension programs for public employees, state welfare assistance, grants and loans to municipal corporations and appropriations affecting undefined interests (e.g. Historical Memorials). For a listing of constitutional authorizations arising from the grant and loan prohibition, see Appendix C



at page 88. The language recommended by the Finance Committee should allow deletion from the Constitution of most of these provisions.

The Committee is aware of the thought that the deletion of the provisions could be more easily accomplished if no constitutional limitation on spending was included in the new Constitution or if language other than "public purpose" was utilized. (E.g. "public interest"). The Committee feels that limiting public funds to public purposes is a sound policy. Most state constitutions include a similar limitation, at least on extending state credit to private groups. The term "public purpose" has been adequately defined through a body of law. In addition, the term can adjust as social needs change and new "public purposes" are identified. Simply changing the terminology could touch off unnecessary litigation, would not avoid the need for determining if existing constitutional provisions meet the criteria for deletion and may be unlikely to have any long-term effect on what would be an allowable use of public funds.

If the Committee recommendation is accepted, deletion of the various authorizing provisions could come by one of two methods. First, it has been suggested to the Committee that most of the sections could be deleted because they meet the modern criteria of a "public purpose". The sections must be examined individually, but the fact that each has been approved at a state-wide election should be of value in establishing that they do constitute a



permissible use of public funds. A second method would be to include, either in the Constitution or, perhaps, in the transition schedule, a declaration that the deleted sections authorized the use of public funds for public purposes. This method has been adopted in other states.

The Committee considered designating some newly proposed uses for public money, such as for industrial revenue bonds, as permissible and as being for a public purpose. Allowing flexibility through judicial interpretation is preferable to a constitutional listing of permissible uses which could be interpreted to be exclusive and lead to future amending of the Constitution. In particular, the Committee opposed the designation of industrial revenue or industrial aid bonds as a use of public funds for public purposes. In the view of the Committee, such bonds do obligate the credit of the State for private use.



FINANCE COMMITTEE  
RECOMMENDED DELETIONS

These are sections which have not been discussed previously in this report. Generally they have been deleted as statutory and unnecessary in a Constitution. For a more specific discussion on each section, see Appendix B

Article III, Section 52b

Article III, Section 52e

Article VIII, Section 1c

Article VIII, Section 5

Article VIII, Section 7

Article VIII, Section 8

Article VIII, Section 10

Article VIII, Section 13

Article VIII, Section 15

Article VIII, Section 17

Article VIII, Section 18

Article VIII, Section 20

Note - As necessary, a transition schedule will assure that these sections continue as State law.



APPENDIX A

FINANCE COMMITTEE RECOMMENDATION

ARTICLE \_\_\_\_\_ FINANCE

Section 1. GENERAL LIMITATIONS

- (a) Taxes shall be levied and collected by general laws for public purposes only.
- (b) The power of taxation shall never be surrendered, suspended, or contracted away.
- (c) Taxation shall be equal and uniform within the jurisdiction of the taxing authority.

Section 2. SPECIFIC LIMITATIONS

- (a) No general property tax shall be levied for state purposes other than the tax levied for permanent improvements at institutions of higher learning.
- (b) Three thousand dollars (\$3,000) of the assessed taxable value of all residence homesteads shall be exempt from all taxation for all State purposes.
- (c) No State tax shall be imposed upon any political subdivision of the State.
- (d) No tax shall be imposed upon the property of the State except that lands belonging to the Permanent University Fund shall be subject to taxation for county purposes to the same extent as lands privately owned.

Section 3. THE PROPERTY TAX

- (a) All property, except as hereinafter provided, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The Legislature, by general law, may specify classes of personal property for purposes of valuation and may exempt, or authorize local political subdivisions to exempt, any of such classes of property from ad valorem taxation. The Legislature, by general law, shall prescribe formulas for the valuation of real property in order to promote the establishment and preservation of open space lands devoted to ranch, farm, and forest purposes or used as recreation areas, scenic resources, nature preserves, greenbelt areas, or historic sites.



#### Section 4. HIGHWAY-USER REVENUES

Subject to legislative appropriation, allocation and direction, all net revenues from (a) motor vehicle registration fees and (b) three-quarters (3/4) of net revenues from all taxes, except gross production and ad valorem taxes, on fuels and lubricants used to propel motor vehicles over public roadways, shall be deposited in the State Highway Fund. Such revenues shall be used for the sole purpose of acquiring rights-of-way, constructing and maintaining a State highway system; for policing public roadways, and for the administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads. One-fourth (1/4) of net revenues from such taxes shall be allocated to the Available School Fund. The net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be retained by each County under the laws in effect on January 1, 1945.

#### Section 5. STATE TAXES ON INCOME

Any income tax levied by the Legislature: may be either on personal or corporate income or both; may be graduated or otherwise; and may define income by reference to provisions of the laws of the United States as they then exist or as prospectively enacted, with such modification as may be prescribed by the law of this State.

#### Section 6. STATE DEBT

- (a) No State debt shall be incurred except as provided in this section.
- (b) For the purpose of this section, "State Debt" means bonds or other evidences of indebtedness which are secured by the general credit of the State or are required to be repaid, directly or indirectly, from tax revenue and which are incurred for the State or for an agency of the State.
- (c) State debt may be incurred by general law to refund outstanding State debt if the refunding debt matures within the term of the outstanding State debt.



- (b) There shall be exempt from all ad valorem taxation:
1. All household goods and personal effects not used for the production of income.
  2. All farm products in the hands of the producer and family supplies for home and farm use.
  3. All public property used for public purposes.
- (c) The Legislature, by general laws, may exempt from ad valorem taxation:
1. Property used exclusively for educational, religious, benevolent and charitable purposes or as a nonprofit cemetery.
  2. Up to three thousand dollars (\$3,000) of the assessed value of property owned by a disabled veteran of the armed services of the United States or the surviving spouse and surviving minor children of a disabled veteran of the armed forces of the United States.
  3. Up to three thousand dollars (\$3,000) of the property owned by the surviving spouse or surviving minor children of any member of the armed services of the United States who loses his life while on active duty.
- (d) The governing body of any political subdivision may exempt not less than three thousand dollars (\$3,000) of the assessed value of residences owned and occupied by persons sixty-five (65) years of age or older from all ad valorem taxes thereafter levied by the political subdivision. As an alternative, upon receipt of a petition signed by twenty percent (20%) of the voters who voted in the last preceding election held by the political subdivision, the governing body of the subdivision shall call an election to determine by majority vote whether an amount not less than three thousand dollars (\$3,000) as provided in the petition, of the assessed value of residences owned and occupied by persons sixty-five (65) years of age or older shall be exempt from ad valorem taxes thereafter levied by the political subdivision.
- (e) The Legislature may enact general laws providing relief from residential ad valorem taxation for persons determined to be in need of such relief because of age, disability, or economic circumstances. Any such general law shall provide for the reimbursement of local taxing jurisdictions for revenue losses occasioned by such relief.



- (d) State debt may be incurred if approved by two-thirds vote of the total membership of each house of the Legislature and submitted to the electors and approved by a majority of the qualified electors voting thereon.

#### Section 7. APPROPRIATIONS

- (a) Money may not be drawn from the state treasury except in accordance with specific appropriations made by statute.
- (b) A statute appropriating money from the state treasury expires two years after its effective date.
- (c) No bill containing an appropriation shall be considered as passed or be sent to the Governor for consideration until and unless the (Comptroller of Public Accounts) endorses his certificate thereon showing that the amount appropriated is within the revenue estimate.
- (d) No appropriation in excess of the revenue estimate is valid unless it is made in response to imperative public necessity and approved by four-fifths vote of the membership of each house of the Legislature.

#### Section 8. LOCAL GOVERNMENT DEBT

No county, city, town or other political subdivision of the State may issue bonds or other evidences of indebtedness which are to be repaid more than one-year beyond their date of issue and which are secured by the general credit or are to be repaid, directly or indirectly, from tax revenue until submitted to the electors of the political subdivision and approved by a majority of the qualified electors voting thereon.

#### Section 9. PUBLIC FUNDS

Public money and public credit shall be used for public purposes only.



## APPENDIX B

### TABLE OF COMMITTEE RECOMMENDATIONS

#### ARTICLE III

Sec. 49. STATE DEBTS. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or pay existing debt; and the debt created to supply deficiencies in the revenue, shall never exceed in the aggregate at any one time two hundred thousand dollars.

#### COMMITTEE RECOMMENDATIONS

- (1) The basic prohibition against debt is retained and made part of Finance section 6 (a).
- (2) The specific exceptions are deleted in favor of more modern ones in Finance section 6 (c) and (d).

For a discussion of the Committee's considerations on the subject of State Debt see supra at 35.

Sec. 49a. FINANCIAL STATEMENT AND ESTIMATE BY COMPTROLLER OF PUBLIC ACCOUNTS; LIMITATION OF APPROPRIATIONS; BONDS. It shall be the duty of the Comptroller of Public Accounts in advance of each Regular Session of the Legislature to prepare and submit to the Governor and to the Legislature upon its convening a statement under oath showing fully the financial condition of the State Treasury at the close of the last fiscal period and an estimate of the probable receipts and disbursements for the then current fiscal year. There shall also be contained in said statement an itemized estimate of the anticipated revenue based on the laws then in effect that will be received by and for the State from all sources showing the fund accounts to be credited during the succeeding biennium and said statement shall contain such other information as may be required by law. Supplemental statements shall be submitted at any Special Session of the Legislature and at such other times as may be necessary to show probable changes.

(Continuation of Section 49a follows)



From and after January 1, 1945, save in the case of emergency and imperative public necessity and with a four-fifths vote of the total membership of each House, no appropriation in excess of the cash and anticipated revenue of the funds from which such appropriation is to be made shall be valid. From and after January 1, 1945, no bill containing an appropriation shall be considered as passed or be sent to the Governor for consideration until and unless the Comptroller of Public Accounts endorses his certificate thereon showing that the amount appropriated is within the amount estimated to be available in the affected funds. When the Comptroller finds an appropriation bill exceeds the estimated revenue he shall endorse such finding thereon and return to the House in which same originated. Such information shall be immediately made known to both the House of Representatives and the Senate and the necessary steps shall be taken to bring such appropriation to within the revenue, either by providing additional revenue or reducing the appropriation.

#### COMMITTEE RECOMMENDATIONS

- (1) The duty of the Comptroller to prepare a revenue estimate is deleted as statutory and unnecessary because implied in Finance section 7. The Transition Schedule should assure the continuation of this process.
- (2) The prohibition against spending in excess of the revenue estimate is retained in Finance section 7 (c).
- (3) The requirement for certification is retained in Finance section 7 (d).

For a discussion of the Committee's considerations on the subject of the "Pay-as-you-go" fiscal policy see supra at 40.



**Sec. 49-b. VETERANS' LAND PROGRAM.** By virtue of prior Amendments to this Constitution, there has been created a governmental agency of the State of Texas performing governmental duties which has been designated the Veterans' Land Board. Said Board shall continue to function for the purposes specified in all of the prior Constitutional Amendments except as modified herein. Said Board shall be composed of the Commissioner of the General Land Office and two (2) citizens of the State of Texas, one (1) of whom shall be well versed in veterans' affairs and one (1) of whom shall be well versed in finances. One (1) such citizen member shall, with the advice and consent of the Senate, be appointed biennially by the Governor to serve for a term of four (4) years; but the members serving on said Board on the date of adoption hereof shall complete the terms to which they were appointed. In the event of the resignation or death of any such citizen member, the Governor shall appoint a replacement to serve for the unexpired portion of the term to which the deceased or resigning member had been appointed. The compensation for said citizen members shall be as is now or may hereafter be fixed by the Legislature; and each shall make bond in such amount as is now or may hereafter be prescribed by the Legislature.

The Commissioner of the General Land Office shall act as Chairman of said Board and shall be the administrator of the Veterans' Land Program under such terms and restrictions as are now or may hereafter be provided by law. In the absence or illness of said Commissioner, the Chief Clerk of the General Land Office shall be the Acting Chairman of said Board with the same duties and powers that said Commissioner would have if present.

The Veterans' Land Board may provide for, issue and sell not to exceed Four Hundred Million Dollars (\$400,000,000) in bonds or obligations of the State of Texas for the purpose of creating a fund to be known as the Veterans' Land Fund, Two Hundred Million Dollars (\$200,000,000) of which have heretofore been issued and sold. Such bonds or obligations shall be sold for not less than par value and accrued interest; shall be issued in such forms, denominations, and upon such terms as are now or may hereafter be provided by law; shall be issued and sold at such times, at such places, and in such installments as may be determined by said Board; and shall bear a rate or rates of interest as may be fixed by said Board but the weighted average annual interest rate, as that phrase is commonly and ordinarily used and understood in the municipal bond market, of all the bonds issued and sold in any installment of any bonds may not exceed four and one-half percent (4½%). All bonds or obligations issued and sold hereunder shall, after execution by the Board, approval by the Attorney General of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchaser or purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas; and all bonds heretofore issued and sold by said Board are hereby in all respects validated and declared to be general obligations of the State of Texas. In order to prevent default in the payment of principal or interest on any such bonds, the Legislature shall appropriate a sufficient amount to pay the same.



In the sale of any such bonds or obligations, a preferential right of purchase shall be given to the administrators of the various Teacher Retirement Funds, the Permanent University Funds, and the Permanent School Funds.

Said Veterans' Land Fund shall consist of any lands heretofore or hereafter purchased by said Board, until the sale price therefor, together with any interest and penalties due, have been received by said Board (although nothing herein shall be construed to prevent said Board from accepting full payment for a portion of any tract), and of the moneys attributable to any bonds heretofore or hereafter issued and sold by said Board which moneys so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; the moneys received from the sale or resale of any lands, or rights therein, purchased with such proceeds; the moneys received from the sale or resale of any lands, or rights therein, purchased with other moneys attributable to such bonds; the interest and penalties received from the sale or resale of such lands, or rights therein; the bonuses, income, rents, royalties, and any other pecuniary benefit received by said Board from any such lands; sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to comply with his bid and accept and pay for such bonds or for the failure of any bidder for the purchase of any lands comprising a part of said Fund to comply with his bid and accept and pay for any such lands; and interest received from investments of any such moneys. The principal and interest on the bonds heretofore and hereafter issued by said Board shall be paid out of the moneys of said Fund in conformance with the Constitutional provisions authorizing such bonds; but the moneys of said Fund which are not immediately committed to the payment of principal and interest on such bonds, the purchase of lands as herein provided, or the payment of expenses as herein provided may be invested in bonds or obligations of the United States until such funds are needed for such purposes.

All moneys comprising a part of said Fund and not expended for the purposes herein provided shall be a part of said Fund until there are sufficient moneys therein to retire fully all of the bonds heretofore or hereafter issued and sold by said Board, at which time all such moneys remaining in said Fund, except such portion thereof as may be necessary to retire all such bonds which portion shall be set aside and retained in said Fund for the purpose of retiring all such bonds, shall be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law. All moneys becoming a part of said Fund thereafter shall likewise be deposited to the credit of the General Revenue Fund.



When a Division of said Fund (each Division consisting of the moneys attributable to the bonds issued and sold pursuant to a single Constitutional authorization and the lands purchased therewith) contains sufficient moneys to retire all of the bonds secured by such Division, the moneys thereof, except such portion as may be needed to retire all of the bonds secured by such Division which portion shall be set aside and remain a part of such Division for the purpose of retiring all such bonds, may be used for the purpose of paying the principal and the interest thereon, together with the expenses herein authorized, of any other bonds heretofore or hereafter issued and sold by said Board. Such use shall be a matter for the discretion and direction of said Board; but there may be no such use of any such moneys contrary to the rights of any holder of any of the bonds issued and sold by said Board or violative of any contract to which said Board is a party.

The Veterans' Land Fund shall be used by said Board for the purpose of purchasing lands situated in the State of Texas owned by the United States or any governmental agency thereof, owned by the Texas Prison System or any other governmental agency of the State of Texas, or owned by any person, firm, or corporation. All lands thus purchased shall be acquired at the lowest price obtainable, to be paid for in cash, and shall be a part of said Fund. Such lands heretofore or hereafter purchased and comprising a part of said Fund are hereby declared to be held for a governmental purpose, although the individual purchasers thereof shall be subject to taxation to the same extent and in the same manner as are purchasers of lands dedicated to the Permanent Free Public School Fund.

The lands of the Veterans' Land Fund shall be sold by said Board in such quantities, on such terms, at such prices, at such rates of interest and under such rules and regulations as are now or may hereafter be provided by law to veterans who served not less than ninety (90) continuous days, unless sooner discharged by reason of a service-connected disability, on active duty in the Army, Navy, Air Force, Coast Guard or Marine Corps of the United States between September 16, 1940, and the date of formal withdrawal of United States troops from the present armed conflict in Viet Nam, and who, upon the date of filing his or her



application to purchase any such land is a citizen of the United States, is a bona fide resident of the State of Texas, and has not been dishonorably discharged from any branch of the Armed Forces above-named and who at the time of his or her enlistment, induction, commissioning, or drafting was a bona fide resident of the State of Texas, or who has resided in Texas at least five (5) years prior to the date of filing his or her application. The foregoing notwithstanding, any lands in the Veterans' Land Fund which have been first offered for sale to veterans and which have not been sold may be sold or resold to such purchasers, in such quantities, and on such terms, and at such prices and rates of interest, and under such rules and regulations as are now or may hereafter be provided by law.

Said Veterans' Land Fund, to the extent of the moneys attributable to any bonds hereafter issued and sold by said Board may be used by said Board, as is now or may hereafter be provided by law, for the purpose of paying the expenses of surveying, monumenting, road construction, legal fees, recordation fees, advertising and other like costs necessary or incidental to the purchase and sale, or resale, of any lands purchased with any of the moneys attributable to such additional bonds, such expenses to be added to the price of such lands when sold, or resold, by said Board; for the purpose of paying the expenses of issuing, selling, and delivering any such additional bonds; and for the purpose of meeting the expenses of paying the interest or principal due or to become due on any such additional bonds.

All of the moneys attributable to any series of bonds hereafter issued and sold by said Board (a 'series of bonds' being all of the bonds issued and sold in a single transaction as a single installment of bonds) may be used for the purchase of lands as herein provided, to be sold as herein provided, for a period ending eight (8) years after the date of sale of such series of bonds; provided, however, that so much of such moneys as may be necessary to pay interest on bonds hereafter issued and sold shall be set aside for that purpose in accordance with the resolution adopted by said Board authorizing the issuance and sale of such series of bonds. After such eight (8) year period, all of such moneys shall be set aside for the retirement of any bonds hereafter issued and sold and to pay interest thereon, together with any expenses as provided herein, in accordance with the resolution or resolutions authorizing the issuance and sale of such additional bonds, until there are sufficient moneys to retire all of the bonds hereafter issued and sold, at which time all such moneys then remaining a part of said Veterans' Land Fund and thereafter becoming a part of said Fund shall be governed as elsewhere provided herein.

This Amendment being intended only to establish a basic framework and not to be a comprehensive treatment of the Veterans' Land Program, there is hereby reposed in the Legislature full power to implement and effectuate the design and objects of this Amendment, including the power to delegate such duties, responsibilities, functions, and authority to the Veterans' Land Board as it believes necessary.



Should the Legislature enact any enabling laws in anticipation of this Amendment, no such law shall be void by reason of its anticipatory nature.

This Amendment shall become effective upon its adoption.  
(Added Nov. 13, 1951; as amended Nov. 11, 1967.)

#### COMMITTEE RECOMMENDATIONS

The entire section should be deleted from the Constitution. The Transition Schedule should: Guarantee the sanctity of outstanding bonds; assure the right to issue authorized, but unissued bonds; and preserve the substance of the section as state law.

For a discussion of the Committee's considerations on State Debt, see supra at 35.

Sec. 49-c. TEXAS WATER DEVELOPMENT BOARD; BOND ISSUE; TEXAS WATER DEVELOPMENT FUND. There is hereby created as an agency of the State of Texas the Texas Water Development Board to exercise such powers as necessary under this provision together with such other duties and restrictions as may be prescribed by law. The qualifications, compensation, and number of members of said Board shall be determined by law. They shall be appointed by the Governor with the advice and consent of the Senate in the manner and for such terms as may be prescribed by law.

The Texas Water Development Board shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed One Hundred Million Dollars (\$100,000,000). The Legislature of Texas, upon two-thirds (2/3) vote of the elected Members of each House, may authorize the Board to issue additional bonds in an amount not exceeding One Hundred Million Dollars (\$100,000,000). The bonds authorized herein or permitted to be authorized by the Legislature shall be called "Texas Water Development Bonds," shall be executed in such form, denominations and upon such terms as may be prescribed by law, provided, however, that the bonds shall not bear more than four per cent (4%) interest per annum; they may be issued in such installments as the Board finds feasible and practical in accomplishing the purpose set forth herein.



All moneys received from the sale of State bonds shall be deposited in a fund hereby created in the State Treasury to be known as the Texas Water Development Fund to be administered (without further appropriation) by the Texas Water Development Board in such manner as prescribed by law.

Such fund shall be used only for the purpose of aiding or making funds available upon such terms and conditions as the Legislature may prescribe, to the various political subdivisions or bodies politic and corporate of the State of Texas including river authorities, conservation and reclamation districts and districts created or organized or authorized to be created or organized under Article XVI, Section 59 or Article III, Section 52, of this Constitution, interstate compact commissions to which the State of Texas is a party and municipal corporations, in the conservation and development of the water resources of this State, including the control, storing and preservation of its storm and flood waters and the waters of its rivers and streams, for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs and other water storage projects, including any system necessary for the transportation of water from storage to points of treatment and/or distribution, including facilities for transporting water therefrom to wholesale purchasers, or for any one or more of such purposes or methods.

Any or all financial assistance as provided herein shall be repaid with interest upon such terms, conditions and manner of repayment as may be provided by law.

While any of the bonds authorized by this provision or while any of the bonds that may be authorized by the Legislature under this provision, or any interest on any of such bonds, is outstanding and unpaid, there is hereby appropriated out of the first moneys coming into the Treasury in each fiscal year, not otherwise appropriated by this Constitution, an amount which is sufficient to pay the principal and interest on such bonds that mature or become due during such fiscal year, less the amount in the sinking fund at the close of the prior fiscal year.

The Legislature may provide for the investment of moneys available in the Texas Water Development Fund, and the interest and sinking funds established for the payment of bonds issued by the Texas Water Development Board. Income from such investment shall be used for the purposes prescribed by the Legislature. The Legislature may also make appropriations from the General Revenue Fund for paying administrative expenses of the Board.



From the moneys received by the Texas Water Development Board as repayment of principal for financial assistance or as interest thereon, there shall be deposited in the interest and sinking fund for the bonds authorized by this Section sufficient moneys to pay the interest and principal to become due during the ensuing year and sufficient to establish and maintain a reserve in said fund equal to the average annual principal and interest requirements on all outstanding bonds issued under this Section. If any year prior to December 31, 1982 moneys are received in excess of the foregoing requirements then such excess shall be deposited to the Texas Water Development Fund, and may be used for administrative expenses of the Board and for the same purposes and upon the same terms and conditions prescribed for the proceeds derived from the sale of such State bonds. No grant of financial assistance shall be made under the provisions of this Section after December 31, 1982, and all moneys thereafter received as repayment of principal for financial assistance or as interest thereon shall be deposited in the interest and sinking fund for the State bonds; except that such amount as may be required to meet the administrative expenses of the Board may be annually set aside; and provided, that after all State bonds have been fully paid with interest, or after there are on deposit in the interest and sinking fund sufficient moneys to pay all future maturities of principal and interest, additional moneys so received shall be deposited to the General Revenue Fund.

All bonds issued hereunder shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such acts shall not be void by reason of their anticipatory nature. (Added Nov. 5, 1957.)

#### COMMITTEE RECOMMENDATIONS

The entire section should be deleted from the Constitution. The Transition Schedule should: Guarantee the sanctity of outstanding bonds; assure the right to issue authorized, but unissued bonds; and preserve the substance of the section as state law.

For a discussion of the Committee's considerations on State Debt, see supra at 35.



Sec. 49-d. ACQUISITION AND DEVELOPMENT OF WATER STORAGE FACILITIES; FILTRATION, TREATMENT AND TRANSPORTATION OF WATER; ENLARGEMENT OF RESERVOIRS. It is hereby declared to be the policy of the State of Texas to encourage the optimum development of the limited number of feasible sites available for the construction or enlargement of dams and reservoirs for conservation of the public waters of the state, which waters are held in trust for the use and benefit of the public. The proceeds from the sale of the additional bonds authorized hereunder deposited in the Texas Water Development Fund and the proceeds of bonds previously authorized by Article III, Section 49-c of this Constitution, may be used by the Texas Water Development Board, under such provisions as the Legislature may prescribe by General Law, including the requirement of a permit for storage or beneficial use, for the additional purposes of acquiring and developing storage facilities, and any system or works necessary for the filtration, treatment and transportation of water from storage to points of treatment, filtration and/or distribution, including facilities for transporting water therefrom to wholesale purchasers, or for any one or more of such purposes or methods; provided, however, the Texas Water Development Fund or any other state fund provided for water development, transmission, transfer or filtration shall not be used to finance any project which contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing fifty-year period within the river basin of origin, except on a temporary, interim basis.

Under such provisions as the Legislature may prescribe by General Law the Texas Water Development Fund may be used for the conservation and development of water for useful purposes by construction or reconstruction or enlargement of reservoirs constructed or to be constructed or enlarged within the State of Texas or on any stream constituting a boundary of the State of Texas, together with any system or works necessary for the filtration, treatment and/or transportation of water, by any one or more of the following governmental agencies: by the United States of America or any agency, department or instrumentality thereof; by the State of Texas or any agency, department or instrumentality thereof; by political subdivisions or bodies politic and corporate of the state; by interstate compact commissions to which the State of Texas is a party; and by municipal corporations. The Legislature shall provide terms and conditions under which the Texas Water Development Board may sell, transfer or lease, in whole or in part, any reservoir and associated system or works which the Texas Water Development Board has financed in whole or in part.



Under such provisions as the Legislature may prescribe by General Law, the Texas Water Development Board may also execute long-term contracts with the United States or any of its agencies for the acquisition and development of storage facilities in reservoirs constructed or to be constructed by the Federal Government. Such contracts when executed shall constitute general obligations of the State of Texas in the same manner and with the same effect as state bonds issued under the authority of the preceding Section 49-c of this Constitution, and the provisions in said Section 49-c with respect to payment of principal and interest on state bonds issued shall likewise apply with respect to payment of principal and interest required to be paid by such contracts. If storage facilities are acquired for a term of years, such contracts shall contain provisions for renewal that will protect the state's investment.

The aggregate of the bonds authorized hereunder shall not exceed \$200,000,000 and shall be in addition to the aggregate of the bonds previously authorized by said Section 49-c of Article III of this Constitution. The Legislature upon two-thirds (2/3) vote of the elected members of each House, may authorize the Board to issue all or any portion of such \$200,000,000 in additional bonds herein authorized.

The Legislature shall provide terms and conditions for the Texas Water Development Board to sell, transfer or lease, in whole or in part, any acquired storage facilities or the right to use such storage facilities together with any associated system or works necessary for the filtration, treatment or transportation of water at a price not less than the direct cost of the Board in acquiring same; and the Legislature may provide terms and conditions for the Board to sell any unappropriated public waters of the state that might be stored in such facilities. As a prerequisite to the purchase of such storage or water, the applicant therefor shall have secured a valid permit from the Texas Water Commission or its successor authorizing the acquisition of such storage facilities or the water impounded therein. The money received from any sale, transfer or lease of storage facilities or associated system or works shall be used to pay principal and interest on state bonds issued or contractual obligations incurred by the Texas Water Development Board, provided that when moneys are sufficient to pay the full amount of indebtedness then outstanding and the full amount of interest to accrue thereon, any further sums received from the sale, transfer or lease of such storage facilities or associated system or works may be used for the acquisition of additional storage facilities or associated system or works or for providing financial assistance as authorized by said Section 49-c. Money received from the sale of water, which shall include standby service, may be used for the operation and maintenance of acquired facilities, and for the payment of principal and interest on debt incurred.



Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment, such Acts shall not be void by reason of their anticipatory character. (Added Nov. 6, 1962; as amended Nov. 8, 1966.)

#### COMMITTEE RECOMMENDATIONS

The entire section should be deleted from the Constitution. The Transition Schedule should: Guarantee the sanctity of outstanding bonds; assure the right to issue authorized, but unissued bonds; and preserve the substance of the section as state law.

For a discussion of the Committee's considerations on State Debt, see supra at 35.

Sec. 49-d-1. ADDITIONAL TEXAS WATER DEVELOPMENT BONDS. (a) The Texas Water Development Board shall upon direction of the Texas Water Quality Board, or any successor agency designated by the Legislature, issue additional Texas Water Development Bonds up to an additional aggregate principal amount of One Hundred Million Dollars (\$100,000,000) to provide grants, loans, or any combination of grants and loans for water quality enhancement purposes as established by the Legislature. The Texas Water Quality Board or any successor agency designated by the Legislature may make such grants and loans to political subdivisions or bodies politic and corporate of the State of Texas, including municipal corporations, river authorities, conservation and reclamation districts, and districts created or organized or authorized to be created or organized under Article XVI, Section 59, or Article III, Section 52, of this Constitution, State agencies, and interstate agencies and compact commissions to which the State of Texas is a party, and upon such terms and conditions as the Legislature may authorize by general law. The bonds shall be issued for such terms, in such denominations, form and installments, and upon such conditions as the Legislature may authorize.

(b) The proceeds from the sale of such bonds shall be deposited in the Texas Water Development Fund to be invested and administered as prescribed by law.

(c) The bonds authorized in this Section 49-d-1 and all bonds authorized by Sections 49-c and 49-d of Article III shall bear interest at not more than 6% per annum and mature as the Texas Water Development Board shall prescribe, subject to the limitations as may be imposed by the Legislature.



(d) The Texas Water Development Fund shall be used for the purposes heretofore permitted by, and subject to the limitations in Sections 49-c, 49-d and 49-d-1; provided, however, that the financial assistance may be made pursuant to the provisions of Sections 49-c, 49-d and 49-d-1 subject only to the availability of funds and without regard to the provisions in Section 49-c that such financial assistance shall terminate after December 31, 1982.

(e) Texas Water Development Bonds are secured by the general credit of the State and shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

(f) Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be void by reason of their anticipatory character. (Added May 18, 1971.)

#### COMMITTEE RECOMMENDATIONS

The entire section should be deleted from the Constitution. The Transition Schedule should: Guarantee the sanctity of outstanding bonds; assure the right to issue authorized, but unissued bonds; and preserve the substance of the section as state law.

For a discussion of the Committee's considerations on State Debt, see supra at 35.

Sec. 49-e. TEXAS PARK DEVELOPMENT FUND. The Parks and Wildlife Department, or its successor vested with the powers, duties, and authority which deals with the operation, maintenance, and improvement of State Parks, shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed Seventy-Five Million Dollars (\$75,000,000). The bonds authorized herein shall be called "Texas Park Development Bonds," shall be executed in such form, denominations, and upon such terms as may be prescribed by law, provided, however, that the bonds shall bear a rate or rates of interest as may be fixed by the Parks and Wildlife Department or its successor, but the weighted average annual interest rate, as that phrase is commonly and ordinarily used and understood in the municipal bond market, of all the bonds issued and sold in any installment of any bonds, shall not exceed four and one-half percent (4½%) interest per annum; they may be issued in such installments as said Parks and Wildlife Department, or its said successor, finds feasible and practical in accomplishing the purpose set forth herein.



and shall constitute general obligations of the State of Texas under the Constitution of Texas.

Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be void by reason of their anticipatory nature. (Added Nov. 11, 1967.)

#### COMMITTEE RECOMMENDATIONS

The entire section should be deleted from the Constitution. The Transition Schedule should: Guarantee the sanctity of outstanding bonds; assure the right to issue authorized, but unissued bonds; and preserve the substance of the section as state law.

For a discussion of the Committee's considerations on State Debt, see supra at 35.

Sec. 50. LOAN OR PLEDGE OF CREDIT OF STATE. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of, or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

#### COMMITTEE RECOMMENDATIONS

The prohibition is retained in the form of language assigned to it by judicial interpretation in Finance section 9.

For a discussion of the Committee's considerations on Grants and Loans, see supra at 46.

Sec. 50b. STUDENT LOANS. (a) The Legislature may provide that the Coordinating Board, Texas College and University System, or its successor or successors, shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed Eighty-five Million Dollars (\$85,000,000). The bonds authorized herein shall be called "Texas College Student Loan Bonds," shall be executed in such form, denominations and upon such terms as may be prescribed by law, provided, however, that the bonds shall not bear more than four per cent (4%) interest per annum; they may be issued in such installments as the Board finds feasible and practical in accomplishing the purposes of this Section.



(b) All moneys received from the sale of such bonds shall be deposited in a fund hereby created in the State Treasury to be known as the Texas Opportunity Plan Fund to be administered by the Coordinating Board, Texas College and University System, or its successor or successors to make loans to students who have been admitted to attend any institution of higher education within the State of Texas, public or private, including Junior Colleges, which are recognized or accredited under terms and conditions prescribed by the Legislature, and to pay interest and principal on such bonds and provide a sinking fund therefor under such conditions as the Legislature may prescribe.

(c) While any of the bonds, or interest on said bonds authorized by this Section is outstanding and unpaid, there is hereby appropriated out of the first moneys coming into the Treasury in each fiscal year, not otherwise appropriated by this Constitution, an amount sufficient to pay the principal and interest on such bonds that mature or become due during such fiscal year, less the amount in the sinking fund at the close of the prior fiscal year.

(d) The Legislature may provide for the investment of moneys available in the Texas Opportunity Plan Fund, and the interest and sinking funds established for the payment of bonds issued by the Coordinating Board, Texas College and University System, or its successor or successors. Income from such investment shall be used for the purposes prescribed by the Legislature.

(e) All bonds issued hereunder shall, after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under this Constitution.

(f) Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment, such acts shall not be void because of their anticipatory nature. (Added Nov. 2, 1965.)

#### COMMITTEE RECOMMENDATIONS

The entire section should be deleted from the Constitution. The Transition Schedule should: Guarantee the sanctity of outstanding bonds; assure the right to issue authorized, but unissued bonds; and preserve the substance of the section as state law.

For a discussion of the Committee's considerations on Grants and Loans, see supra at 46.



Sec. 50b-1. ADDITIONAL STUDENT LOANS.(a) The Legislature may provide that the Coordinating Board, Texas College and University System, or its successor or successors, shall have authority to provide for, issue and sell general obligation bonds of the State of Texas in amount not to exceed Two Hundred Million Dollars (\$200,000,000) in addition to those heretofore authorized to be issued pursuant to Section 50b of the Constitution. The bonds authorized herein shall be executed in such form, upon such terms and be in such denomination as may be prescribed by law and shall bear interest, and be issued in such installments as shall be prescribed by the Board provided that the maximum net effective interest rate to be borne by such bonds may be fixed by law.

(b) The moneys received from the sale of such bonds shall be deposited to the credit of the Texas Opportunity Plan Fund created by Section 50b of the Constitution and shall otherwise be handled as provided in Section 50b of the Constitution and the laws enacted pursuant thereto.

(c) The said bonds shall be general obligations of the state and shall be payable in the same manner and from the same sources as bonds heretofore authorized pursuant to Section 50b.

(d) All bonds issued hereunder shall, after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under this Constitution.

(e) Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment such acts shall not be void because of their anticipatory nature. (Added Aug. 5, 1969.)

#### COMMITTEE RECOMMENDATIONS

The entire section should be deleted from the Constitution. The Transition Schedule should: Guarantee the sanctity of outstanding bonds; assure the right to issue authorized, but unissued bonds; and preserve the substance of the section as state law.

For a discussion of the Committee's considerations on Grants and Loans, see supra at 46.

For a discussion of the Committee's considerations on State Debt, see supra at 35.



Sec. 52. COUNTIES, CITIES OR OTHER POLITICAL CORPORATIONS OR SUBDIVISIONS; LENDING CREDIT; GRANTS. (a) Except as otherwise provided by this section, the Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company.

(b) Under Legislative provision, any county, any political subdivision of a county, any number of adjoining counties, or any political subdivision of the State, or any defined district now or hereafter to be described and defined within the State of Texas, and which may or may not include, towns, villages or municipal corporations, upon a vote of two-thirds majority of the resident property taxpayers voting thereon who are qualified electors of such district or territory to be affected thereby, in addition to all other debts, may issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such district or territory, except that the total bonded indebtedness of any city or town shall never exceed the limits imposed by other provisions of this Constitution, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, as the Legislature may authorize, and in such manner as it may authorize the same, for the following purposes to wit:

(1) The improvement of rivers, creeks, and streams to prevent overflows, and to permit of navigation thereof, or irrigation thereof, or in aid of such purposes.

(2) The construction and maintenance of pools, lakes, reservoirs, dams, canals and waterways for the purposes of irrigation, drainage or navigation, or in aid thereof.

(3) The construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof.

(c) Notwithstanding the provisions of Subsection (b) of this Section, bonds may be issued by any county in an amount not to exceed one-fourth of the assessed valuation of the real property in the county, for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof, upon a vote of a majority of the resident property taxpayers voting thereon who are qualified electors of the county, and without the necessity of further or amendatory legislation. The county may levy and collect taxes to pay the interest on the bonds as it becomes due and to provide a sinking fund for redemption of the bonds. (As amended Nov. 3, 1970.)

(Committee Recommendations follow)



- (1) The prohibition is retained in the form of language assigned to it by judicial interpretation in Finance section 9.

For a discussion of the Committee's considerations on Grants and Loans, see supra at 46.

- (2) The statistical limits on government indebtedness are deleted in favor of a uniform requirement for referendum in Finance, section 8.
- (3) Authorization for the creation of such special districts may be necessary in a local government provision.

Sec. 52-b. LOAN OF STATE'S CREDIT OR GRANT OF PUBLIC MONEY FOR TOLL ROAD PURPOSES. The Legislature shall have no power or authority to in any manner lend the credit of the State or grant any public money to, or assume any indebtedness, present or future, bonded or otherwise, of any individual, person, firm, partnership, association, corporation, public corporation, public agency, or political subdivision of the State, or anyone else, which is now or hereafter authorized to construct, maintain or operate toll roads and turnpikes within this State. (Added Nov. 2, 1954.)

#### COMMITTEE RECOMMENDATIONS

The entire section should be deleted. No indebtedness could be assumed without public referendum. See Finance, section 6.

For a discussion of the Committee's considerations on the subject of State Debt, see supra at 35.

Sec. 52e\*. DALLAS COUNTY BOND ISSUES FOR ROADS AND TURNPIKES. Bonds to be issued by Dallas County under Section 52 of Article III of this Constitution for the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, may, without the necessity of further or amendatory legislation, be issued upon a vote of a majority of the resident property taxpayers voting thereon who are qualified electors of said county, and bonds heretofore or hereafter issued under Subsections (a) and (b) of said Section 52 shall not be included in determining the debt limit prescribed in said Section. (Added Nov. 5, 1968.)

(Committee Recommendations follow)



#### COMMITTEE RECOMMENDATION

The entire section should be deleted. A Constitutional exception for Dallas County to the statistical limitations and the 2/3 vote requirement now in section 52 is no longer necessary because of the Committee's changes in section 52. The transition schedule should assure that the exception is continued in statute.

"Section 65. Wherever the Constitution authorizes an agency, instrumentality, or subdivision of the State to issue bonds and specifies the maximum rate of interest which may be paid on such bonds issued pursuant to such constitutional authority, such bonds may bear interest at rates not to exceed a weighted average annual interest rate of 6%. All Constitutional provisions specifically setting rates in conflict with this provision are hereby repealed." This amendment shall become effective upon its adoption.

#### COMMITTEE RECOMMENDATIONS

The entire section should be deleted.

The increase in allowable interest rates for Constitutional bonds should be retained through a Transition Schedule until legislative action is taken.

For a discussion of the Committee's considerations on the subject of state bond interest rate limits, see supra at 38.



## ARTICLE VIII

Sec. 1. EQUALITY AND UNIFORMITY; TAX IN PROPORTION TO VALUE; POLL TAX; OCCUPATION TAXES; INCOME TAX; EXEMPTION OF HOUSEHOLD FURNITURE. Taxation shall be equal and uniform. All property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The Legislature may impose a poll tax. It may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax; Provided, that two hundred and fifty dollars worth of household and kitchen furniture, belonging to each family in this State shall be exempt from taxation, and provided further than the occupation tax levied by any county, city or town for any year on persons or corporations pursuing any profession or business, shall not exceed one half of the tax levied by the State for the same period on such profession or business.

### COMMITTEE RECOMMENDATIONS

- (1) The equality and uniformity clause is retained and is made more specific in Finance, section 1.
- (2) The property tax sentence is retained, but more Legislative discretion is given in Finance, section 3.
- (3) Specific authorizations for a poll tax and for occupation taxes are deleted in reliance on the plenary power to tax.

The Committee recommends that the exemptions from occupation taxes for agricultural and mechanical pursuits be deleted. These exemptions have not been of historical importance. In addition, virtually no real exemption is afforded as "occupation tax" is an antiquated and uncertain term which has come to apply only when the Legislature has chosen to use it.



Sec. 1-a. NO STATE AD VALOREM TAX LEVY; COUNTY LEVY FOR ROADS AND FLOOD CONTROL; TAX DONATIONS. From and after January 1, 1951, no State ad valorem tax shall be levied upon any property within this State for general revenue purposes. From and after January 1, 1951, the several counties of the State are authorized to levy ad valorem taxes upon all property within their respective boundaries for county purposes, except the first Three Thousand Dollars (\$3,000) value of residential homesteads, not to exceed thirty cents (30¢) on each One Hundred Dollars (\$100) valuation, in addition to all other ad valorem taxes authorized by the Constitution of this State, provided the revenue derived therefrom shall be used for construction and maintenance of Farm to Market Roads or for Flood Control, except as herein otherwise provided.

Provided that in those counties or political subdivisions or areas of the State from which tax donations have heretofore been granted, the State Automatic Tax Board shall continue to levy the full amount of the State ad valorem tax for the duration of such donation, or until all legal obligations heretofore authorized by the law granting such donation or donations shall have been fully discharged, whichever shall first occur; provided that if such donation to any such county or political subdivision is for less than the full amount of State ad valorem taxes so levied, the portion of such taxes remaining over and above such donation shall be retained by said county or subdivision. (Added Nov. 8, 1932; as amended Nov. 2, 1948.)

#### COMMITTEE RECOMMENDATIONS

The entire section should be deleted.

- (1) The prohibition against a state property tax is already outdated by section 1-e.
- (2) The county tax levy should be deleted, pending decision by the local government committee. It is in statute (Article 708a, Sections 1 and 2.) For a discussion see supra at 26.
- (3) The tax donations should be preserved in the transition schedule although only about \$600 of delinquent taxes are still being collected.

Sec. 1-b. RESIDENCE HOMESTEAD EXEMPTION. Three Thousand Dollars (\$3,000) of the assessed taxable value of all residence homesteads as now defined by law shall be exempt from all taxation for all State purposes. (Added Nov. 2, 1948.)

#### COMMITTEE RECOMMENDATIONS

Retained in Finance, section 2.



Sec. 1-c. EFFECTIVENESS OF RESOLUTION. Provided, however, the terms of this Resolution shall not be effective unless House Joint Resolution No. 24 is adopted by the people and in no event shall this Resolution go into effect until January 1, 1951. (Added Nov. 2, 1948.)

#### COMMITTEE RECOMMENDATIONS

The entire section should be deleted as unnecessary.

Sec. 1-d. ASSESSMENT OF LANDS DESIGNATED FOR AGRICULTURAL USE. (a) All land owned by natural persons which is designated for agricultural use in accordance with the provisions of this Section shall be assessed for all tax purposes on the consideration of only those factors relative to such agricultural use. "Agricultural use" means the raising of livestock or growing of crops, fruit, flowers, and other products of the soil under natural conditions as a business venture for profit, which business is the primary occupation and source of income of the owner.

(b) For each assessment year the owner wishes to qualify his land under provisions of this Section as designated for agricultural use he shall file with the local tax assessor a sworn statement in writing describing the use to which the land is devoted.

(c) Upon receipt of the sworn statement in writing the local tax assessor shall determine whether or not such land qualifies for the designation as to agricultural use as defined herein and in the event it so qualifies he shall designate such land as being for agricultural use and assess the land accordingly.

(d) Such local tax assessor may inspect the land and require such evidence of use and source of income as may be necessary or useful in determining whether or not the agricultural use provision of this article applies.

(e) No land may qualify for the designation provided for in this Act unless for at least three (3) successive years immediately preceding the assessment date the land has been devoted exclusively for agricultural use, or unless the land has been continuously developed for agriculture during such time.

(f) Each year during which the land is designated for agricultural use, the local tax assessor shall note on his records the valuation which would have been made had the land not qualified for such designation under this Section. If designated land is subsequently diverted to a purpose other than that of agricultural use, or is sold, the land shall be subject to an additional tax. The additional tax shall equal the difference between taxes paid or payable, hereunder, and the amount of tax payable for the preceding three years had the land been otherwise assessed. Until paid there shall be a lien for additional taxes and interest on land assessed under the provisions of this Section.



(g) The valuation and assessment of any minerals or subsurface rights to minerals shall not come within the provisions of this Section. (Added Nov. 8, 1966.)

#### COMMITTEE RECOMMENDATIONS

Replaced by Finance, Section 3(a). The specific assessment directions should be retained in a transition schedule until the Legislature acts.

For a discussion of the Committee's considerations on the subject of real property assessment, see supra at 17.

Sec. 1-e. ABOLITION OF AD VALOREM PROPERTY TAXES. 1. From and after December 31, 1978, no State ad valorem taxes shall be levied upon any property within this State for State purposes except the tax levied by Article VII, Section 17, for certain institutions of higher learning.

2. The State ad valorem tax authorized by Article VII, Section 3, of this Constitution shall be imposed at the following rates on each One Hundred Dollars (\$100.00) valuation for the years 1968 through 1974: On January 1, 1968, Thirty-five Cents (\$.35); on January 1, 1969, Thirty Cents (\$.30); on January 1, 1970, Twenty-five Cents (\$.25); on January 1, 1971, Twenty Cents (\$.20); on January 1, 1972, Fifteen Cents (\$.15); on January 1, 1973, Ten Cents (\$.10); on January 1, 1974, Five Cents (\$.05); and thereafter no such tax for school purposes shall be levied and collected. An amount sufficient to provide free textbooks for the use of children attending the public free schools of this State shall be set aside from any revenues deposited in the Available School Fund, provided, however, that should such funds be insufficient, the deficit may be met by appropriation from the general funds of the State.

3. The State ad valorem tax of Two Cents (\$.02) on the One Hundred Dollars valuation levied by Article VII, Section 17, of this Constitution shall not be levied after December 31, 1976. At any time prior to December 31, 1976, the Legislature may establish a trust fund solely for the benefit of the widows of Confederate veterans and such Texas Rangers and their widows as are eligible for retirement or disability pensions under the provisions of Article XVI, Section 66, of this Constitution, and after such fund is established the ad valorem tax levied by Article VII, Section 17, shall not thereafter be levied.

4. Unless otherwise provided by the Legislature, after December 31, 1976 all delinquent State ad valorem taxes together with penalties and interest thereon, less lawful costs of collection, shall be used to secure bonds issued for permanent improvements at institutions of higher learning, as authorized by Article VII, Section 17, of this Constitution.



5. The fees paid by the State for both assessing and collecting State ad valorem taxes shall not exceed two per cent (2%) of the State taxes collected. This subsection shall be self-executing. (Added Nov. 5, 1968.)

#### COMMITTEE RECOMMENDATIONS

- (1) The prohibition against a state property tax is retained in Finance, section 2.
- (2) The tax for college building (Art. VII, sec. 17) should be phased out through a transition schedule if the Education Committee agrees. The fees for assessing and collecting the ad valorem tax and the assignment of all delinquent taxes to the building program should also be handled in the transition schedule.
- (3) The trust fund for Rangers and widows should be continued in statute (by transition) unless constitutional authorization is necessary.

Sec. 2. OCCUPATION TAXES; EQUALITY AND UNIFORMITY; EXEMPTIONS FROM TAXATION. All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes; actual places or (of) religious worship, also any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; places of burial not held for private or corporate profit; all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools and property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a State or National organization of like character; also the endowment funds of such institutions of learning and religion not used with a view to profit; and when the same are invested in bonds or mortgages, or in land or other property which has been and shall hereafter be bought in by such institutions under foreclosure sales made to satisfy or protect such bonds or mortgages, that such exemption of such land and property shall continue only for two years after the purchase of the same at such sale by such institutions and no longer, and institutions of purely public charity; and all laws exempting property from taxation other than the property above mentioned shall be null and void. (As amended Nov. 6, 1928.)



#### COMMITTEE RECOMMENDATIONS

- (1) The equal and uniform clause is retained in Finance, section 1.
  - (2) The authorization for exemptions is continued in Finance, section 3.
- For a discussion of the Committee's considerations, see supra at 10.

Sec. 3. GENERAL LAWS; PUBLIC PURPOSES. Taxes shall be levied and collected by general laws and for public purposes only.

#### COMMITTEE RECOMMENDATIONS

Retained in Finance, section 1.

Sec. 4. SURRENDER SUSPENSION OF TAXING POWER. The power to tax corporations and corporate property shall not be surrendered or suspended by act of the Legislature, by any contract or grant to which the State shall be a party.

#### COMMITTEE RECOMMENDATIONS

Retained in Finance, section 1, but expanded to cover all taxes instead of only those on corporations.

Sec. 5. RAILROAD PROPERTY; LIABILITY TO MUNICIPAL TAXATION. All property of railroad companies, of whatever description, lying or being within the limits of any city or incorporated town within this State, shall bear its proportionate share of municipal taxation, and if any such property shall not have been heretofore rendered, the authorities of the city or town within which it lies, shall have power to require its rendition, and collect the usual municipal tax thereon, as on other property lying within said municipality.

#### COMMITTEE RECOMMENDATIONS

Deleted as unnecessary. No state has a comparable constitutional provision. It is covered by statute. (Art. 7168 and Title 28, Ch.5).



Sec. 6. WITHDRAWAL OF MONEY FROM TREASURY; DURATION OF APPROPRIATION. No money shall be drawn from the Treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except by the first Legislature to assemble under this Constitution, which may make the necessary appropriations to carry on the government until the assemblage of the sixteenth Legislature.

COMMITTEE RECOMMENDATIONS

Retained in Finance, section 2.

Sec. 7. BORROWING, WITHHOLDING OR DIVERTING SPECIAL FUNDS. The Legislature shall not have power to borrow, or in any manner divert from its purpose, any special fund that may, or ought to, come into the Treasury; and shall make it penal for any person or persons to borrow, withhold or in any manner to divert from its purpose any special fund, or any part thereof.

COMMITTEE RECOMMENDATIONS

Deleted as unnecessary because it has been interpreted to apply only to Constitutional Funds, which are already protected by their inclusion in the Constitution. Op. Atty. Gen. No. V-107 (1947). The penal provision currently exists in statutory form. (Penal Code Art. 94).

Sec. 7-a. REVENUES FROM MOTOR VEHICLE REGISTRATION FEES AND TAXES ON MOTOR FUELS AND LUBRICANTS: PURPOSES FOR WHICH USED. Subject to legislative appropriation, allocation and direction, all net revenues remaining after payment of all refunds allowed by law and expenses of collection derived from motor vehicle registration fees, and all taxes, except gross production and ad valorem taxes, on motor fuels and lubricants used to propel motor vehicles over public roadways, shall be used for the sole purpose of acquiring rights-of-way, constructing, maintaining, and policing such public roadways, and for the administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads; and for the payment of the principal and interest on county and road district bonds or warrants voted or issued prior to January 2, 1939, and declared eligible prior to January 2, 1945, for payment out of the County and Road District Highway Fund under existing law; provided, however, that one-fourth (1/4) of such net revenue from the motor fuel tax shall be allocated to the Available School Fund; and, provided, however, that the net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be retained by each County under the laws in effect on January 1, 1945. Nothing contained herein shall be construed as authorizing the pledging of the State's credit for any purpose. (Added Nov. 5, 1946.)



#### COMMITTEE RECOMMENDATIONS

Retained in Finance, Section 4.

The County and Road District Bonds assumed by the State will be paid off in 1977. A transition schedule provision will be needed since specific reference to these bonds is deleted in the Committee version.

For a discussion of the Committee's considerations on the subject of the highway-user revenues see supra at 19.

Sec. 8. RAILROAD COMPANIES; ASSESSMENT AND COLLECTION OF TAXES. All property of railroad companies shall be assessed, and the taxes collected in the several counties in which said property is situated, including so much of the roadbed and fixtures as shall be in each county. The rolling stock may be assessed in gross in the county where the principal office of the company is located, and the county tax paid upon it, shall be apportioned by the Comptroller, in proportion to the distance such road may run through any such county, among the several counties through which the road passes, as a part of their tax assets.

#### COMMITTEE RECOMMENDATIONS

Deleted as unnecessary under Finance, Section 3. Judicial interpretations have not been of constitutional significance. It is covered by statute (Articles 7159, 7168, 7169 and 7098 et. seq.)

Sec. 9. MAXIMUM STATE TAX; COUNTY, CITY AND TOWN LEVIES; COUNTY FUNDS; LOCAL ROAD LAWS. The State tax on property, exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, shall never exceed Thirty-five Cents (\$.35) on the One Hundred Dollars (\$100) valuation; and no county, city or town shall levy a tax rate in excess of Eighty Cents (\$.80) on the One Hundred Dollars (\$100) valuation in any one (1) year for general fund, permanent improvement fund, road and bridge fund and jury fund purposes; provided further that at the time the Commissioners Court meets to levy the annual tax rate for each county it shall levy whatever tax rate may be needed for the four (4) constitutional purposes; namely, general fund, permanent improvement fund, road and bridge fund and jury fund so long as the Court does not impair any outstanding bonds or other obligations and so long as the total of the foregoing tax levies does not exceed Eighty Cents (\$.80) on the One Hundred Dollars (\$100) valuation in any one (1) year. Once the Court has levied the annual tax rate, the same shall remain in force and effect



during that taxable year; and the Legislature may also authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; provided, that a majority of the qualified property taxpaying voters of the county voting at an election to be held for that purpose shall vote such tax, not to exceed Fifteen Cents (\$.15) on the One Hundred Dollars (\$100) valuation of the property subject to taxation in such county. Any county may put all tax money collected by the county into one general fund, without regard to the purpose or source of each tax. And the Legislature may pass local laws for the maintenance of the public roads and highways, without the local notice required for special or local laws. This Section shall not be construed as a limitation of powers delegated to counties, cities or towns by any other Section or Sections of this Constitution. (As amended Nov. 11, 1967.)

#### COMMITTEE RECOMMENDATIONS

Deleted, pending a decision by the Local Government Committee to eliminate constitutional tax limits.

For a discussion of the Committee's considerations on the subject of tax limits, see supra at 26.

Sec. 10. RELEASE FROM PAYMENT OF TAXES. The Legislature shall have no power to release the inhabitants of, or property in, any county, city or town from the payment of taxes levied for State or county purposes, unless in case of great public calamity in any such county, city or town, when such release may be made by a vote of two-thirds of each House of the Legislature.

#### COMMITTEE RECOMMENDATIONS

Deleted. Unless for a "public purpose", such releases would be prohibited by Finance, section 9.

Sec. 11. PLACE OF ASSESSMENT; VALUE OF PROPERTY NOT RENDERED BY OWNER. All property, whether owned by persons or corporations shall be assessed for taxation, and the taxes paid in the county where situated, but the Legislature may, by a two-thirds vote, authorize the payment of taxes of non-residents of counties to be made at the office of the Comptroller of Public Accounts. And all lands and other property not rendered for taxation by the owner thereof shall be assessed at its fair value by the proper officer.

#### COMMITTEE RECOMMENDATIONS

Deleted as unnecessary in the Constitution. It is covered by statute (Articles 7153 and 7205).



Sec. 13. SALES OF LANDS AND OTHER PROPERTY FOR TAXES; REDEMPTION. Provision shall be made by the first Legislature for the speedy sale, without the necessity of a suit in Court, of a sufficient portion of all lands and other property for the taxes due thereon, and every year thereafter for the sale in like manner of all lands and other property upon which the taxes have not been paid; and the deed of conveyance to the purchaser for all lands and other property thus sold shall be held to vest a good and perfect title in the purchaser thereof, subject to be impeached only for actual fraud; provided, that the former owner shall within two years from date of the filing for record of the Purchaser's Deed have the right to redeem the land on the following basis:

(1) Within the first year of the redemption period upon the payment of the amount of money paid for the land, including One (\$1.00) Dollar Tax Deed Recording Fee and all taxes, penalties, interest and costs paid plus not exceeding twenty-five (25%) percent of the aggregate total;

(2) Within the last year of the redemption period upon the payment of the amount of money paid for the land, including One (\$1.00) Dollar Tax Deed Recording Fee and all taxes, penalties, interest and costs paid plus not exceeding fifty (50%) percent of the aggregate total. (As amended Nov. 8, 1932.)

#### COMMITTEE RECOMMENDATIONS

Deleted as unnecessary in the Constitution. The Legislature should be allowed to provide for the sale of property for non-payment of taxes and to provide for the specifics of redemption in statute. It is covered by statute (Articles 7273-7275; 7345b, sec. 12; 7326 et. seq.)

Sec. 15. LIEN OF ASSESSMENT; SEIZURE AND SALE OF PROPERTY. The annual assessment made upon landed property shall be a special lien thereon; and all property, both real and personal, belonging to any delinquent taxpayer shall be liable to seizure and sale for the payment of all the taxes and penalties due by such delinquent; and such property may be sold for the payment of the taxes and penalties due by such delinquent, under such regulations as the Legislature may provide.

#### COMMITTEE RECOMMENDATIONS

Deleted as unnecessary in the Constitution. No other state creates a constitutional tax lien. It is covered by statute Articles 7172; 7273-7275; 7326 et seq.)



Sec. 17. SPECIFICATION OF SUBJECTS NOT LIMITATION OF LEGISLATURE'S POWER. The specification of the objects and subjects of taxation shall not deprive the Legislature of the power to require other subjects or objects to be taxed in such manner as may be consistent with the principles of taxation fixed in this Constitution.

COMMITTEE RECOMMENDATIONS

Deleted as unnecessary because of the plenary power of the Legislature.

Sec. 18. EQUALIZATION OF VALUATIONS; CLASSIFICATION OF LANDS. The Legislature shall provide for equalizing, as near as may be, the valuation of all property subject to or rendered for taxation, (the County Commissioners' Court to constitute a board of equalization); and may also provide for the classification of all lands with reference to their value in the several counties.

COMMITTEE RECOMMENDATIONS

Deleted -

- (1) The power to equalize resides in the Legislature because of the plenary power. It is covered by statute (Articles 7211, 7212).
- (2) Designation of the County Commissioner's Court as a board of equalization is being considered by the Local Government Committee. It is covered by statute (Article 7206).

For a discussion of the Committee's consideration on state equalization of assessments, see supra at 6.

Sec. 19. FARM PRODUCTS AND FAMILY SUPPLIES; EXEMPTION. Farm products in the hands of the producer, and family supplies for home and farm use, are exempt from all taxation until otherwise directed by two-thirds vote of all the members elect to both houses of the Legislature. (Added first Tuesday in Sept., 1879.)

(Committee Recommendations follow)



#### COMMITTEE RECOMMENDATIONS

Retained in Finance, Section 3. The power of the Legislature to repeal was eliminated.

Sec. 20. FAIR CASH MARKET VALUE NOT TO BE EXCEEDED; DISCOUNTS FOR ADVANCE PAYMENT. No property of any kind in this State shall ever be assessed for ad valorem taxes at a greater value than its fair cash market value nor shall any Board of Equalization of any governmental or political subdivision or taxing district within this State fix the value of any property for tax purposes at more than its fair cash market value; provided that in order to encourage the prompt payment of taxes, the Legislature shall have the power to provide that the taxpayer shall be allowed by the State and all governmental and political subdivisions and taxing districts of the State a three per cent (3%) discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State if such taxes are paid ninety (90) days before the date when they would otherwise become delinquent; and the taxpayer shall be allowed a two per cent (2%) discount on said taxes if paid sixty (60) days before said taxes would become delinquent; and the taxpayer shall be allowed a one per cent (1%) discount if said taxes are paid thirty (30) days before they would otherwise become delinquent. This amendment shall be effective January 1, 1939. The Legislature shall pass necessary laws for the proper administration of this Section. (Added Aug. 23, 1937.)

#### COMMITTEE RECOMMENDATIONS

Deleted -

- (1) A court is unlikely to uphold assessment in excess of market value. In statute (Article 7211).
- (2) Some constitutional authorization for discounts may be necessary. See Rowan Drilling Co. v. Sheppard, 126 Tex. 276, 87 S.W. 2d 706. This may be confirmed as a public purpose.

#### ARTICLE XI

Sec. 9. PROPERTY EXEMPT FROM FORCED SALE AND FROM TAXATION. The property of counties, cities and towns, owned and held only for public purposes, such as public buildings and the sites therefor, fire engines and the furniture thereof, and all property used, or intended for extinguishing fires, public grounds and all other property devoted exclusively to the use and benefit of the public shall be exempt from forced sale and from taxation, provided, nothing herein shall prevent the enforcement of the vendors lien, the mechanics or builders lien, or other liens now existing.

(Committee Recommendations follow)



#### COMMITTEE RECOMMENDATIONS

- (1) The exemption from taxation of public property used for public purposes is retained in Finance, section 3(b).
- (2) The exemption from forced sale provision is deleted as unnecessary in a Constitution, but it should be considered by the Local Government Committee. It is presently in statute (Article 3832, et. seq.).

#### ARTICLE XVI

Sec. 6. APPROPRIATIONS FOR PRIVATE PURPOSES; STATE PARTICIPATION IN PROGRAMS FINANCED WITH PRIVATE OR FEDERAL FUNDS FOR REHABILITATION OF BLIND; CRIPPLED, PHYSICALLY OR MENTALLY HANDICAPPED PERSONS. (a) No appropriation for private or individual purposes shall be made, unless authorized by this Constitution. A regular statement, under oath, and an account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

(b) State agencies charged with the responsibility of providing services to those who are blind, crippled, or otherwise physically or mentally handicapped may accept money from private or federal sources, designated by the private or federal source as money to be used in and establishing and equipping facilities for assisting those who are blind, crippled, or otherwise physically or mentally handicapped in becoming gainfully employed, in rehabilitating and restoring the handicapped, and in providing other services determined by the state agency to be essential for the better care and treatment of the handicapped. Money accepted under this subsection is state money. State agencies may spend money accepted under this subsection, and no other money, for specific programs and projects to be conducted by local level or other private, nonsectarian associations, groups, and nonprofit organizations, in establishing and equipping facilities for assisting those who are blind, crippled, or otherwise physically or mentally handicapped in becoming gainfully employed, in rehabilitating and restoring the handicapped, and in providing other services determined by the state agency to be essential for the better care or treatment of the handicapped.

The state agencies may deposit money accepted under this subsection either in the state treasury or in other secure



depositories. The money may not be expended for any purpose other than the purpose for which it was given. Notwithstanding any other provision of this Constitution, the state agencies may expend money accepted under this subsection without the necessity of an appropriation, unless the Legislature, by law, requires that the money be expended only on appropriation. The Legislature may prohibit state agencies from accepting money under this subsection or may regulate the amount of money accepted, the way the acceptance and expenditure of the money is administered, and the purposes for which the state agencies may expend the money. Money accepted under this subsection for a purpose prohibited by the Legislature shall be returned to the entity that gave the money.

This subsection does not prohibit state agencies authorized to render services to the handicapped from contracting with privately-owned or local facilities for necessary and essential services, subject to such conditions, standards, and procedures as may be prescribed by law. (As amended Nov. 8, 1966.)

#### COMMITTEE RECOMMENDATIONS

- (1) The prohibition against appropriations for private purposes is retained in the form of language assigned to it by judicial interpretation in Finance, section 9.
- (2) The requirement of an account of receipts and expenditures is to be retained in the new section on budgeting.
- (3) The authorization for accepting money from private and federal sources and for contracting with private facilities is deleted as unnecessary because it constitutes a public purpose.



## APPENDIX C

### SECTIONS AFFECTED BY THE GRANT AND LOAN PROHIBITION

#### I. Grants and Loans

##### A. General Grant and Loan Limitations

Article III, Section 50 - Limitation on lending credit of the State.

\*Article III, Section 51 (part) - Limitation on State grants of public money.

Article III, Section 52 (part) - Limitation on the granting of money or the lending of credit of local government.

##### B. Exceptions to the General Grant and Loan Limitations

###### State Exceptions (Exceptions to Sections 50 and 51)

Article III, Section 50b - Student loans

Article III, Section 50b-1 - Additional student loans

Article VIII, Section 1e (part) - Trust for benefit of confederate widows and Texas Rangers.

\*Article III, Section 51 (part) - Confederate Veterans, Public calamity.

Article III, Section 44 - Compensation of public officers, servants, agents and contractors; extra compensation; unauthorized claims; unauthorized employment.

\*Article III, Section 50a - State Medical Education Board; State Medical Education Fund; purpose.

\*Article III, Section 51a - Assistance grants and medical care for needy aged, disabled and blind persons, and needy children; federal funds; supplemental appropriations.

\*Article III, Section 51c - Aid or compensation to persons improperly fined or imprisoned.

\*Article III, Section 51d - Payment of assistance to survivors of Law Enforcement Officers.

\*Article III, Section 59 - Workmen's Compensation Insurance for State employees.

\*Article XVI, Section 39 - Appropriations for Historical Memorials

\* Sections not assigned to the Finance Committee.



\*Article XI, Section 8 - Donation of Public Domain to Gulf Coast Cities and Counties

\*Article XVI, Section 6 - Private and Federal Funds for Blind, Crippled, Physically or Mentally Handicapped persons.

\*Article XVI, Section 62 - State and County Retirement, Disability and Death Compensation.

\*Article XVI, Section 63 - Teachers and Employees Retirement Systems.

\*Article XVI, Section 66 - Texas Rangers; Retirement and disability pension system for Rangers ineligible for membership in Employees Retirement System.

Article III, Section 49-b - Veterans Land Program

Article III, Section 49-c - Texas Water Development Fund

Article III, Section 49-d - Texas Water Development Fund

Article III, Section 49-d-1 - Water Quality Bonds

#### Local Exceptions

\*Article III, Section 52e (1967) - Payment of medical expense of Law Enforcement Officials.

\*Article III, Section 51e - Municipal Retirement Systems and Disability pensions.

\*Article III, Section 51f - Statewide Retirement and Disability system for Municipal Officers and employees.

\*Article III, Section 51g - Social security coverage of proprietary employees of political subdivisions.

\*Article III, Section 60 - Workmen's Compensation Insurance for employees of counties and other political subdivisions.

\*Article III, Section 61 (1952) - Workmen's Compensation Insurance for Municipal employees.

\*Article IX, Sections 4, 5, 6, 7, 8, 9, 11 - Hospital Districts

\*Article IX, Section 12 - Airport Authorities



## APPENDIX D

### NEEDS FOR A TRANSITION SCHEDULE

The following sections should be preserved, at least in part, as state law. Whether statutory law is sufficient must be examined. Some inclusion in a transition schedule may be necessary.

Article III, Section 49a  
Article III, Section 49b  
Article III, Section 49c  
Article III, Section 49d  
Article III, Section 49d-1  
Article III, Section 50b  
Article III, Section 50b-1  
Article III, Section 52e  
Article III, Section 65  
Article VIII, Section 1a  
Article VIII, Section 1d  
Article VIII, Section 1e  
Article VIII, Section 5  
Article VIII, Section 7a  
Article VIII, Section 8  
Article VIII, Section 10  
Article VIII, Section 11  
Article VIII, Section 13  
Article VIII, Section 14  
Article VIII, Section 20  
Article XI, Section 9



APPENDIX E

FINANCE COMMITTEE  
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#### IV. CONSTITUTIONS

Many state constitutions were reviewed, but particular attention was given to:

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Illinois Constitution, Art. VII, VIII and IX.

Montana Constitution, Art. VIII and Art. XI.

California Constitution, Art. XVI.

Hawaii Constitution, Art. VI.

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