

Con Office

OFFICIAL STYLE AND DRAFTING COMMITTEE REPORT  
FINANCE - ARTICLE VIII

(FINAL THIRD READING)

TEXAS CONSTITUTIONAL CONVENTION

REPORT  
OF THE  
COMMITTEE ON STYLE AND DRAFTING

Article VIII

Finance

(Final Third Reading)

  
Chairman



July 8, 1974

THE HONORABLE PRICE DANIEL, JR., President  
Constitutional Convention of 1974

Sir:

We, your Committee on Style and Drafting, to whom was referred Article VIII, have had the same under consideration and beg to report back with the recommendation that it do pass in the form attached.

The proposal was reported from  
committee by the following  
record vote:

8	yeas
0	nays
0	present, not voting

Respectfully submitted,

  
Max Sherman, Chairman

(March 28, 1974, referred to Committee on Style and Drafting;  
June 21, 1974, reported favorably by a vote of 8 yeas and 0 nays;  
June 21, 1974, sent to printer; June 25, 1974, referred back to  
Committee on Style and Drafting; July 8, 1974, reported favorably  
by a vote of 8 yeas and 0 nays; July 8, 1974, sent to printer.)

July 8, 1974

The Honorable Price Daniel, Jr.  
President, Texas Constitutional Convention

The Committee on Style and Drafting submits this revision of Article VIII, Finance, for final consideration. The article was approved on third reading on June 25 and was referred back to the Style and Drafting Committee for review.

Immediately following this letter is the proposed article on Finance that was adopted on third reading. The second part of the report consists of the two sections in which the committee has made minor stylistic changes. Only those sections in which changes were made have been reproduced in the second part. Words added are indicated by underlining and words deleted are crossed out and enclosed in brackets. In some cases the reason for the change is self-evident, and in others the change simply follows the Style and Drafting Manual.

  
Max Sherman, Chairman



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BE IT PROPOSED BY THE COMMITTEE ON STYLE AND DRAFTING,

That Article VIII on Finance be revised as follows:

## ARTICLE VIII

### FINANCE

1       Sec. 1. TAXATION. State taxes may be levied and collected  
2 only by general law.

3       Sec. 2. AD VALOREM TAXATION. (a) Except as otherwise  
4 permitted in this article, all real property and tangible personal  
5 property must be taxed equally and uniformly in proportion to  
6 market value.

7       (b) The legislature by general law shall provide for the  
8 establishment and enforcement of standards and procedures for  
9 appraisal of property for ad valorem tax purposes. These standards  
10 and procedures must be applied uniformly throughout the state.  
11 Except as limited by general law, a taxing authority levying a  
12 tax on property within a county may seek countywide enforcement  
13 of these standards and procedures.

14       (c) Each county shall provide for appraisal of all taxable  
15 property within its boundaries. Each taxing authority imposing  
16 a tax on property within the county shall tax in proportion to,  
17 but not in excess of, this appraisal. The costs and expenses of  
18 appraisals are to be allocated among the taxing authorities in  
19 the manner prescribed by general law.



1 (d) Ad valorem taxes delinquent less than 10 years may not  
2 be released.

3 Sec. 3. AD VALOREM TAX EXCEPTIONS. (a) The legislature  
4 by general law shall establish separate formulas for appraising  
5 land to promote the preservation of open-space land devoted to  
6 farm or ranch purposes and by general law may establish separate  
7 formulas for appraising land to promote the preservation of forest  
8 land devoted to timber production. The legislature by general  
9 law may provide limitations and impose sanctions in furtherance  
10 of the appraisal policy of this subsection.

11 (b) The legislature by general law may permit the rolling  
12 stock of railroads to be assessed for ad valorem tax purposes by  
13 the county in which the principal office of the railroad is located  
14 and require the comptroller of public accounts to apportion on  
15 the basis of track mileage the assessed value of the rolling stock  
16 among the counties through which the railroad runs.

17 Sec. 4. AD VALOREM TAX EXEMPTIONS. (a) The following  
18 property is exempt from ad valorem taxation:

19 (1) property of the state except as otherwise provided  
20 by law;

21 (2) property of political subdivisions of the state  
22 used for public purposes;

23 (3) household goods not used for the production of  
24 income;

1           (4) personal effects not used for the production of  
2 income; and

3           (5) farm products in the hands of the producer and  
4 family supplies for home and farm use.

5           (b) Each residential homestead is exempt from state ad  
6 valorem taxation in the amount of \$3,000 of appraised value. The  
7 legislature by law may increase this amount.

8           (c) The residential homestead of persons at least 65 years  
9 old is exempt from ad valorem taxation in the amount of \$3,000  
10 of assessed value in each taxing political subdivision except  
11 that a person may elect in writing to be excluded from the  
12 exemption. A political subdivision may increase this amount  
13 within its jurisdiction. In a political subdivision that has  
14 pledged its ad valorem tax for the payment of debt, a residential  
15 homestead exemption does not become effective if the exemption  
16 would impair the obligation of the contract under which the tax  
17 was pledged.

18           (d) Subject to such limitations, classifications, or  
19 exclusions as it may prescribe, the legislature by law may exempt  
20 from ad valorem taxation:

21           (1) property used exclusively for educational or  
22 charitable purposes;

23           (2) nonresidential property owned and used exclusively  
24 by organizations chartered by both the State of Texas and the



1 United States and whose membership is composed solely of former  
2 members of the armed services of the United States;

3 (3) places of burial not held for profit;

4 (4) property owned by a disabled veteran of the armed  
5 services of the United States, by the surviving spouse or minor  
6 children of a disabled veteran of the armed services of the United  
7 States, or by the surviving spouse or minor children of a member  
8 of the armed services of the United States whose life was lost  
9 while on active duty;

10 (5) actual places of religious worship;

11 (6) property owned by a church or a strictly religious  
12 society for exclusive use as a dwelling place for the ministry  
13 of the church or religious society if the property yields no  
14 revenue to the church or religious society, but the exemption may  
15 not extend to more property than is reasonably necessary for a  
16 dwelling place and in no event to more than one acre of land; or

17 (7) property that is owned by a nonprofit water  
18 supply corporation whose board of directors is elected by the  
19 members it serves, that is not held for profit, and that is  
20 reasonably necessary for and is used in the acquisition, storage,  
21 transportation, or distribution of water or in providing sewage  
22 or waste water treatment service.

23 Sec. 5. AD VALOREM TAX RELIEF. (a) The legislature by  
24 law may grant relief from residential ad valorem taxes payable

1 by persons determined to be in need of relief because of economic  
2 circumstance and either age or disability. A law granting relief  
3 must provide either (1) that political subdivisions are reimbursed  
4 for revenue losses caused by the relief or (2) that relief applies  
5 to the ad valorem taxes of a political subdivision only if the  
6 political subdivision approves.

7 (b) The legislature by law may provide for the preservation  
8 of cultural, historical, or natural history resources by:

9 (1) granting relief from state ad valorem taxes on  
10 appropriate property so designated in the manner prescribed by  
11 law; or

12 (2) authorizing political subdivisions to grant  
13 relief from ad valorem taxes on appropriate property so designated  
14 by the political subdivision in the manner prescribed by general  
15 law.

16 Sec. 6. AD VALOREM TAX ACTIONS. (a) Notwithstanding other  
17 remedies provided by law, an owner of property may pay under  
18 protest ad valorem taxes due on that property and sue for a refund  
19 in a district court.

20 (b) In a suit for a refund of taxes, a court has the duty  
21 of entering those orders necessary to ensure equal treatment under  
22 the law for the complaining property owner, including refund of  
23 taxes and equalization of property appraisal and assessment.

24 (c) Subject to limitations provided by law, the court has



1 the additional duty of entering all other orders necessary to  
2 ensure equal treatment under the law for all property owners  
3 within the taxing authority, including refunds of taxes and  
4 equalization of property appraisals and assessments.

5 Sec. 7. ALLOCATIONS AND USES OF CERTAIN REVENUES. (a)

6 Each county receives from the net revenue derived annually from  
7 motor vehicle registration fees attributable to the county an  
8 amount prescribed by general law but that amount must be at least  
9 equal to all fees collected up to \$50,000 and 50 percent of the  
10 next \$250,000 of fees collected.

11 (b) All net revenue from motor vehicle registration fees  
12 not retained by the counties and three-fourths of all net revenue  
13 derived from taxes on motor fuels and lubricants used to propel  
14 motor vehicles over public roadways, except gross production,  
15 petroleum products manufacturing, and ad valorem taxes, may be  
16 appropriated only for the following purposes:

- 17 (1) acquiring rights-of-way for public roadways;  
18 (2) constructing or maintaining public roadways;  
19 (3) administering laws pertaining to the supervision  
20 of traffic or safety on public roadways; or  
21 (4) policing public roadways.

22 (c) One-fourth of all net revenue from the motor fuel tax  
23 and from state occupation taxes is dedicated to the Available  
24 School Fund.

1 (d) No revenue from taxes on motor fuels and lubricants  
2 or from motor vehicle registration fees not retained by counties  
3 may be appropriated for payment of principal or interest on bonds  
4 or warrants issued by political subdivisions.

5 Sec. 8. STATE DEBT. (a) State debt may not be incurred  
6 except as authorized by this constitution.

7 (b) "State debt" means bonds or other evidences of  
8 indebtedness that are secured by the general credit of the state  
9 or are to be repaid from taxes, fees, tuition, or other charges  
10 of the state, a state senior college or university, or a state  
11 agency or institution having statewide jurisdiction. "State debt"  
12 does not include bonds or other evidences of indebtedness issued  
13 to finance a project if the debt is authorized by law and is  
14 payable solely from revenues generated by the project to be  
15 financed.

16 (c) State debt may be authorized by law if approved by a  
17 record affirmative two-thirds vote of the membership of each house  
18 of the legislature and submitted to and approved by a majority  
19 of the qualified voters of the state voting on the question.

20 (d) State debt may be authorized by law to refund  
21 outstanding state debt.

22 Sec. 9. APPROPRIATIONS. (a) No money may be drawn from  
23 the state treasury except in accordance with specific appropriation  
24 made by law. No law may appropriate money from the state treasury



1 for a purpose not previously authorized by law.

2 (b) No appropriation of money from the state treasury may  
3 be made for a period longer than two years.

4 (c) Upon the convening of the legislature in regular  
5 session, the comptroller of public accounts shall submit to the  
6 governor and the legislature a report that shows (1) the condition  
7 of the treasury at the end of the preceding fiscal period, (2)  
8 an estimate of the probable receipts and disbursements for the  
9 current fiscal year, (3) an itemized estimate of anticipated  
10 revenues for the next applicable fiscal period, and (4) other  
11 information required by law. Upon the convening of a special  
12 session of the legislature, the comptroller of public accounts  
13 shall submit a report showing changes from the regular report  
14 previously submitted. In the event of changes at other times,  
15 the comptroller of public accounts shall report the changes to  
16 the governor and to the members of the legislature.

17 (d) No bill containing an appropriation may be considered  
18 as passed or be presented to the governor unless the comptroller  
19 of public accounts has certified that the amount appropriated is  
20 within the estimated revenue for the applicable fiscal year or  
21 unless the appropriation is made in response to imperative public  
22 necessity and approved by a record affirmative four-fifths vote  
23 of the membership of each house of the legislature.

24 Sec. 10. PUBLIC FUNDS. Public funds and public credit may

1 be used only for public purposes. No public funds or public  
2 credit may be used to influence the election of a public officer.

3 Sec. 11. REPORT OF DEDICATED FUNDS. The legislature shall  
4 provide by law for an annual report of the receipts and  
5 expenditures of constitutionally dedicated funds.



Note: This part of the report includes only those sections that were revised after third reading.

## ARTICLE VIII

### FINANCE

1       Sec. 4. AD VALOREM TAX EXEMPTIONS. (a) The following  
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8 income;

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12 family supplies for home and farm use.

13       (b) Each residential homestead is exempt from state ad  
14 valorem taxation in the amount of \$3,000 of appraised value. The  
15 legislature by law may increase this amount.

16       (c) The residential homestead of persons at least 65 years  
17 old is exempt from ad valorem taxation in the amount of \$3,000  
18 of assessed value in each taxing political subdivision except  
19 that a ~~[any such]~~ person may elect in writing to be excluded from  
20 the exemption. A political subdivision may increase this amount

1 within its jurisdiction. In a political subdivision that has  
2 pledged its ad valorem tax for the payment of debt, a residential  
3 homestead exemption does not become effective if the exemption  
4 would impair the obligation of the contract under which the tax  
5 was pledged.

6 (d) Subject to such limitations, classifications, or  
7 exclusions as it may prescribe, the legislature by law may exempt  
8 from ad valorem taxation:

9 (1) property used exclusively for educational or  
10 charitable purposes;

11 (2) nonresidential property owned and used exclusively  
12 by organizations chartered by both the State of Texas and the  
13 United States and whose membership is composed solely of former  
14 members of the armed services of the United States;

15 (3) places of burial not held for profit;

16 (4) property owned by a disabled veteran of the armed  
17 services of the United States, by the surviving spouse or minor  
18 children of a disabled veteran of the armed services of the United  
19 States, or by the surviving spouse or minor children of a member  
20 of the armed services of the United States whose life was lost  
21 while on active duty;

22 (5) actual places of religious worship;

23 (6) property owned by a church or a strictly religious  
24 society for exclusive use as a dwelling place for the ministry



1 of the church or religious society if the property yields no  
2 revenue to the church or religious society, but the exemption may  
3 not extend to more property than is reasonably necessary for a  
4 dwelling place and in no event to more than one acre of land; or

5 (7) property that is owned by a nonprofit water  
6 supply corporation whose board of directors is elected by the  
7 members it serves, that [~~if the property~~] is not held for profit,  
8 and that is reasonably necessary for and is used in the  
9 acquisition, storage, transportation, or distribution of water  
10 or in providing sewage or waste water treatment service.

11 Sec. 6. AD VALOREM TAX ACTIONS. (a) Notwithstanding other  
12 remedies provided by law, an [~~a property~~] owner of property may  
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14 for a refund in a district court.

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24 Sec. 7. ALLOCATIONS AND USES OF CERTAIN REVENUES. (a)

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5 next \$250,000 of fees collected,

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7 not retained by the counties and three-fourths of all net revenue  
8 derived from taxes on motor fuels and lubricants used to propel  
9 motor vehicles over public roadways, except gross production, [e]  
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11 be appropriated only for the following purposes:

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15 of traffic or safety on public roadways; or
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Chairman

June 21, 1974

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We, your Committee on Style and Drafting, to whom was referred Article VIII, have had the same under consideration and beg to report back with the recommendation that it do pass in the form attached.

The proposal was reported from  
committee by the following  
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<u>8</u>	yeas
<u>0</u>	nays
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Respectfully submitted,

  
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7 motor vehicles over public roadways, except gross production and  
8 ad valorem taxes, may be appropriated only for the following  
9 purposes:

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6 to finance a project if the debt is authorized by law and is  
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20 be made for a period longer than two years.

21 (c) Upon the convening of the legislature in regular  
22 session, the comptroller of public accounts shall submit to the  
23 governor and the legislature a report that shows (1) the condition  
24 of the treasury at the end of the preceding fiscal period, (2)

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5 session of the legislature, the comptroller of public accounts  
6 shall submit a report showing changes from the regular report  
7 previously submitted. In the event of changes at other times,  
8 the comptroller of public accounts shall report the changes to  
9 the governor and to the members of the legislature.

10 (d) No bill containing an appropriation may be considered  
11 as passed or be presented to the governor unless the comptroller  
12 of public accounts has certified that the amount appropriated is  
13 within the estimated revenue for the applicable fiscal period or  
14 unless the appropriation is made in response to imperative public  
15 necessity and approved by a record affirmative four-fifths vote  
16 of the membership of each house of the legislature.

17 Sec. 10. PUBLIC FUNDS. Public funds and public credit may  
18 be used only for public purposes. No public funds or public  
19 credit may be used to influence the election of a public officer.

20 Sec. 11. REPORT OF DEDICATED FUNDS. The legislature shall  
21 provide by law for an annual report of the receipts and  
22 expenditures of constitutionally dedicated funds.



1 SEPARATE PROPOSAL

2 Motor Fuel Taxes

3 Proposed Constitution

4 If the voters approve the separate proposal and the new  
5 constitution, Subsections (b) and (c) of Section 7 would be  
6 reworded as follows:

7 (b) All net revenue from motor vehicle registration fees  
8 not retained by the counties and three-fourths of all net revenue  
9 derived from that portion computed at the tax rates in effect on  
10 November 5, 1974, of taxes on motor fuels and lubricants used to  
11 propel motor vehicles over public roadways, except gross production  
12 and ad valorem taxes, may be appropriated only for the following  
13 purposes:

- 14 (1) acquiring rights-of-way for public roadways;  
15 (2) constructing or maintaining public roadways;  
16 (3) administering laws pertaining to the supervision  
17 of traffic or safety on public roadways; or  
18 (4) policing public roadways.

19 (c) One-fourth of all net revenue from (1) state occupation  
20 taxes, (2) the motor fuel tax computed at the tax rate in effect  
21 on November 5, 1974, and (3) that portion of the net revenue from  
22 taxes on motor fuels and lubricants used to propel motor vehicles  
23 over public roadways, except gross production and ad valorem  
24 taxes, derived from increases in the respective rates in effect

1 on November 5, 1974, are dedicated to the Available School Fund.

2 Present Constitution

3 If the separate proposal is approved and the new constitution  
4 is not adopted, the following sentence would be added to Article  
5 VIII, Section 7-a of the present constitution:

6 That portion of the net revenues from all taxes on motor  
7 fuels and lubricants used to propel motor vehicles over public  
8 roadways, except gross production and ad valorem taxes, derived  
9 from increases in the respective rates of these taxes over the  
10 rates in effect on November 5, 1974, is to be allocated one-fourth  
11 to the Available School Fund and three-fourths to general revenue.

REVISED ARTICLE VIII  
WITH EXPLANATIONS OF CHANGES

1       The following part of the committee report illustrates  
2 changes in the wording of the article as approved on second  
3 reading. In some cases, the Committee on Style and Drafting has  
4 included note explanations of certain changes. In most cases no  
5 explanation is needed since the reason for change is self-evident  
6 or the change simply follows the Style and Drafting Manual.

7       The committee directs attention to the following notes since  
8 they illustrate important drafting rules which the committee is  
9 following or explain changes in form or style which are  
10 particularly important.

Article VIII

Section 1, Note 1	page 13
Section 2, Note 5	page 16
Section 3, Note 2	page 18
Section 3, Note 3	page 19
Section 4, Note 2	page 23
Section 5, Note 3	page 25
Section 5, Note 7	page 26
Section 6, Note 1	page 27
Section 7, Note 1	page 32



- 1           Section 8, Note 1                   page 37
- 2           Section 9, Note 1                   page 39
- 3           Section 10 (Deleted), Note 1   page 40

BE IT PROPOSED BY THE COMMITTEE ON STYLE AND DRAFTING,

That Article VIII on Finance be revised as follows:

ARTICLE VIII

FINANCE

Sec. 1. TAXATION. State taxes [~~Taxes~~] may [~~shall~~] be  
(1)  
levied and collected only by general law.

EXPLANATION

(1) The changes are designed to avoid unintended limitations on the power to tax. It is axiomatic that the legislature may levy or authorize political subdivisions to levy taxes. Thus, Section 1 is constitutionally significant only if it is a limitation. The limitation was to restrict tax legislation to "general" as opposed to "local" laws. But this creates two problems. Home-rule cities and counties with home-rule ordinance power can levy taxes without specific enabling legislation; special districts and authorities can be created by, and given taxing power by, local law. Section 1 as adopted could be read to prohibit these local tax powers.

The problems are solved by limiting Section 1 to "state taxes." The new formulation raises a possible question concerning a special district or authority that has been denominated a "state agency." If the legislature wishes to give a state agency taxing power, the power would have to be by general law. If the legislature wished to give taxing power to a particular authority,

1 this could be done by making the authority a political subdivision.  
2 This, of course, would bring the local government article into  
3 operation. Under that article voter approval is required for ad  
4 valorem taxes and for bond issues payable from ad valorem taxes.

5 It should also be noted that the problems discussed here  
6 did not arise under the 1876 Constitution because every local law  
7 exception to the equivalent section (Section 3 of Article VIII)  
8 was added by amendment. This could be construed to be a particular  
9 provision that superseded the preexisting general provision.

10 (See Brown v. Memorial Villages Water Authority, 361 S.W.2d 453  
11 (Tex. Civ. App.—Houston 1962, writ ref'd n.r.e.).)

12 Sec. 2. AD VALOREM TAXATION. (a) ~~(Taxation shall be equal~~  
13 ~~and uniform on)~~ <sup>(1)</sup> Except as otherwise permitted in this article,  
14 all real property and tangible personal property ~~(and all such~~  
15 ~~property)~~ <sup>(2)</sup> must [shall] be taxed equally and uniformly in proportion  
16 to market value.

17 (b) ~~[For all ad valorem tax purposes,]~~ The ~~(the)~~ legislature  
18 by general law shall provide for the establishment and enforcement  
19 of ~~[appraisal]~~ standards and procedures for appraisal of property  
20 for ad valorem tax purposes. These standards and procedures must  
21 ~~[which shall]~~ <sup>(3)</sup> be applied uniformly throughout the state. Except  
22 as limited by general law, a taxing authority levying a tax on  
23 property within a county may seek countywide enforcement of these  
24 standards and procedures. <sup>(4)</sup>



(5)  
1 (c) Each county shall provide for ~~[an]~~ appraisal of all  
2 taxable property within its boundaries. Each ~~[all]~~ taxing  
3 authority ~~[authorities]~~ imposing a tax on property within the  
4 county shall tax in proportion to this appraisal ~~[and shall have~~  
5 ~~the power, subject to limitation by general law, to seek countywide~~  
6 ~~enforcement of the application of the appraisal standards and~~  
7 ~~procedures established under Subsection (b)]~~. The costs and  
8 expenses of ~~[the]~~ appraisal are to ~~[shall]~~ be allocated among the  
9 taxing authorities in the manner prescribed ~~[as shall be provided]~~  
10 by general law. (6)

11 (d) ~~[The legislature may not release]~~ Ad ~~[ad]~~ valorem taxes  
12 ~~[unless]~~ delinquent less than ~~[at least]~~ 10 years may not be  
13 released. (7)

14 ~~[(c) The rolling stock of railroads may be assessed in~~  
15 ~~gross in the county where the principal office of the company is~~  
16 ~~located, and the county tax paid upon it shall be apportioned by~~  
17 ~~the Comptroller, in proportion to the distance such road may run~~  
18 ~~through any such county, among the several counties through which~~  
19 ~~the road passes, as a part of their tax assets.]~~ (8)

#### 20 EXPLANATION

21 (1) The "except" clause removes the "conflict" between  
22 taxing all property equally and uniformly and the sections granting  
23 and permitting exemptions, exceptions, and relief.

24 (2) In the context of this subsection "equal and uniform"

1 applies only to the taxation of property "in proportion to market  
2 value." Turning "equal" and "uniform" into adverbs modifying the  
3 verb "tax" makes clear the relationship between equal and uniform  
4 taxation of property and taxation in proportion to market value.

5 (3) The changes in this subsection are in part stylistic  
6 and in part to conform to the committee's drafting rules.

7 (4) This sentence has been moved from Subsection (c). The  
8 delegated power relates to Subsection (b) rather than to Subsection  
9 (c). This is demonstrated by the cross-reference in the original  
10 wording.

11 (5) The word "an" is omitted to avoid the implication that  
12 only one appraisal is called for. "Appraisal" is used here and  
13 in Subsection (b) in the sense of a process rather than in the  
14 sense of a single act. That is, the county is to provide for the  
15 appraisal process—periodic general appraisals countywide and  
16 day-to-day reappraisals when conditions change on individual  
17 pieces of property.

18 In this context "county" refers to the county government,  
19 but the words "provide for" make it clear that the county  
20 government does not necessarily do the appraising or reappraising.  
21 The duty imposed on the county government is to see that the  
22 appraisal process is carried out in compliance with the standards  
23 and procedures established under Subsection (b).

24 (6) The changes conform to the committee's drafting

standards. (For "shall" see note (2) to Section 2 of Article VI;  
for "manner prescribed" see note (8) to Section 1 of Article XI.)

(7) This redraft is stylistic only.

(8) This subsection has been moved to Section 3 and made  
Subsection (b) of that section.

Sec. 3. AD VALOREM TAX EXCEPTIONS<sup>(1)</sup> [~~APPRAISAL FOR LAND~~  
<sup>(2)</sup>~~PRESERVATION~~]. (a) The legislature by general law shall establish  
~~[prescribe]~~ separate formulas for appraising ~~[the appraisal of]~~  
land to promote the preservation of open-space land devoted to  
farm or ranch purposes ~~[7]~~ and by general law may establish  
~~[prescribe]~~ separate formulas for appraising ~~[the appraisal of]~~  
land to promote the preservation of forest land devoted to timber  
production. The legislature by general law may provide limitations  
and impose sanctions in furtherance of the appraisal policy of  
this subsection.

<sup>(3)</sup>  
(b) The legislature by general law may permit the rolling  
stock of railroads to be assessed for ad valorem tax purposes by  
the county in which the principal office of the railroad is located  
and require the comptroller of public accounts to apportion on  
the basis of track mileage the assessed value of the rolling stock  
among the counties through which the railroad runs.

~~[(b) In passing laws pursuant to this section, the~~  
~~legislature by general law may provide for the appraisal of land~~  
~~on the basis of productive capacity and may prescribe all~~



(2)  
1 ~~limitations and sanctions as may be appropriate]~~

2 EXPLANATION

3 (1) The title of the section has been changed to reflect  
4 the true purpose of the two subsections. Each subsection is an  
5 exception to the constitutional mandate set forth in Section 2(a).

6 (2) The redraft contains two changes of significance: (1)  
7 the verb "establish" has been substituted for "prescribe" to  
8 conform to the wording of Section 2(b); and (2) the permission  
9 to appraise on the basis of productive capacity has been omitted  
10 as unnecessary. In this last instance it is important that  
11 inclusion of an unnecessary power raises a question whether other  
12 powers are limited or denied. The formulas under this section  
13 may very well be based on productive capacity, but there are other  
14 possible formulas and it seems inappropriate to single out only  
15 one.

16 The subsection indicates that the separate appraisal formula  
17 must be for "land," not improvements, and must be intended "to  
18 promote the preservation" of land that is either (1) "open space"  
19 and "devoted to farm or ranch purposes" or (2) "forest" and  
20 "devoted to timber production."

21 The power to "provide limitations and impose sanctions" is  
22 constitutionally necessary. It permits the legislature to limit  
23 the availability of preferred treatment. For example, under  
24 Section 1-d of Article VIII of the 1876 Constitution only a natural

1 person whose primary occupation is agricultural and whose primary  
2 income is from that occupation qualifies. It also permits the  
3 recoupment of lost taxes in a situation where an owner disposes  
4 of his land for a price higher than the preferred appraised value.  
5 Section 1-d of the 1876 Constitution also permits recoupment.  
6 Limitations and sanctions like these are inconsistent with equality  
7 and uniformity. Section 1-d is self-operative. It will be  
8 preserved in the transition schedule until the legislature acts  
9 under the new constitution.

10 (3) The subsection as adopted on second reading (deleted  
11 Subsection (e) of Section 2) consisted of the second sentence of  
12 Section 8 of Article VIII of the 1876 Constitution. That sentence  
13 is ambiguous. It seems to say that the county of the principal  
14 office of the railroad collects the county tax on all rolling  
15 stock and that the comptroller apportions the tax receipts. Since  
16 1879 an implementing statute has provided otherwise. Under the  
17 statute the rolling stock is assessed in one county and the  
18 assessed valuation apportioned by the comptroller.

19 The committee is advised that the subsection is included  
20 to permit continuation of the statutory system. This system can  
21 be continued only by an explicit constitutional provision because,  
22 unless every county with trackage uses the same assessment ratio  
23 and the same tax rate, the rolling stock is not taxed equally and  
24 uniformly in proportion to market value.

1 Since a reader could not know from reading the original  
2 subsection what it meant or why it is in the constitution, it is  
3 appropriate to redraft it in terms of the system that is to be  
4 permitted to continue. This is what the redraft does.

5 Sec. 4. AD VALOREM TAX EXEMPTIONS. (1)  
6 property is ~~[There shall be]~~ exempt from ~~[all]~~ ad valorem taxation:

7 (1) ~~[The]~~ Property ~~[property]~~ of the state except  
8 as otherwise provided by law; ~~[and]~~

9 (2) Property ~~[property]~~ of political subdivisions  
10 of the state used for public purposes;

11 (3) ~~[(2) All]~~ Household ~~[household]~~ goods ~~[and~~  
12 ~~personal effects]~~ not used for the production of income; ~~[and]~~

13 (4) Personal effects not used for the production of  
14 income; and

15 (5) ~~[(3) All]~~ Farm ~~[farm]~~ products in the hands of  
16 the producer and family supplies for home and farm use.

17 (1)  
18 (b) Each residential homestead is ~~[There shall be]~~ exempt  
19 from state ad valorem taxation in the amount of ~~[at least]~~ \$3,000  
20 ~~[as may be provided by general law]~~ of ~~[the]~~ appraised value ~~[of~~  
21 ~~all residence homesteads]~~. The legislature by law may increase  
22 this amount.

23 (2)  
24 (c) The residential homestead of persons at least 65 years  
old is exempt from ad valorem taxation in the amount of \$3,000  
of assessed value in each taxing political subdivision. A



1 political subdivision may increase this amount within its  
2 jurisdiction. In a political subdivision that has pledged its  
3 ad valorem tax for the payment of debt, a residential homestead  
4 exemption does not become effective if the exemption would impair  
5 the obligation of the contract under which the tax was pledged.

6 (d) [~~te~~] Subject to such limitations, classifications,  
7 or [~~and~~] exclusions as it may prescribe, the legislature by  
8 <sup>(3)</sup> [~~general~~] law may exempt from ad valorem taxation:

9 (1) Property used exclusively for educational or  
10 charitable purposes; [~~7~~]

11 (2) Nonresidential [~~nonresidential~~] property owned  
12 and used exclusively by organizations chartered by <sup>(4)</sup> both the State  
13 of Texas and the United States whose membership is composed solely  
14 of former members of the armed services of the United States; [~~7~~  
15 ~~or~~]

16 (3) Places [~~places~~] of burial not held for profit;

17 (4) [~~42~~] Property owned by a disabled veteran of  
18 the armed services of the United States, by the surviving spouse  
19 or minor children of a disabled veteran of the armed services of  
20 the United States, or by the surviving spouse or minor children  
21 of a [~~any~~] member of the armed services of the United States whose  
22 life was lost while on active duty;

<sup>(5)</sup>

23 (5) [~~43~~] Actual places of religious worship;

24 (6) [~~44~~--Any] Property [~~property~~] owned by a church

1 political subdivision may increase this amount within its  
2 jurisdiction. In a political subdivision that has pledged its  
3 ad valorem tax for the payment of debt, a residential homestead  
4 exemption does not become effective if the exemption would impair  
5 the obligation of the contract under which the tax was pledged.

6 (d) [~~fe~~] Subject to such limitations, classifications,  
7 or [~~and~~] exclusions as it may prescribe, the legislature by  
8 <sup>(3)</sup> [~~general~~] law may exempt from ad valorem taxation:

9 (1) Property used exclusively for educational or  
10 charitable purposes; [~~7~~]

11 (2) Nonresidential [~~nonresidential~~] property owned  
12 and used exclusively by organizations chartered by <sup>(4)</sup> both the State  
13 of Texas and the United States whose membership is composed solely  
14 of former members of the armed services of the United States; [~~7~~  
15 ~~or~~]

16 (3) Places [~~places~~] of burial not held for profit;

17 (4) [~~42~~] Property owned by a disabled veteran of  
18 the armed services of the United States, by the surviving spouse  
19 or minor children of a disabled veteran of the armed services of  
20 the United States, or by the surviving spouse or minor children  
21 of a [~~any~~] member of the armed services of the United States whose  
22 life was lost while on active duty;

<sup>(5)</sup>

23 (5) [~~43~~] Actual places of religious worship;

24 (6) [~~44~~--Any] Property [~~property~~] owned by a church



1 or ~~[by]~~ a strictly religious society for ~~[the]~~ exclusive use as  
2 a dwelling place for the ministry of ~~the~~ ~~[such]~~ church or religious  
3 society if the property yields no revenue to the church or  
4 religious society, but ~~the~~ ~~[such]~~ exemption ~~may~~ ~~[shall]~~ not extend  
5 to more property than is reasonably necessary for a dwelling place  
6 and in no event ~~to~~ more than one acre of land; ~~or~~ ~~[and]~~

7 (7) ~~[(5)]~~ Property ~~[not held for profit]~~ owned  
8 by a nonprofit water supply corporation ~~[r]~~ whose board of  
9 directors is elected by the members it serves ~~[which]~~ if the  
10 property is not held for profit and is reasonably necessary for  
11 ~~[r]~~ and is used in the acquisition, storage, transportation, ~~or~~  
12 ~~[and]~~ distribution of ~~[r]~~ water or ~~[is used]~~ in providing sewage  
13 or waste water treatment service.

14 ~~[(d)] Each political subdivision of the state shall exempt~~  
15 ~~by its own action not less than \$3,000 of the assessed value of~~  
16 ~~residence homesteads of married or unmarried persons 65 years of~~  
17 ~~age or older, including those living alone, from all ad valorem~~  
18 ~~taxes levied by the political subdivision. Where any ad valorem~~  
19 ~~tax has theretofore been pledged for the payment of any debt, the~~  
20 ~~taxing officers of the political subdivision shall have authority~~  
21 ~~to continue to levy and collect the tax against the homestead~~  
22 ~~property at the same rate as the tax so pledged until the debt~~  
23 ~~is discharged, if the cessation of the levy would impair the~~  
24 ~~obligation of the contract by which the debt was created.]~~



1        [(e) — See Section 5 below.]

2        [(f) — See Section 5 below.]

3                                EXPLANATION

4        (1) The changes in Subsections (a) and (b) are either  
5        stylistic or in accordance with the committee's drafting rules.  
6        In Subsection (b) the adjective "general" has been deleted because  
7        the committee uses the adjective only when the context creates  
8        an ambiguity in the term "by law." (See note (3) to Section 1  
9        of Article VII.) In the context here an increase in an exemption  
10       would always be by general law.

11       (2) This was Subsection (d). It has been moved in order  
12       to group all constitutional grants ahead of the subsection  
13       permitting exemptions. The extensive redraft contains two major  
14       changes that are not substantive in ultimate effect but are  
15       ostensibly "substantive" in that they cut out unnecessary steps  
16       in reaching the desired effect.

17       The first sentence of the redraft simply grants the exemption  
18       directly instead of imposing a duty on every political subdivision  
19       to take affirmative action to grant the exemption. In the redraft  
20       only the term "residential homestead" is used. That term is  
21       defined in Section 11 of Article X as approved on second reading.

22       The third sentence goes directly to the point. An exemption  
23       may not impair the obligation of a contract. (Indeed, this would  
24       be true even if the third sentence were omitted.) All that need

1 be put into the constitution is this ultimate limitation. A tax  
2 officer has the power to ignore the purported exemption whether  
3 the power is specifically granted as in the original draft or is  
4 necessarily implied as in the redraft. In both cases the power  
5 is not discretionary; the tax must continue to be collected because  
6 of a fact—the tax is pledged by contract.

7 (3) See note (1) above.

8 (4) "Both" makes it explicit that "and" in this context  
9 means that the organizations must have both a national and a state  
10 charter.

11 (5) This is a rare instance where a meaningless adjective  
12 is not deleted. A place of worship is obviously "actual." But  
13 if the adjective were removed, an argument could be made that a  
14 change in meaning from the 1876 Constitution was intended.

15 Sec. 5. AD VALOREM TAX RELIEF. (1) (a) ~~[(e)]~~ The legislature  
16 by <sup>(2)</sup> ~~[general]~~ law may grant ~~[provide]~~ relief ~~[including tax~~  
17 <sup>(3)</sup> ~~moratoriums]~~ from residential ad valorem taxes payable by ~~[for]~~  
18 persons determined to be in need of <sup>(4)</sup> ~~[such]~~ relief because of  
19 economic circumstance and either age or disability ~~[and economic~~  
20 ~~circumstance]~~. A ~~[any such]~~ law granting relief must ~~[shall]~~  
21 provide either (1) that ~~[for reimbursement of]~~ political  
22 subdivisions are reimbursed for revenue losses caused by the  
23 ~~[such]~~ relief or ~~[shall provide]~~ (2) that ~~[no such]~~ relief ~~[shall]~~  
24 applies ~~[apply]~~ to the ad valorem taxes of a political subdivision



1 only if ~~[unless approved by]~~ the political subdivision approves.

(5)

2 (b) ~~[(f)]~~ The legislature by ~~[general]~~ law may provide for  
3 the preservation of cultural, historical, or natural history  
4 resources by:

(6)

5 (1) Granting ~~[tax]~~ relief ~~[or exemption]~~ from state  
6 ad valorem taxes on ~~[for]~~ appropriate property ~~[which shall be]~~  
7 so designated in the manner prescribed ~~[as provided]~~ by ~~[general]~~  
8 law; or ~~[and]~~

9 (2) Authorizing political subdivisions ~~[of the state]~~  
10 to grant ~~[tax]~~ relief ~~[or exemption]~~ from ad valorem taxes ~~[of~~  
11 ~~the political subdivision]~~ on ~~[for]~~ appropriate property ~~[which~~  
12 ~~shall be]~~ so designated by the political subdivision in the manner  
13 prescribed ~~[as provided]~~ by general law. (7)

#### 14 EXPLANATION

15 (1) Subsections (e) and (f) of Section 4 are logically  
16 different from the balance of the section, which deals only with  
17 exemptions. These two subsections permit the granting of tax  
18 relief. "Relief" is a comprehensive term that includes total or  
19 partial exemption, a direct reduction of a tax, a moratorium on  
20 payment of taxes, or a different method of valuation of property.

21 (2) See note (1) to Section 4.

22 (3) "Relief" is a comprehensive term. It would include  
23 a tax moratorium. To insert "including tax moratoriums" is to  
24 cast doubt on the meaning of "relief" because the implication



1 would be that whatever "relief" normally means it means something  
2 else in this subsection since "moratorium" had to be set forth  
3 specifically. For this reason "including tax moratoriums" has  
4 been deleted as both unnecessary and confusing. See also note  
5 (1) above.

6 (4) The floor amendment on second reading was clearly  
7 designed to limit tax relief to those needy people who are also  
8 disabled or of some undefined age.

9 (5) See note (1) to Section 4 and note (7) below.

10 (6) As pointed out in note (1) above, "relief" is a  
11 comprehensive term that includes exemption. See also note (3)  
12 above.

13 (7) In this case "general" is retained in order to make  
14 it clear that the method of designation cannot vary from political  
15 subdivision to subdivision. The authorization to grant relief  
16 clearly must be by general law because the authorization is to  
17 political subdivisions. If, under the normal drafting preference  
18 for the singular, the authorization were to "a" political  
19 subdivision, the words preceding the colon would have to be "by  
20 general laws."

21 Sec. 6 [5]. AD VALOREM TAX <sup>(1)</sup>ACTIONS ~~[APPEALS]~~.  
22 ~~Notwithstanding [in addition to]~~ other remedies ~~[and appeals]~~  
23 provided by law, an owner of ~~[every person owning]~~ property  
24 ~~[subject to ad valorem taxation is entitled, after the exhaustion~~

1 ~~of administrative remedies,~~ may ~~[to]~~ pay under protest ad valorem  
2 taxes due on that ~~[such]~~ property ~~[under protest]~~ and sue for a  
3 refund in ~~[to appeal to]~~ a district court <sup>(2)</sup> ~~[of record of competent~~  
4 ~~jurisdiction for rehearing of the appraisal of the property and~~  
5 ~~the assessment of the tax in trial de novo in the same manner and~~  
6 ~~to the same extent as though the matter had been committed to the~~  
7 ~~courts in the first instance and there had been no intervening~~  
8 ~~administrative or executive action or decision]~~. In a suit for  
9 a refund of taxes, a ~~[The]~~ court has the duty of entering those  
10 ~~[shall make all such]~~ orders ~~[as]~~ necessary to ensure ~~[insure]~~  
11 equal treatment under the law, including refunds of taxes,  
12 equalization of property appraisals and assessments within the  
13 taxing authority, and ~~[such]~~ other orders as ~~[may be]~~ provided  
14 by law.

#### 15 EXPLANATION

16 (1) The redraft simplifies and shortens the section by  
17 avoiding any words related to an administrative hearing and by  
18 focusing on an ordinary lawsuit. There is no substantive change.  
19 The section as passed on second reading contained words used when  
20 providing for judicial review of an administrative act. Under  
21 normal circumstances, judicial review is limited to a determination  
22 of questions of law and, as to questions of fact, whether the  
23 administrative record discloses arbitrary or capricious action  
24 or an absence of substantial evidence to support conclusions of

1 fact. In general, courts give great weight to the factual  
2 conclusions drawn by the administrative agency and sometimes some  
3 weight to administrative interpretations of law. The original  
4 draft made it clear that ordinary rules of judicial review were  
5 not to be applicable. Hence, the use of "trial de novo," the  
6 traditional device for turning judicial review into a court action  
7 where the administrative agency's ruling is given no weight. In  
8 short, the original draft used words implying judicial review  
9 but, by speaking of trial de novo, explicitly denied judicial  
10 review.

11 Since the original draft called for an ordinary lawsuit—an  
12 action for a refund of taxes paid under protest—it seemed  
13 appropriate to remove both the words implying judicial review of  
14 an administrative act and the words designed to turn the judicial  
15 review action into an ordinary lawsuit. Thus, the section simply  
16 creates a right of action whereby a taxpayer may pay under protest  
17 the tax levied and sue for a refund.

18 In order to tailor the section to ordinary litigation, one  
19 change made might be considered substantive. This is the deletion  
20 of "after the exhaustion of administrative remedies." The  
21 committee understands that these words were not intended to provide  
22 a loophole whereby the administrative process could be made so  
23 cumbersome and complicated that a taxpayer's action might be  
24 dismissed because of a failure to negotiate the obstacle course



1 correctly. The intent was presumably based on current practice  
2 whereby an aggrieved taxpayer must appeal to a board of  
3 equalization. It would be possible to specify compliance with  
4 this step as a prerequisite to bringing a lawsuit, but in the  
5 light of the new procedure for property appraisal mandated in  
6 Section 2(c), it seems inappropriate to refer to an administrative  
7 step that may be vastly different under a new system. Moreover,  
8 it seems unlikely that an aggrieved taxpayer would finesse an  
9 equalization hearing on the road to paying taxes under protest  
10 in order to bring a lawsuit. A taxpayer willing to incur the  
11 expense of a lawsuit is not likely to bypass an inexpensive  
12 equalization appeal.

13 It should be noted that the suit for refund is not limited  
14 to personal relief for the individual taxpayer. Neither the  
15 original wording in terms of an appeal for a refund nor the redraft  
16 in terms of a simple lawsuit for a refund by themselves would  
17 have turned the action into a general device for correcting  
18 improper administration of the tax laws. It is the final sentence  
19 of the section that imposes a duty on the court to take action  
20 beyond entering judgment for or against a refund.

21 (2) The committee is advised that in using "court of record  
22 of competent jurisdiction," the Committee on Finance had in mind  
23 the district court. Since this section is a self-operative grant  
24 of the right to bring a lawsuit and since the proposed judiciary

1 article lets the legislature determine the jurisdiction of the  
2 several courts, the intended court is specified so that the  
3 constitutional right is not subject to legislative change.

(1)

4 Sec. 7 (6). ALLOCATIONS AND USES OF CERTAIN REVENUES. (a)

5 Each county receives from the net revenue derived annually from  
6 motor vehicle registration fees attributable to the county an  
7 amount prescribed by general law but that amount must be at least  
8 equal to all fees collected up to \$50,000 and 50 percent of the  
9 next \$250,000 of fees collected.

10 (b) All net revenue from motor vehicle registration fees  
11 not retained by the counties and three-fourths of all net revenue  
12 derived from taxes on motor fuels and lubricants used to propel  
13 motor vehicles over public roadways, except gross production and  
14 ad valorem taxes, may be appropriated only for the following  
15 purposes:

- 16 (1) acquiring rights-of-way for public roadways;  
17 (2) constructing or maintaining public roadways;  
18 (3) administering laws pertaining to the supervision  
19 of traffic or safety on public roadways; or  
20 (4) policing public roadways.

21 (c) One-fourth of all net revenue from the motor fuel tax  
22 and from state occupation taxes is dedicated to the Available  
23 School Fund.

24 (d) No revenue from taxes on motor fuels and lubricants



1 or from motor vehicle registration fees not retained by counties  
2 may be appropriated for payment of principal or interest on bonds  
3 or warrants issued by political subdivisions.

4       (a) Subject to legislative appropriation allocation and  
5 direction, all net revenues remaining after payment of all refunds  
6 allowed by law and expenses of collection derived from motor  
7 vehicle registration fees and all taxes except gross production  
8 and ad valorem taxes on motor fuels and lubricants used to propel  
9 motor vehicles over public roadsways, shall be used for the sole  
10 purpose of acquiring rights of way, constructing, maintaining  
11 and repairing such public roadsways and for the administration of  
12 such laws as may be prescribed by the legislature pertaining to  
13 the supervision of traffic and safety on such roads and for the  
14 payment of the principal and interest on county and road district  
15 bonds or warrants voted or issued prior to January 27, 1939 and  
16 declared payable prior to January 27, 1945, for payment out of  
17 the county and Road District Highway fund under existing law,  
18 provided, however, that one fourth of such net revenue from the  
19 motor fuel tax shall be allocated to the highway school fund,  
20 and provided, however, that the net revenue derived by counties  
21 from motor vehicle registration fees shall never be less than the  
22 maximum amounts allowed to be retained by each county and the  
23 percentage allowed to be retained by each county under the laws  
24 in effect on January 17, 1945. Nothing contained herein shall be



1 ~~construed as authorizing the pledging of the state's credit for~~  
2 ~~any purposes~~

3 ~~(b) The legislature may allocate and dedicate the receipts~~  
4 ~~from other state taxes not dedicated by this constitution to be~~  
5 ~~used for the support of mass transportation, and may authorize~~  
6 ~~the establishment of local mass transit authorities. Local general~~  
7 ~~obligation bond issues for mass transportation purposes shall be~~  
8 ~~subject to approval by voters in the affected jurisdiction.~~

9 ~~(c) In addition to revenues dedicated elsewhere in this~~  
10 ~~constitution, one fourth of the revenue from state occupation~~  
11 ~~taxes is dedicated to the Available School Fund.]~~

#### 12 EXPLANATION

13 (1) The extensive redraft serves two purposes: one, to  
14 make the provision more readable, and two, to make explicit what  
15 was implicit. The points to be noted are:

16 (a) The formula for sharing registration fees has  
17 been set forth. This avoids requiring the reader to look up a  
18 statute to find out how much counties retain. It takes no more  
19 words to set out the formula than it does to describe it. Since  
20 the original formulation started out "shall never be less than,"  
21 it follows that the legislature has full power to increase the  
22 amount that can be retained by counties. This has been made  
23 explicit. Since this sharing covers "each" county, the term  
24 "general law" is used.

1 (b) Since the original formulation began "subject  
2 to appropriation," it follows that the restriction is on the use  
3 to which the revenues may be put. In other words, there is no  
4 command to appropriate all receipts every appropriation period;  
5 there is only a prohibition on appropriating the revenues for any  
6 except the stated purposes. The opening words of the original  
7 formulation make it clear that only state taxes are covered, for  
8 the legislature can hardly appropriate local taxes. Thus, "state"  
9 has been added in the first sentences of the redrafted Subsections  
10 (a) and (b).

11 (c) The reference to the County and Road District  
12 Highway Fund has been deleted and replaced by a subsection that  
13 carries forward the implied limitation on using net revenue for  
14 payment of any bonds or warrants other than those made eligible  
15 by the terms of the original wording. As for the eligible bonds,  
16 the committee is advised that the last bonds will be retired in  
17 1981. The total amount outstanding is about \$170,000. The annual  
18 debt service is approximately \$20,000 and is actually taken care  
19 of from interest earned on road funds on deposit with the state.  
20 This annual amount is so small that there probably is no need to  
21 preserve the authorization to pay it from net revenues, but if  
22 there is a felt need to preserve the authorization, the transition  
23 schedule can provide:

24 Notwithstanding Section 7(d) of Article VIII, payments

1           can be made to the County and Road District Highway  
2           Fund to the extent authorized by Section 7-a of Article  
3           VIII of the Constitution of 1876, as amended.

4           (d) The final sentence of the original Subsection  
5           (a) has been omitted as unnecessary. To pledge the state's credit  
6           is to incur debt. Section 8 permits debt to be incurred only as  
7           authorized in the constitution. By no stretch of the imagination  
8           can Section 7 be construed to authorize the pledging of the state's  
9           credit. Indeed, there is nothing to pledge; Section 7 does not  
10          require the legislature to charge any particular amount for motor  
11          registration or to levy any taxes on motor fuels.

12          (e) The first sentence of the original Subsection  
13          (b) has been deleted as an unnecessary grant of power to the  
14          legislature. The legislature can always dedicate a tax in the  
15          sense of announcing that, until it changes its mind, it will  
16          appropriate at least the revenue from the tax for the dedicated  
17          purpose. (There is no indication in the report of the Committee  
18          on Finance that the purpose of the deleted sentence was to  
19          authorize appropriations for an indefinite future in contravention  
20          of Section 9(b).) Likewise, there is no need to grant the  
21          authority to establish mass transit authorities. In any event,  
22          the power happens to have been granted by Section 7(a) of Article  
23          IX.

24          The report of the Committee on Finance states that the



1 sentence is necessary to "prevent any possibility that courts in  
2 the future would hold that mass transit would not be considered  
3 a public purpose." This is a groundless fear. If the construction  
4 of highways with tax revenues is a public purpose, subsidizing  
5 or operating a mass transit system is equally a public purpose,  
6 for they are simply two methods of providing transportation. The  
7 Committee on Style and Drafting is particularly careful to avoid  
8 an unnecessary grant of power because the inference may arise  
9 that other powers not granted are by implication denied. Likewise,  
10 to include an unnecessary power in order to be sure that it is  
11 recognized as a public purpose raises a question whether every  
12 public purpose must be spelled out in the constitution. In any  
13 event, the second sentence of the original subsection covers  
14 "public purpose." (See the discussion below.)

15 The Committee on Finance also expressed the view that the  
16 sentence is "necessary to insure that the state would not be  
17 prevented from making grants to local subdivisions" for mass  
18 transportation. Actually, the sentence does not speak to this,  
19 but in any event there is no constitutional prohibition on  
20 grants-in-aid. (There is one in the 1876 Constitution, but it  
21 has not prevented all grants-in-aid. See Section 51 of Article  
22 III.) Again, if the sentence were left in for this purpose, the  
23 question would arise whether all other possible grants-in-aid  
24 were prohibited.

1       The second sentence of the original Subsection (b) is a  
2 proper limitation. Since it deals with political subdivisions  
3 it has been moved to Article IX and made a subsection of Section  
4 10 of that article. As an incidental by-product of the sentence,  
5 the limitation nails down the public purpose of mass  
6 transportation, for a provision requiring voter approval of bonds  
7 for mass transportation necessarily implies that the purpose is  
8 a public one.

9       Sec. 8 [7]. STATE DEBT. (a) [~~Ho~~] State [~~state~~] debt may  
10 [~~shall~~] not be incurred except as [~~unless~~] authorized [~~as-provided~~]  
11 by [~~in~~] this constitution.

12       (b) "State debt" [~~shall~~] means [~~mean~~] bonds or other  
13 evidences of indebtedness that [~~which~~] are secured by the general  
14 credit of the state or are to be repaid from taxes [~~tax-revenues~~],  
15 fees, tuition, or other charges of the state, a state senior  
16 college or university, or a state agency or institution having  
17 statewide jurisdiction. "State debt" does [~~shall~~] not include  
18 bonds or other evidences of indebtedness issued to finance a  
19 project if the debt is authorized by law [~~which-are-to-be~~] and  
20 is payable solely from [~~the~~] revenues [~~to-be~~] generated by [~~the~~  
21 ~~charges-of~~] the project to be financed.  
(1)

22       (c) State debt may be authorized by law if approved by a  
23 record affirmative two-thirds vote of the membership of each house  
24 of the legislature and submitted to and approved by a majority  
(2)

1 of the qualified voters of the state ~~[electors]~~ voting on the  
2 question.

3 (d) State debt may be authorized by ~~[general]~~ law to refund  
4 outstanding state debt.

5 EXPLANATION

6 (1) The original formulation used one word, "charges," in  
7 specifying what is within state debt and what is excluded from  
8 state debt. This seemed somewhat illogical since "charges" in  
9 the first sentence would seem to include the "charges" in the  
10 second sentence. The redraft uses "taxes" and "charges" in the  
11 first sentence and "revenues" in the second sentence. The focus  
12 in the second sentence is placed on "project." To be excluded  
13 from state debt, there must be a project financed by a debt issue  
14 that specifies that the debt is payable only from the revenue  
15 generated by the project.

16 (2) The committee uses this formulation throughout the  
17 constitution. "Record" was not in the draft on second reading,  
18 but the committee is advised that this was an inadvertent omission.

19 (3) In accordance with the committee's care in the use of  
20 "general" as opposed to "local" or "special" law, the adjective  
21 is omitted here. There may be occasions when one specific bond  
22 issue is to be refunded. The use of "general" here would simply  
23 confuse everything.

24 Sec. 2 [0]. APPROPRIATIONS. (a) No money may ~~[shall]~~ be



1 drawn from the state treasury except in accordance with specific  
2 appropriation made by law. No law may appropriate ~~[appropriation~~  
3 ~~of]~~ money from the state treasury for a purpose not previously  
4 ~~[shall be made unless]~~ authorized by <sup>(1)</sup> ~~[preexisting]~~ law.

5 (b) No appropriation of money from the state treasury may  
6 ~~[shall]~~ be made for a period ~~[term]~~ longer than two years.

7 <sup>(2)</sup>  
8 (c) Upon the convening of the legislature in regular  
9 session, the comptroller of public accounts shall submit to the  
10 governor and the legislature a report that shows (1) the condition  
11 of the treasury at the end of the preceding fiscal period, (2)  
12 an estimate of the probable receipts and disbursements for the  
13 current fiscal year, (3) an itemized estimate of anticipated  
14 revenues for the next applicable fiscal period, and (4) other  
15 information required by law. Upon the convening of a special  
16 session of the legislature, the comptroller of public accounts  
17 shall submit a report showing changes from the regular report  
18 previously submitted. In the event of changes at other times,  
19 the comptroller of public accounts shall report the changes to  
20 the governor and to the members of the legislature.

21 (d) [to] No bill containing an appropriation may be  
22 considered as passed or be presented ~~[sent]~~ to the governor ~~[for~~  
23 public accounts ~~consideration until and]~~ unless the comptroller ~~[Comptroller]~~ of  
24 public accounts ~~[Public Accounts]~~ has certified ~~[certifies]~~ that  
the amount appropriated is within the estimated revenue for the

1 applicable fiscal period[.] or [~~(d)~~ ~~No appropriation in excess~~  
2 ~~of the estimated revenue shall be valid~~] unless the appropriation  
3 [it] is made in response to imperative public necessity and  
4 approved by <sup>(3)</sup> a record affirmative four-fifths vote of the membership  
5 of each house of the legislature.

6 ~~[(c) A report shall be prepared by the Comptroller of~~  
7 ~~Public Accounts in advance of each regular session of the~~  
8 ~~legislature and submitted to the governor and legislature upon~~  
9 ~~its convening which shows the condition of the state treasury at~~  
10 ~~the close of the last fiscal period and an estimate of the probable~~  
11 ~~receipts and disbursements for the then current fiscal year. The~~  
12 ~~report shall contain an itemized estimate of the anticipated~~  
13 ~~revenue based on the laws then in effect that will be received~~  
14 ~~by the state from all sources, showing the fund accounts to be~~  
15 ~~credited during the succeeding biennium, and said report shall~~  
16 ~~contain such other information as may be required by law.~~  
17 ~~Supplemental statements shall be submitted at any special session~~  
18 ~~of the legislature and at such other times as may be necessary~~  
19 ~~to show probable changes.]~~

#### 20 EXPLANATION

21 (1) The committee is advised that the purpose of the floor  
22 amendment that added the second sentence is to preclude the use  
23 of an appropriation bill to authorize the expenditure of money  
24 for a new purpose. The floor amendment could be read to require



1 an authorization bill to precede the appropriation of money much  
2 in the manner that congress acts. The author of the floor  
3 amendment has advised the committee that he did not intend that  
4 reading; his intent was simply to avoid establishing a new program  
5 by an appropriation bill. The redraft focuses on that intent and  
6 avoids using words that imply "authorization" bills.

7 (2) This was Subsection (e). It has been moved ahead of  
8 Subsection (d) because the comptroller's report obviously precedes  
9 the certification process. The redraft is stylistic except for  
10 the last two sentences. The final sentence of the original  
11 subsection was vague. The redraft spells out the comptroller's  
12 duties.

13 (3) See note (2) to Section 8 above.

14 Sec. 10 [9]. PUBLIC FUNDS. Public funds [money] and public  
15 credit may [shall] be used only for public purposes. No public  
16 funds or public credit may [shall] be used to influence the  
17 election of a public officer [official].

18 (1)  
19 ~~[Sec. 10, PUBLIC PURPOSES. Public purposes, as that term~~  
20 ~~is used in this constitution, include, but are not limited to,~~  
21 ~~purposes for which taxes could be levied or public money or public~~  
22 ~~credit could be used before the adoption of this constitution.]~~

#### 23 EXPLANATION

24 (1) This section, if it serves any purpose, belongs in the  
transition schedule. The purpose of the sentence is to avoid an



1 implication arising from the use of "public purposes" in Section  
2 10 and the use of the same words in Section 3 of Article VIII of  
3 the 1876 Constitution. The problem is that someone might argue  
4 that the term means the same thing here that it meant in the 1876  
5 Constitution. Moreover, someone might argue that some of the  
6 many amendments of the 1876 Constitution were adopted because the  
7 permitted use of public funds or credit was not a "public purpose."  
8 To put it another way, it is arguable that the "definition" of  
9 "public purposes" was altered by amendments to the constitution  
10 and that there must be some indication in the new constitution  
11 that the term as used in the new Section 10 (Public Funds)  
12 encompasses the definition "as amended."

13 Actually, "public purposes" is one of the "accordion" terms  
14 in a constitution—a term that changes meaning as the society  
15 changes. The courts recognize this nature of "public purposes."  
16 In Bullock v. Calvert, 480 S.W.2d 367 (Tex. 1972), the court  
17 overruled Waples v. Marrast, 108 Tex. 5, 184 S.W. 180 (1916),  
18 saying:

19       Whatever the circumstances of the party primaries  
20       in 1916 which may have justified their being regarded  
21       as purely private affairs, this cannot be said today....  
22       The holding in the Waples cases that the expenditure  
23       of public funds to finance party primary elections  
24       cannot meet the public purpose test, and that any  
25       such expenditure is necessarily proscribed by the  
26       Constitution, must be overruled. We hold that it  
27       lies within the discretion and power of the Legislature  
28       to appropriate state funds for this purpose. (480  
29       S.W.2d at 370.)

1 In the light of the Bullock case and many other recent cases  
2 approving expenditures for purposes that would not have been  
3 considered "public purposes" 50 to a 100 years ago, it seems  
4 unnecessary to try to "define" public purposes in terms of the  
5 1876 Constitution as amended. In an abundance of caution, however,  
6 it is appropriate to state in the transition schedule that no one  
7 is to "define" public purposes by referring to any of the specific  
8 grants of power to spend money that were in the old constitution  
9 but are omitted from the new document. The transition provision  
10 would read:

11 A grant of power to use public funds or public  
12 credit contained in the Constitution of 1876, as  
13 amended, has not been lost by omission from this  
14 constitution. A grant of power in the Constitution  
15 of 1876, as amended, is not to be deemed to have been  
16 included in that constitution because the permitted  
17 use of public funds or public credit was not for a  
18 public purpose.

19 There are two reasons for covering this problem in the  
20 transition schedule in this formulation. The first is to avoid  
21 a provision in the new constitution that drags along thousands  
22 of words of the old constitution and incorporates them by  
23 reference. The deleted Section 10 would literally require a copy  
24 of the 1876 Constitution as of January 1, 1974, if the reader  
25 were to know what the section was all about. (Over 30 sections  
26 of the old constitution are relevant.) The draft transition  
27 section requires nothing, for it stops anyone from using the old  
28 constitution in arguing whether a use of funds or credit is for

1 a public purpose. In other words, the deleted Section 10 would  
2 carry the old constitution through the door and dump it in the  
3 middle of the room; the transition schedule shuts the door and  
4 keeps the old constitution out altogether.

5 The second reason for a different formulation is that the  
6 deleted Section 10 is a confining "definition." The words "but  
7 are not limited to" are not traditionally read as open-ended; the  
8 tendency is to construe "but are not limited to" as words that  
9 confine the definition to the general class to which the included  
10 examples are not to be limited. Thus, a sound argument could be  
11 made that Section 10 confines "public purposes" to a general class  
12 of purposes close to the purposes spelled out in such detail in  
13 the old constitution. The report of the Committee on Finance  
14 states that "Section 10 provides for a public purpose test of a  
15 broader nature than that contained in the 1876 Constitution."  
16 If this is true, deletion of the section and use of the transition  
17 schedule provision makes the "broader nature" clearer because the  
18 new formulation states that "public purposes" in Section 10 (Public  
19 Funds) cannot be confined by reference to the old constitution.  
20 In short, the problem is not to "broaden" public purpose; the  
21 problem is to prevent the old constitution from confining public  
22 purpose. The transition schedule provision does this better than  
23 the deleted Section 10.

24 Sec. 11. REPORT OF DEDICATED FUNDS. The legislature shall



1 provide by ~~general~~ law for an annual report of the receipts and  
2 expenditures of ~~city~~ constitutionally dedicated funds.

3 SEPARATE PROPOSAL

4 Motor Fuel Taxes

5 Proposed Constitution

6 If the voters approve the separate proposal and the new  
7 constitution, Subsections (b) and (c) of Section 7 would be  
8 reworded as follows:

9 (b) All net revenue from motor vehicle registration fees  
10 not retained by the counties and three-fourths of all net revenue  
11 derived from that portion computed at the tax rates in effect on  
12 November 5, 1974, of taxes on motor fuels and lubricants used to  
13 propel motor vehicles over public roadways, except gross production  
14 and ad valorem taxes, may be appropriated only for the following  
15 purposes:

- 16 (1) acquiring rights-of-way for public roadways;  
17 (2) constructing or maintaining public roadways;  
18 (3) administering laws pertaining to the supervision  
19 of traffic or safety on public roadways; or  
20 (4) policing public roadways.

21 (c) One-fourth of all net revenue from (1) state occupation  
22 taxes, (2) the motor fuel tax computed at the tax rate in effect  
23 on November 5, 1974, and (3) that portion of the net revenue from  
24 taxes on motor fuels and lubricants used to propel motor vehicles

1 over public roadways, except gross production and ad valorem  
2 taxes, derived from increases in the respective rates in effect  
3 on November 5, 1974, are dedicated to the Available School Fund.  
4 ~~[the-motor-fuel-tax-and-from-state-occupation-taxes-is-dedicated~~  
5 ~~to-the-Available-School-Fund.]~~

6 EXPLANATION

7 The necessary revisions to Subsections (b) and (c) of Section  
8 7 of the proposed finance article are indicated by underlining.  
9 If the proposed constitution is adopted and the separate proposal  
10 concerning motor fuel taxes is approved, the adoption schedule  
11 would provide for the revisions of the two subsections as  
12 indicated.

13 Present Constitution

14 If the separate proposal is approved and the new constitution  
15 is not adopted, the following sentence would be added to Article  
16 VIII, Section 7-a of the present constitution:

17 That portion of the net revenues from all taxes on motor  
18 fuels and lubricants used to propel motor vehicles over public  
19 roadways, except gross production and ad valorem taxes, derived  
20 from [any] increases [increase] in the respective rates of these  
21 taxes over the rates in effect on November 5, 1974, [at-the-time  
22 of-the-adoption-of-this-constitution] is [shall] to be allocated  
23 [deposited-as-follows:] one-fourth [1/4] to the Available  
24 School Fund and three-fourths to general revenue [the-balance-to

1 ~~the General Revenue Fund to be allocated as provided by law].~~

2 EXPLANATION

3 Changes in the language of the separate proposal as approved  
4 on second reading are indicated above. It is assumed that the  
5 proposed constitution will be voted upon at the general election.  
6 In any event, it is not possible to use the original wording if  
7 this provision were to go into the 1876 Constitution. The term  
8 "general revenue" is substituted for "General Revenue Fund" because  
9 the General Revenue Fund is not a constitutional fund. Use of  
10 "general revenue" makes it clear that the money would be available  
11 for appropriation for any public purpose.



May 30, 1974

*Con Off*

## ARTICLE VIII

## FINANCE

1       Sec. 1. TAXATION. State taxes [~~Taxes~~] may [~~shall~~] be  
2       levied and collected only by general law. (1)

## EXPLANATION

3  
4  
5  
6       (1) The changes are designed to avoid unintended limitations  
7       on the power to tax. It is axiomatic that the legislature may  
8       levy or authorize political subdivisions to levy taxes. Thus,  
9       Section 1 is constitutionally significant only if it is a limita-  
10      tion. The limitation was to restrict tax legislation to "general"  
11      as opposed to "local" laws. But this creates two problems.  
12      Home-rule cities and counties with home-rule ordinance power can  
13      levy taxes without specific enabling legislation; special districts  
14      and authorities can be created by, and given taxing power by, local  
15      law. Section 1 as adopted could be read to prohibit these local  
16      tax powers.

17       The problems are solved by limiting Section 1 to "state  
18      taxes." The new formulation raises a possible question concerning

1 a special district or authority that has been denominated a  
2 "state agency." If the legislature wishes to give a state agency  
3 taxing power, the power would have to be by general law. If the  
4 legislature wished to give taxing power to a particular authority,  
5 this could be done by making the authority a political subdivision.  
6 This, of course, would bring the local government article into  
7 operation. Under that article voter approval is required for ad  
8 valorem taxes and for bond issues payable from ad valorem taxes.

9 It should also be noted that the problems discussed here did  
10 not arise under the 1876 constitution because every local law  
11 exception to the equivalent section (Section 3 of Article VIII)  
12 was added by amendment. This could be construed to be a particu-  
13 lar provision that superseded the preexisting general provision.  
14 (See Brown v. Memorial Villages Water Authority, 361 S.W. 2d 453  
15 (Tex. Civ. App.--Houston 1962, writ ref'd n.r.e.).)

16  
17  
18  
19  
20 Sec. 2. AD VALOREM TAXATION. (a) [~~Taxation shall be equal~~  
21 ~~and-uniform-on~~] <sup>(1)</sup> Except as otherwise permitted in this article,  
22 all real [~~property~~] and tangible personal property [~~and-all-such~~  
23 ~~property~~] <sup>(2)</sup> must [~~shall~~] be taxed equally and uniformly in  
24 proportion to market value.



1 (b) ~~[For-all-ad-valorem-tax-purposes]~~ The ~~[the]~~ legislature  
2 by general law shall provide for the establishment and enforcement  
3 of ~~[appraisal]~~ standards and procedures for the appraisal of  
4 property for ad valorem tax purposes. Established standards and  
5 procedures must ~~[which-shall]~~ be applied uniformly throughout the  
6 state. <sup>(3)</sup> Except as limited by general law, a taxing authority  
7 levying a tax on property within a county may seek countywide  
8 enforcement of these standards and procedures. <sup>(4)</sup>

9 (c) Each county shall provide for ~~periodic~~ appraisals <sup>(5)</sup> ~~[an~~  
10 ~~appraisal]~~ of all taxable property within its boundaries. Each  
11 [All] taxing authority ~~[authorities]~~ imposing a tax on property  
12 within the county shall tax in proportion to ~~the~~ <sup>but not in excess of</sup> ~~[this]~~  
13 ~~county~~ appraisal ~~[and-shall-have-the-power,--subject-to-limitation~~  
14 ~~by-general-law,--to-seek-countywide-enforcement-of-the-application~~  
15 ~~of-the-appraisal-standards-and-procedures-established-under~~  
16 <sup>(4)</sup> ~~Subsection-(b)]~~. The costs and expenses of ~~[the]~~ appraisals  
17 [appraisal] are to ~~[shall]~~ be allocated among the taxing  
18 authorities in the manner prescribed ~~[as-shall-be-provided]~~ by  
19 general law. <sup>(6)</sup>

20 (d) ~~[The-legislature-may-not-release]~~ Ad ~~[ad]~~ valorem taxes  
21 ~~[unless]~~ delinquent less than ~~[at-least]~~ 10 years may not be  
22 released. <sup>(7)</sup>

23 ~~[(c)--The-rolling-stock-of-railroads-may-be-assessed-in-gross~~  
24 ~~in-the-county-where-the-principal-office-of-the-company-is~~



1 located, and the county tax paid upon it shall be apportioned by  
2 the Comptroller, in proportion to the distance such road may run  
3 through any such county, among the several counties through which  
4 the road passes, as a part of their tax assets. (8)

#### 6 EXPLANATION

7  
8 (1) The "except" clause removes the "conflict" between  
9 taxing all property equally and uniformly and the sections  
10 granting and permitting exemptions, exceptions, and relief.

11 (2) In the context of this subsection "equal and uniform"  
12 applies only to the taxation of property "in proportion to market  
13 value." Turning "equal" and "uniform" into adverbs modifying the  
14 verb "tax" makes clear the relationship between equal and uniform  
15 taxation of property and taxation in proportion to market value.

16 (3) The changes in this subsection are in part stylistic and  
17 in part to conform to the committee's drafting rules.

18 (4) This sentence has been moved from Subsection (c). The  
19 delegated power relates to Subsection (b) rather than to  
20 Subsection (c). This is demonstrated by the cross-reference in  
21 the original wording.  
22  
23  
24

1 (5) "Periodic" has been added and "appraisal" made plural  
2 to avoid the argument, strained though it would be, that the  
3 constitutional mandate covers only a "one-shot" appraisal.

4 (6) The changes conform to the committee's drafting  
5 standards. (For "shall" see note (2) to Section 2 of Article VI;  
6 for "manner prescribed" see note ( ) to Section of Article .

7 (7) This redraft is stylistic only.

8 (8) This subsection has been moved to Section 3 and made  
9 Subsection (b) of that section.

10  
11  
12  
13 (1)  
14 Sec. 3. AD VALOREM TAX EXCEPTIONS [~~APPRAISAL-FOR-LAND~~  
15 ~~PRESERVATION~~]. (2) (a) In order to promote the preservation of  
16 agricultural and forest land, the [~~The~~] legislature by general  
17 law shall establish [~~prescribe~~] separate formulas for appraising  
18 [~~the-appraisal-of-land-to-promote-the-preservation-of~~] farm or  
19 ranch open-space land devoted to agricultural production [~~farm-or~~  
20 ~~ranch-purposes, and~~] , may establish [~~by-general-law-may-prescribe~~]  
21 separate formulas for appraising forest land devoted to timber  
22 production, and may provide limitations and impose sanctions  
23 in furtherance of the appraisal policy of this section [~~the~~  
24 ~~appraisal-of-land-to-promote-the-preservation-of-forest-land~~  
~~devoted-to-timber-production~~].

(b)<sup>(3)</sup> The legislature by general law may permit the rolling stock of railroads to be assessed for ad valorem tax purposes by the county in which the principal office of the railroad is located and require the comptroller of public accounts to apportion on the basis of track mileage the assessed value of the rolling stock among the counties through which the railroad runs.

[~~{b}~~--In passing laws pursuant to this section, the legislature by general law may provide for the appraisal of land on the basis of productive capacity and may prescribe all limitations and sanctions as may be appropriate.]

## EXPLANATION

(1) The title of the section has been changed to reflect the true purpose of the two subsections. Each subsection is an exception to the constitutional mandate set forth in Section 1(a).

(2) The redraft contains three changes of significance:

(1) the verb "establish" has been substituted for "prescribe" to parallel the wording of Section 2(b); (2) the words "agricultural production" have been used to emphasize that the purpose of the section is both to promote preservation of open-space land and to promote production of agricultural products; and (3) the permission to appraise on the basis of productive capacity has been omitted as unnecessary. In this last instance it is important to note



1 that inclusion of an unnecessary power raises a question whether  
2 other powers are limited or denied. The formulas under this  
3 section may very well be based on productive capacity, but there  
4 are other possible formulas and it seems inappropriate to single  
5 out only one.

6 The power to "provide limitations and impose sanctions"  
7 is constitutionally necessary. It permits the legislature to  
8 limit the availability of preferred treatment. For example,  
9 under Section 1-d of Article VIII of the present constitution  
10 only a natural person whose primary occupation is agricultural  
11 and whose primary income is from that occupation qualifies. It  
12 also permits the recoupment of lost taxes in a situation where  
13 an owner disposes of his land for a price higher than the pre-  
14 ferred appraised value. Section 1-d of the present constitution  
15 also permits recoupment. Limitations and sanctions like these  
16 are inconsistent with equality and uniformity.

17 Section 1-d is self-operative. It will be preserved in the  
18 transition schedule until the legislature acts under the new  
19 constitution.

20 (3) The subsection as adopted on second reading consisted  
21 of the second sentence of Section 8 of Article VIII of the 1876  
22 constitution. That sentence is ambiguous. It seems to say that  
23 the county of the principal office of the railroad collects the  
24 county tax on all rolling stock and that the comptroller

1 apporitions the tax receipts. Since 1879 an implementing statute  
2 has provided otherwise. Under the statute the rolling stock is  
3 assessed in one county and the assessed valuation apportioned  
4 by the comptroller.

5 The committee is advised that the subsection is included  
6 to permit continuation of the statutory system. This system can  
7 be continued only by an explicit constitutional provision  
8 because, unless every county with trackage uses the same  
9 assessment ratio and the same tax rate, the rolling stock is not  
10 taxed equally and uniformly in proportion to market value.

11 Since a reader could not know from reading the original  
12 subsection what it meant or why it is in the constitution, it is  
13 appropriate to redraft it in terms of the system that is to be  
14 permitted to continue. This is what the redraft does.

15  
16  
17  
18  
19 (1)  
20 Sec. 4. AD VALOREM TAX EXEMPTIONS. (a) The following  
21 property is [~~There shall be~~] exempt from [~~all~~] ad valorem  
22 taxation:

23 (1) State [~~The~~] property [~~of the state~~] except as  
24 otherwise provided by law; [~~and~~]

1           (2) Property of political subdivisions of the state  
2 used for public purposes;

3           (3) ~~[(2)--A11]~~ Household ~~[household]~~ goods <sup>(4)</sup> and personal  
4 effects not used for the production of income; and

5           ~~(4)~~ <sup>(5)</sup> ~~[(3)--A11]~~ Farm ~~[farm]~~ products in the hands of the  
6 producer and family supplies for home and farm use.

7           <sup>(1)</sup>  
8           (b) Each residential homestead is ~~[There-shall-be]~~ exempt  
9 from state ad valorem taxation in the amount of ~~[at-least]~~  
10 \$3,000 ~~[as-may-be-provided-by-general-law]~~ of ~~[the]~~ appraised  
11 value ~~[of-all-residence-homesteads]~~. The legislature by law  
12 may increase this amount.

13           <sup>(2)</sup>  
14           (c) The residential homestead of each person at least 65  
15 years old is exempt from ad valorem taxation in the amount of  
16 \$3,000 of assessed value in each taxing political subdivision  
17 A political subdivision may increase this amount within its  
18 jurisdiction. In a political subdivision that has pledged its  
19 ad valorem tax for the payment of debt, a residential homestead  
20 exemption does not become effective if the exemption would impair  
21 the obligation of the contract under which the tax was pledged.

*except that  
any such  
person may  
elect in  
writing  
to be  
excluded  
from  
the  
exemption*

22           (d) ~~[e]~~ Subject to such limitations, classifications, or <sup>(3)</sup>  
23 ~~[and]~~ exclusions as it may prescribe, the legislature by ~~[general]~~  
24 law may exempt from ad valorem taxation:

25           (1) Property used exclusively for educational or  
26 charitable purposes; ~~[7]~~

*Andujar objected.  
that doesn't specify who  
owns property*



(2) Nonresidential ~~[nonresidential]~~ property owned  
(4)  
and used exclusively by organizations chartered by both the State  
of Texas and the United States whose membership is composed  
solely of former members of the armed services of the United  
States; ~~[7-0r]~~

(3) Places ~~[places]~~ of burial not held for profit;

(4) ~~{z}~~ Property owned by a disabled veteran of the armed services of the United States, by the surviving spouse or minor children of a disabled veteran of the armed services of the United States, or by the surviving spouse or minor children of a ~~any~~ member of the armed services of the United States whose life was lost while on active duty;

(5) <sup>(5)</sup> [43] Actual places of religious worship;

(6) ~~[(4)--Any]~~ Property ~~[property]~~ owned by a church or ~~[by]~~ a strictly religious society for ~~[the]~~ exclusive use as a dwelling place for the ministry of the ~~[such]~~ church or religious society if the property yields no revenue to the church or religious society, but the ~~[such]~~ exemption may ~~[shall]~~ not extend to more property than is reasonably necessary for a dwelling place and in no event to more than one acre of land; or ~~[and]~~

(7) [(5+)] Property [~~7-not-held-for-profit~~7] owned by a nonprofit water supply corporation [7] whose board of directors is elected by the members it serves [~~7-which~~] if the property is not held for profit and is reasonably necessary for [7] and is

1 used in the acquisition, storage, transportation or [and]  
2 distribution of [7] water or [is-used] in providing sewage or  
3 waste water treatment service.

4 ~~[(d)--Each political subdivision of the state shall exempt~~  
5 ~~by its own action not less than \$3,000 of the assessed value of~~  
6 ~~residence homesteads of married or unmarried persons 65 years of~~  
7 ~~age or older, including those living alone, from all ad valorem~~  
8 ~~taxes levied by the political subdivision.--Where any ad valorem~~  
9 ~~tax has theretofore been pledged for the payment of any debt, the~~  
10 ~~taxing officers of the political subdivision shall have authority~~  
11 ~~to continue to levy and collect the tax against the homestead~~  
12 ~~property at the same rate as the tax so pledged until the debt~~  
13 ~~is discharged, if the cessation of the levy would impair the~~  
14 ~~obligation of the contract by which the debt was created.]~~

15 [(e) -- See Section 5 below.]

16 [(f) -- See Section 5 below.]

#### 17 18 EXPLANATION

19  
20 (1) The changes in Subsections (a) and (b) are either  
21 stylistic or in accordance with the committee's drafting rules.  
22 In Subsection (b) the adjective "general" has been deleted because  
23 the committee uses the adjective only when the context creates  
24 an ambiguity in the term "by law." (See note ( ) to Section

1 of Article .) In the context here an increase in an  
2 exemption would always be by general law.

3 (2) This was Subsection (d). It has been moved in order to  
4 group all constitutional grants ahead of the subsection permitting  
5 exemptions. The extensive redraft contains two major changes that  
6 are not substantive in ultimate effect but are ostensibly  
7 "substantive" in that they cut out unnecessary steps in reaching  
8 the desired effect.

9 The first sentence of the redraft simply grants the exemption  
10 directly instead of imposing a duty on every political subdivision  
11 to take affirmative action to grant the exemption. In the  
12 redraft only the term "residential homestead" is used. That term  
13 is defined in Section of Article X.

14 The third sentence goes directly to the point. An exemption  
15 may not impair the obligation of a contract. (Indeed, this would  
16 be true even if the third sentence were omitted.) All that need  
17 be put into the constitution is this ultimate limitation. A tax  
18 officer has the power to ignore the purported exemption whether  
19 the power is specifically granted as in the original draft or is  
20 necessarily implied as in the redraft. In both cases the power  
21 is not discretionary; the tax must continue to be collected  
22 because of a fact--the tax is pledged by contract.

23 (3) See note (1) above.

24 (4) "Both" makes it explicit that "and" in this context



1 means that the organizations must have both a national and a  
2 state charter.

3 (5) This is a rare instance where a meaningless adjective  
4 is not deleted. A place of worship is obviously "actual." But  
5 if the adjective were removed, an argument could be made that a  
6 change in meaning from the 1876 constitution was intended.

7  
8  
9  
10  
11  
12  
13 (1)  
14 Sec. 5. AD VALOREM TAX RELIEF. (a) [~~the~~] The legislature  
15 (2)  
16 by [~~general~~] law may grant [~~provide~~] relief [~~including tax~~  
17 (3)  
18 ~~moratoriums~~] from residential ad valorem taxes payable directly  
19 (4)  
20 or indirectly by [~~for~~] persons determined to be in need of [~~such~~]  
21 (5)  
22 relief because of economic circumstance and either age or dis-  
23 ability [~~and economic circumstance~~]. A [~~Any such~~] law granting  
24 relief must [~~shall~~] provide either that [~~for reimbursement of~~]  
political subdivisions are reimbursed for revenue losses or  
[~~caused by such relief or shall provide~~] that [~~no such~~] relief  
[~~shall~~] applies [~~apply~~] to the ad valorem taxes of a political  
subdivision only if [~~unless approved by~~] the political subdivision  
approves.

*sentences  
included?*

(6)  
1        (b) [~~f~~] The legislature by [~~general~~] law may provide for  
2 the preservation of cultural, historical, or natural history  
3 resources by:

(7)  
4        (1) Granting [~~tax~~] relief [~~or-exemption~~] from state ad  
5 valorem taxes on [~~for~~] appropriate property [~~which-shall-be~~] so  
6 designated in the manner prescribed [~~as-provided~~] by [~~general~~]  
7 law; or [~~and~~]

(8)  
8        (2) Authorizing political subdivisions [~~of-the-state~~]  
9 to grant [~~tax~~] relief [~~or-exemption~~] from ad valorem taxes [~~of-the~~  
10 ~~political-subdivision~~] on [~~for~~] appropriate property [~~which-shall~~  
11 ~~be~~] so designated by the political subdivision in the manner  
12 prescribed [~~as-provided~~] by general law.

13  
14 EXPLANATION  
15

16        (1) Subsections (e) and (f) of Section 4 are logically  
17 different from the balance of the section, which deals only with  
18 exemptions. These two subsections permit the granting of tax  
19 relief. "Relief" is a comprehensive term that includes total or  
20 partial exemption, a direct reduction of a tax, a moratorium on  
21 payment of taxes, or a different method of valuation of property.

22        (2) See note (1) to Section 4.

23        (3) "Relief" is a comprehensive term. It would include a  
24 tax moratorium. To insert "including tax moratoriums" is to cast

1 doubt on the meaning of "relief" because the implication would  
2 be that whatever "relief" normally means it means something  
3 else in this subsection since "moratorium" had to be set forth  
4 specifically. For this reason "including tax moratoriums" has  
5 been deleted as both unnecessary and confusing. See also note  
6 (1) above.

7 (4) In the context the word "for" clearly implies that  
8 relief may be granted to persons in need whether they own  
9 property and thus pay property taxes or rent property and thus  
10 indirectly pay property taxes. The new formulation makes this  
11 explicit.

12 (5) The floor amendment on second reading was clearly  
13 designed to limit tax relief to those needy people who are also  
14 disabled or of some undefined age.

15 (6) See note (1) to Section 4 and note (8) below.

16 (7) As pointed out in note (1) above, "relief" is a  
17 comprehensive term that includes exemption. See also note (3)  
18 above.

19 (8) In this case "general" is retained in order to make  
20 it clear that the method of designation cannot vary from political  
21 subdivision to subdivision. The authorization to grant relief  
22 clearly must be by general law because the authorization is to  
23 political subdivisions. If, under the normal drafting preference  
24 for the singular, the authorization were to "a" political



1 subdivision, the words preceding the colon would have to be "by  
2 general laws."

3  
4  
5  
6 Sec. 6 [5]. AD VALOREM TAX ACTIONS<sup>(1)</sup> [APPEALS]. Notwith-  
7 standing [~~in-addition-to~~] other remedies and appeals provided by  
8 law, an owner of [~~every-person-owning~~] property, [~~subject-to-ad~~  
9 ~~valorem-taxation-is-entitled;~~] after the exhaustion of administra-  
10 tive remedies, may [~~to~~] pay under protest ad valorem taxes due on  
11 that [~~such~~] property [~~under-protest~~] and sue for a refund in [~~to~~  
12 ~~appeal-to~~] a district court [~~of-record-of-competent-jurisdiction~~  
13 ~~for-rehearing-of-the-appraisal-of-the-property-and-the-assessment~~  
14 ~~of-the-tax-in-trial-de-novo-in-the-same-manner-and-to-the-same~~  
15 ~~extent-as-though-the-matter-had-been-committed-to-the-courts-in~~  
16 ~~the-first-instance-and-there-had-been-no-intervening-adminis-~~  
17 ~~trative-or-executive-action-or-decision~~]. In a suit for a refund  
18 of taxes, a [~~The~~] court has the duty of entering those [~~shall-make~~  
19 ~~all-such~~] orders [~~as~~] necessary to ensure equal treatment under  
20 the law, including refunds of taxes, equalization of property  
21 appraisals and assessments, within the taxing authority, and [~~such~~]  
22 other orders as [~~may-be~~] provided by law.  
23  
24

EXPLANATION

(1) The redraft avoids a great deal of unnecessary verbiage by shifting the focus from an appeal from the administrative hearing to a straight lawsuit. There is no substantive change. This section directly grants to a taxpayer the right to sue for a refund. By assuming that the action was in the nature of a review of an administrative act, the original drafters and the drafter of the floor amendment took all steps necessary to offset all normal limitations on judicial review of an administrative act. The end result was a simple suit for a refund of taxes. Whether by judicial review or by an initial lawsuit, the question in litigation is the same: the tax paid under protest is in whole or in part contrary to the requirements of the law. (Only if judicial review were under circumstances that gave weight to the administrative determination would the kind of action brought mean anything.) But, as noted above, the very wording of the original version destroyed that distinction.

It should be noted that the suit for refund is not limited to personal relief for the individual taxpayer. Neither the original wording in terms of an appeal for a refund nor the redraft in terms of a simple lawsuit for a refund by themselves would have turned the action into a general device for correcting improper administration of the tax laws. It is the final

*negot  
objects  
wants  
clear-cut  
action*

1 sentence of the section that imposes a duty on the court to take  
2 action beyond entering judgment for or against a refund.

3 (2) The committee is advised that in using "court of record  
4 of competent jurisdiction," the Committee on Finance had in mind  
5 the district court. Since this section is a self-operative grant  
6 of the right to bring a lawsuit and since the proposed judiciary  
7 article lets the legislature determine the jurisdiction of the  
8 several courts, the intended court is specified so that the  
9 constitutional right is not subject to legislative change.

10  
11  
12  
13 (1)

14 Sec. 7 [6]. ALLOCATIONS AND USES OF CERTAIN REVENUES.

15 (a) Each county receives from the net revenue derived annually  
16 from state motor vehicle registration fees attributable to the  
17 county an amount prescribed by general law but that amount must  
18 be at least equal to all fees collected up to \$50,000 and 50  
19 percent of the next \$250,000 of fees collected.

20 (b) Net revenue from state motor vehicle registration fees  
21 not retained by the counties and three-fourths of the net revenue  
22 derived from state taxes on motor fuels and lubricants used to  
23 propel motor vehicles over public roadways, except gross  
24 production and ad valorem taxes, may be appropriated only for

*a petroleum products manufacturing tax,*

*Coleman amendment*

27 *Davis sub. deleted the  
separate submission*



1 (1) acquisition of rights-of-way for, (2) construction of,  
2 (3) maintenance of, (4) administration of laws pertaining to  
3 supervision of traffic or safety on, or (5) policing of, public  
4 roadways.

5 (c) One-fourth of the net revenue from the motor fuel tax  
6 and from state occupation taxes is dedicated to the Available  
7 School Fund.

8 ~~[(a)--Subject to legislative appropriation, allocation, and~~  
9 ~~direction, all net revenues remaining after payment of all refunds~~  
10 ~~allowed by law and expenses of collection derived from motor~~  
11 ~~vehicle registration fees, and all taxes, except gross production~~  
12 ~~and ad valorem taxes, on motor fuels and lubricants used to propel~~  
13 ~~motor vehicles over public roadways, shall be used for the sole~~  
14 ~~purpose of acquiring rights of way, constructing, maintaining,~~  
15 ~~and policing such public roadways, and for the administration of~~  
16 ~~such laws as may be prescribed by the legislature pertaining to~~  
17 ~~the supervision of traffic and safety on such roads, and for the~~  
18 ~~payment of the principal and interest on county and road district~~  
19 ~~bonds or warrants voted or issued prior to January 2, 1939, and~~  
20 ~~declared eligible prior to January 2, 1945, for payment out of~~  
21 ~~the County and Road District Highway Fund under existing law,~~  
22 ~~provided, however, that one-fourth of such net revenue from the~~  
23 ~~motor fuel tax shall be allocated to the Available School Fund,~~  
24 ~~and provided, however, that the net revenue derived by counties~~

1 from-motor-vehicle-registration-fees-shall-never-be-less-than-the  
2 maximum-amounts-allowed-to-be-retained-by-each-county-and-the  
3 percentage-allowed-to-be-retained-by-each-county-under-the-laws  
4 in-effect-on-January-17-1945.--Nothing-contained-herein-shall-be  
5 construed-as-authorizing-the-pledging-of-the-state's-credit-for  
6 any-purpose.

7 (b)--The-legislature-may-allocate-and-dedicate-the-receipts  
8 from-other-state-taxes-not-dedicated-by-this-constitution-to-be  
9 used-for-the-support-of-mass-transportation, and-may-authorize  
10 the-establishment-of-local-mass-transit-authorities.--Local-general  
11 obligation-bond-issues-for-mass-transportation-purposes-shall-be  
12 subject-to-approval-by-voters-in-the-affected-jurisdiction.

13 (c)--In-addition-to-revenues-dedicated-elsewhere-in-this  
14 constitution, one-fourth-of-the-revenue-from-state-occupation  
15 taxes-is-dedicated-to-the-Available-School-Fund.]

#### 16 17 EXPLANATION

18  
19 (1) The extensive redraft serves two purposes: one, to make  
20 the provision more readable, and two, to make explicit what was  
21 implicit. The points to be noted are:

22 (a) The formula for sharing registration fees has  
23 been set forth. This avoids requiring the reader to look up a  
24 statute to find out how much counties retain. It takes no more

1 words to set out the formula than it does to describe it. Since  
2 the original formulation started out "shall never be less than,"  
3 it follows that the legislature has full power to increase the  
4 amount that can be retained by counties. This has been made  
5 explicit. Since this sharing covers "each" county, the term  
6 "general law" is used.

7 (b) Since the original formulation began "subject to  
8 appropriation," it follows that the restriction is on the use to  
9 which the revenues may be put. In other words, there is no  
10 command to appropriate all receipts every appropriation period;  
11 there is only a prohibition on appropriating the revenues for any  
12 except the stated purposes. The opening words of the original  
13 formulation make it clear that only state taxes are covered, for  
14 the legislature can hardly appropriate local taxes. Thus, "state"  
15 has been added in the first sentences of the redrafted  
16 Subsections (a) and (b).

17 (c) The reference to the County and Road District  
18 Highway Fund has been deleted here. The committee is advised that  
19 the last bonds will be retired by 1977. A reference here would  
20 preserve permanently a provision that becomes obsolete two or  
21 three years after the constitution is adopted. The proper way to  
22 handle the bond fund is in the transition schedule. The provision  
23 in the schedule would simply provide that, until the last bond is  
24 retired, payment of principal and interest is one of the purposes



1 for which revenue from registration fees and motor fuel taxes may  
2 be appropriated.

3 (d) The final sentence of the original Subsection (a)  
4 has been omitted as unnecessary. To pledge the state's credit is  
5 to incur debt. Section 6 permits debt to be incurred only as  
6 authorized in the constitution. By no stretch of the imagination  
7 can Section 5 be construed to authorize the pledging of the  
8 state's credit. Indeed, there is nothing to pledge; Section 5  
9 does not require the legislature to charge any particular  
10 amount for motor registration or to levy any taxes on motor fuels.

11 (e) The first sentence of the original Subsection (b)  
12 has been deleted as an unnecessary grant of power to the legis-  
13 lature. The legislature can always dedicate a tax in the sense  
14 of announcing that, until it changes its mind, it will appropriate  
15 at least the revenue from the tax for the dedicated purpose.

16 (There is no indication in the report of the Committee on Finance  
17 that the purpose of the deleted sentence was to authorize  
18 appropriations for an indefinite future in contravention of  
19 Section 9(b).) Likewise, there is no need to grant the authority  
20 to establish mass transit authorities. In any event, the power  
21 happens to have been granted indirectly by Section 7(a) of  
22 Article IX.

23 The report of the Committee on Finance states that the  
24 sentence is necessary to "prevent any possibility that courts in

1 the future would hold that mass transit would not be considered a  
2 public purpose." This is a groundless fear. If the construction  
3 of highways with tax revenues is a public purpose, subsidizing or  
4 operating a mass transit system is equally a public purpose, for  
5 they are simply two methods of providing transportation. The  
6 Committee on Style and Drafting is particularly careful to avoid  
7 an unnecessary grant of power because the inference may arise that  
8 other powers not granted are by implication denied. Likewise, to  
9 include an unnecessary power in order to be sure that it is  
10 recognized as a public purpose raises a question whether every  
11 public purpose must be spelled out in the constitution. In any  
12 event, the second sentence of the original subsection covers  
13 "public purpose." (See the discussion below.)

14 The Committee on Finance also expressed the view that the  
15 sentence is "necessary to insure that the state would not be  
16 prevented from making grants to local subdivisions" for mass  
17 transportation. Actually, the sentence does not speak to this,  
18 but in any event there is no constitutional prohibition on grants-  
19 in-aid. (There is one in the 1876 constitution, but it has not  
20 prevented all grants-in-aid. See Section 51 of Article III.)  
21 Again, if the sentence were left in for this purpose, the question  
22 would arise whether all other possible grants-in-aid were  
23 prohibited.

24 The second sentence of the original Subsection (b) is a

1 proper limitation. Since it deals with political subdivisions it  
2 has been moved to Article IX and made a subsection of Section 10  
3 of that article. As an incidental by-product of the sentence,  
4 the limitation nails down the public purpose of mass transporta-  
5 tion, for a provision requiring voter approval of bonds for mass  
6 transportation necessarily implies that the purpose is a public  
7 one.

8  
9  
10  
11  
12 Sec. 8 [7]. STATE DEBT. (a) [No] State [~~state~~] debt may  
13 [~~shall~~] be incurred only as [~~unless~~] authorized [~~as-provided~~] in  
14 this constitution.

15 (b) "State debt" [~~shall~~] means [~~mean~~] bonds or other  
16 evidences of indebtedness that [~~which~~] are secured by the general  
17 credit of the state or are to be repaid from taxes [~~tax-revenues~~],  
18 fees, tuition, or other charges of the state, a state senior  
19 college or university, or a state agency or institution having  
20 statewide jurisdiction. "State debt" does [~~shall~~] not include  
21 bonds or other evidences of indebtedness issued to finance  
22 a project if the debt is [~~authorized-by-law-which-are-to-be~~]  
23 payable solely from [~~the~~] revenues [~~to-be~~] generated by [~~the~~  
24 charges-of] the project [~~to-be-financed~~].<sup>(1)</sup>

*definition very narrow, but  
may be broadened*



1 (c) State debt may be authorized by law if approved by a  
2 <sup>(2)</sup>  
3 record affirmative two-thirds vote of the membership of each house  
4 of the legislature and submitted to and approved by a majority of  
5 the qualified voters <sup>& the state</sup> ~~[electors]~~ voting on the question.  
6 <sup>(3)</sup>

7 (d) State debt may be authorized by ~~[general]~~ law to refund  
8 outstanding state debt.  
9

#### 10 EXPLANATION

11 (1) The original formulation used one word, "charges,"  
12 in specifying what is within state debt and what is excluded  
13 from state debt. This seemed somewhat illogical since "charges"  
14 in the first sentence would seem to include the "charges" in  
15 the second sentence. The redraft uses "taxes" and "charges"  
16 in the first sentence and "revenues" in the second sentence. The  
17 focus in the second sentence is placed on "project." To be  
18 excluded from state debt, there must be a project financed by a  
19 debt issue that specifies that the debt is payable only from the  
20 revenue generated by the project.

21 (2) The committee uses this formulation throughout the  
22 constitution. "Record" was not in the draft on second reading,  
23 but the committee is advised that this was an inadvertent  
24 omission.

(3) In accordance with the committee's care in the use of

1 "general" as opposed to "local" or "special" law, the adjective  
2 is omitted here. There may be occasions when one specific bond  
3 issue is to be refunded. The use of "general" here would simply  
4 confuse everything.

5  
6  
7  
8  
9 Sec. 9 [8]. APPROPRIATIONS. (a) No money may ~~[shall]~~ be  
10 drawn from the state treasury except in accordance with specific  
11 appropriation made by law. No law may appropriate ~~[appropriation~~  
12 ~~of]~~ money from the state treasury for a purpose not previously  
13 <sup>(1)</sup> ~~[shall-be-made-unless]~~ authorized by ~~[preexisting]~~ law. *Suppose not under*

14 (b) No appropriation of money from the state treasury may  
15 ~~[shall]~~ be made for a period ~~[term]~~ longer than two years.

16 <sup>(2)</sup>  
17 (c) Upon the convening of the legislature in regular session,  
18 the comptroller of public accounts shall submit to the governor  
19 and the legislature a report that shows (1) the condition of the  
20 treasury at the end of the preceding fiscal <sup>year</sup> period, (2) an  
21 estimate of the probable receipts and disbursements for the  
22 current fiscal year, (3) an itemized estimate of anticipated  
23 revenues for the next applicable fiscal period, and (4) other  
24 information required by law. Upon the convening of a special  
session of the legislature, the comptroller of public accounts



1 shall submit a report showing changes from the regular report  
2 previously submitted. In the event of changes at other times, *up date estimate*  
3 the comptroller of public accounts shall report the changes to the  
4 governor and to the members of the legislature.

5 (d) [~~e~~] No bill containing an appropriation may be  
6 considered as passed or be presented [~~sent~~] to the governor [~~for~~  
7 ~~consideration-until-and~~] unless the comptroller [~~Comptroller~~] of  
8 public accounts [~~Public-Accounts~~] has certified [~~certifies~~] that  
9 the amount appropriated is within the estimated revenue for the  
10 applicable fiscal <sup>years</sup> ~~period~~ [~~or~~] or [~~d~~]--~~No appropriation in excess~~  
11 ~~of the estimated revenue shall be valid~~] unless the appropriation  
12 [~~it~~] is made in response to imperative public necessity and  
13 approved by <sup>(3)</sup> a record affirmative four-fifths vote of the member-  
14 ship of each house of the legislature.

15 [~~e~~]--~~A report shall be prepared by the Comptroller of Public~~  
16 ~~Accounts in advance of each regular session of the legislature and~~  
17 ~~submitted to the governor and legislature upon its convening which~~  
18 ~~shows the condition of the state treasury at the close of the last~~  
19 ~~fiscal period and an estimate of the probable receipts and~~  
20 ~~disbursements for the then current fiscal year.--The report shall~~  
21 ~~contain an itemized estimate of the anticipated revenue based on~~  
22 ~~the laws then in effect that will be received by the state from~~  
23 ~~all sources, showing the fund accounts to be credited during the~~  
24 ~~succeeding biennium, and said report shall contain such other~~



1 ~~information-as-may-be-required-by-law--Supplemental-statements~~  
2 ~~shall-be-submitted-at-any-special-session-of-the-legislature-and~~  
3 ~~at-such-other-times-as-may-be-necessary-to-show-probable-changes-]~~  
4

5 EXPLANATION  
6

7 (1) The committee is advised that the purpose of the floor  
8 amendment that added the second sentence is to preclude the use of  
9 an appropriation bill to authorize the expenditure of money for a  
10 new purpose. (The wording is susceptible of being read to require  
11 an authorization bill to precede the appropriation of money much  
12 in the manner that Congress acts.) The author of the floor  
13 amendment has advised the committee that he did not intend that  
14 reading; his intent was as stated above. The redraft focuses on  
15 that intent and avoids using words that imply "authorization"  
16 bills.

17 (2) This was Subsection (e). It has been moved ahead of  
18 Subsection (d) because the comptroller's report obviously precedes  
19 the certification process. The redraft is stylistic except for  
20 the last two sentences. The final sentence of the original  
21 subsection was vague. The redraft spells out the comptroller's  
22 duties.

23 (3) See note (2) to Section 8 above.  
24

1           Sec. 10[9]. PUBLIC FUNDS. Public <sup>funds</sup>~~money~~ and public credit  
2     may [~~shall~~] be used only for public purposes. No public funds or  
3     public credit may [~~shall~~] be used to influence the election of a  
4     public officer [~~official~~].  
5  
6  
7  
8

9                     (1)  
10           [~~Sec. 10. -- PUBLIC PURPOSES. -- Public purposes, as that term~~  
11     ~~is used in this constitution, include, but are not limited to,~~  
12     ~~purposes for which taxes could be levied or public money or public~~  
13     ~~credit could be used before the adoption of this constitution.~~]  
14

15                                     EXPLANATION

16           (1) This section, if it serves any purpose, belongs in the  
17     transition schedule. The purpose of the sentence is to avoid  
18     an implication arising from the use of "public purposes" in Sec-  
19     tion 10 and the use of the same words in Section 3 of Article VIII  
20     of the 1876 constitution. The problem is that someone might argue  
21     that the term means the same thing here that it meant in the 1876  
22     constitution. Moreover, someone might argue that some of the many  
23     amendments of the 1876 constitution were adopted because the per-  
24     mitted use of public funds or credit was not a "public purpose." To

1 put it another way, it is arguable that the "definition" of "public  
2 purposes" was altered by amendments to the constitution and that  
3 there must be some indication in the new constitution that the term  
4 as used in the new Section 8 encompasses the definition "as amended."

5 Actually, "public purposes" is one of the "accordion"  
6 terms in a constitution--a term that changes meaning as the  
7 society changes. The courts recognize this nature of "public  
8 purposes." In Bullock v. Calvert, 480 S.W. (2d) 367 (Tex. 1972),  
9 the court overruled Waples v. Marrast, 108 Tex. 5, 184 S.W. 180  
10 (1916), saying:

11       Whatever the circumstances of the party primaries in  
12 1916 which may have justified their being regarded as  
13 purely private affairs, this cannot be said today . . . .

14       The holding in the Waples cases that the expenditure  
15 of public funds to finance party primary elections cannot  
16 meet the public purpose test, and that any such  
17 expenditure is necessarily proscribed by the Constitution,  
18 must be overruled. We hold that it lies within the  
19 discretion and power of the Legislature to appropriate  
20 state funds for this purpose. (480 S.W. 2d at 370.)

21       In the light of the Bullock case and many other recent  
22 cases approving expenditures for purposes that would not have  
23 been considered "public purposes" 50 to a 100 years ago, it  
24 seems unnecessary to try to "define" public purposes in terms  
of the 1876 constitution as amended. In an abundance of caution,  
however, it is appropriate to state in the transition schedule  
that no one is to "define" public purposes by referring to any  
of the specific grants of power to spend money that were in the



1 old constitution but are omitted from the new document. The  
2 transition provision would read:

3 A grant of power to use public funds or public  
4 credit contained in the constitution of 1876, as  
5 amended, has not been lost by omission from this  
6 constitution. A grant of power in the constitution  
7 of 1876, as amended, is not to be deemed to have been  
8 included in that constitution because the permitted  
9 use of public funds or public credit was not for a  
10 public purpose.

11 There are two reasons for covering this problem in the  
12 transition schedule in this formulation. The first is to avoid  
13 a provision in the new constitution that drags along thousands  
14 words of the old constitution and incorporates them by reference.  
15 Section 10 literally requires a copy of the 1876 constitution  
16 as of January 1, 1974, if the reader is to know what Section 10  
17 is all about. (Over 30 sections of the old constitution are  
18 relevant.) The draft transition section requires nothing,  
19 for it stops anyone from using the old constitution in arguing  
20 whether a use of funds or credit is for a public purpose. In  
21 other words, Section 10 carries the old constitution through  
22 the door and dumps it in the middle of the room; the transition  
23 schedule shuts the door and keeps the old constitution out  
24 altogether.

*Trans.  
Schedule*

1       The second reason for a different formulation is that  
2       Section 10 is a confining "definition." The words "but are  
3       not limited to" are not traditionally read as open-ended; the  
4       tendency is to construe "but are not limited to" as words that  
5       confine the definition to the general class to which the included  
6       examples are not to be limited. Thus, a sound argument could  
7       be made that Section 10 confines "public purposes" to a general  
8       class of purposes close to the purposes spelled out in such  
9       detail in the old constitution. The report of the Committee on  
10      Finance states that "Section 10 provides for a public purpose  
11      test of a broader nature than that contained in the 1876  
12      Constitution." If this is true, deletion of Section 10 and  
13      use of the transition schedule provision makes the "broader  
14      nature" clearer because the new formulation states that "public  
15      purposes" in Section 8 cannot be confined by reference to the  
16      old constitution. In short, the problem is not to "broaden"  
17      public purpose; the problem is to prevent the old constitution  
18      from confining public purpose. The transition schedule provision  
19      does this better than Section 10.

1           Sec. 11. REPORT OF DEDICATED FUNDS. The legislature  
2 shall provide by [~~general~~] law for an annual report of the  
3 receipts and expenditures of [~~all~~] constitutionally dedicated  
4 funds.

5  
6  
7  
8                           SEPARATE PROPOSAL  
9

10           That portion of the net revenues from [~~all~~] taxes on motor  
11 fuels and lubricants used to propel motor vehicles over public  
12 roadways, except gross production and ad valorem taxes, derived  
13 from [~~any~~] increases [~~increase~~] in the respective rates of these  
14 taxes over the rates in effect on November 5, 1974, [at-the-time  
15 of-adoption-of-this-constitution] is [~~shall~~] to be allocated  
16 [~~deposited-as-follows:~~] one-fourth [~~(1/4)~~] to the Available  
17 School Fund and three-fourths to general revenue [~~the-balance~~  
18 ~~to-the-General-Revenue-Fund-to-be-allocated-as-provided-by-law~~].  
19

20                           EXPLANATION  
21

22           For the present it is assumed that the proposed constitution  
23 will be voted upon at the general election. In any event, it is  
24 not possible to use the original wording if this provision were



1 to go into the 1876 constitution. The term "general revenue"  
2 is substituted for "General Revenue Fund" because the General  
3 Revenue Fund is not a constitutional fund. Use of "general  
4 revenue" makes it clear that the money would be available for  
5 appropriation for any public purpose.

6 It should be noted that the sentence would be added to  
7 Section 7-a of Article VIII of the old constitution but would not  
8 be added in that form to Section 7 of the new constitution.  
9 If the voters approved the separate proposal and the new  
10 constitution, Subsections (b) and (c) would be reworded to read:

11 (b) Net revenue from state motor vehicle  
12 registration fees not retained by the counties and  
13 three-fourths of the net revenue derived from that  
14 portion computed at the tax rates in effect on  
15 November 5, 1974, of state taxes on motor fuels and  
16 lubricants used to propel motor vehicles over public  
17 roadways, except gross production and ad valorem  
18 taxes, may be appropriated only for (1) acquisition  
19 of rights-of-way for, (2) construction of, (3) maintenance  
20 of, (4) administration of laws pertaining to super-  
21 vision of traffic or safety on, or (5) policing of,  
22 public roadways.

23 (c) One-fourth of the net revenue from (1) state  
24 occupation taxes, (2) the motor fuel tax computed

1 at the tax rate in effect on November 5, 1974, and  
2 (3) that portion of the net revenue from taxes  
3 on motor fuels and lubricants used to propel motor  
4 vehicles over public roadways, except gross pro-  
5 duction and ad valorem taxes, derived from increases  
6 in the respective rates in effect on November 5, 1974,  
7 are dedicated to the Available School Fund. The balance  
8 of the net revenue derived from increases in these taxes  
9 is general revenue.

10 These alternative wordings will be covered in the Adoption  
11 Schedule. The schedule provision could read:

12 Sec. \_\_\_\_\_. (a) If Separate Question \_\_\_\_ is approved by the  
13 qualified voters and if the proposed constitution is adopted,  
14 the following changes are made in Section 7 of Article VIII  
15 of the proposed constitution:

16 (i) In Subsection (b), insert "that portion computed  
17 at the tax rates in effect on November 5, 1974, of"  
18 between the words "derived from" and the words "state  
19 taxes."

20 (ii) Subsection (c) is revised to read:

21 One-fourth of the net revenue from (1) state  
22 occupation taxes, (2) the motor fuel tax computed  
23 at the tax rate in effect on November 5, 1974,  
24 and (3) that portion of the net revenue from taxes

1 on motor fuels and lubricants used to propel motor  
2 vehicles over public roadways, except gross pro-  
3 duction and ad valorem taxes, derived from increases  
4 in the respective rates in effect on November 5, 1974,  
5 are dedicated to the Available School Fund. The balance  
6 of the net revenue derived from increases in these taxes  
7 is general revenue.

8 (b) If Separate Question \_\_\_\_ is approved by the qualified  
9 voters but the proposed constitution is not adopted, the  
10 following sentence is added at the end of Section 7-a of  
11 Article VIII of the constitution of 1876, as amended:

12 That portion of the net revenues from taxes on motor  
13 fuels and lubricants used to propel motor vehicles over  
14 public roadways, except gross production and ad valorem  
15 taxes, derived from increases in the respective rates of  
16 these taxes over the rates in effect on November 5, 1974,  
17 is to be allocated one-fourth to the Available School  
18 Fund and three-fourths to general revenue.  
19  
20  
21  
22  
23  
24



FOR IMMEDIATE RELEASE

JUNE 24, 1974

The Texas Good Roads Association and Delegates acting on their behalf at the Constitutional Convention have served notice that they intend to knock out the separate submission of a proposal to the voters which would allow any increase in the rate of taxation on motor fuels and lubricants to go one-fourth to our schools and three-fourths into general revenue.

We believe the people of Texas should be made aware of the consequences of this action. Texans at present pay 5 cents per gallon tax on gasoline at the pump. This totaled approximately \$344.8 million in 1973.

Using 1971 figures which we have available, Texas refineries produced 24.8 billion gallons of gasoline in 1971 and Texans consumed approximately 25% of that production. This means that 75% of the gasoline refined in Texas was exported to other states and nations and Texas received not one dime in taxes on that product. This amounted to a net loss of tax revenue to Texas (@ 5¢/gal.) of almost 1 billion dollars in 1971.

If the tax on gasoline were moved from the pump to the refinery and set at only 2½ cents per gallon Texas could double the tax revenue received while at the same time cutting the gasoline tax Texans are paying in half.

So with Texas facing the need for new tax revenues why have we not done this?

For the simple reason that under the present Constitution all increases in the rate of tax on motor fuels including a refinery tax on motor fuels must go into a fund to be divided three-fourths to the highway department and one-fourth to the available school fund. It would do Texas no good to double our



revenue produced by the gasoline tax unless we want to spend all of it on building new highways.

Other states put production taxes on their goods and we help pay their state taxes when we buy those goods. With Texas rapidly depleting our oil supplies it is high time we start receiving some tax revenue from this resource. Every time a Texan buys some Tennessee or Kentucky whiskey he helps support state government in those states. (Kentucky places a \$1.50 per gallon tax on all whiskey distilled in the state. Tennessee exacts a similar tax at \$4.00 per gallon.) Every time a Texan buys a can of Alaskan salmon, tuna or king crab he helps support Alaska's state government. The price of these products includes an Alaska state processing tax. In addition, every time a Texan buys a product manufactured by a corporation located in one of the 46 states having a corporate income tax he pays for a part of the support of that state's government. Recently, New Hampshire enacted a refined petroleum products tax as a source of revenue to help support its government. Yet none of the citizens of any of these states pays a penny to help support Texas government when he buys products manufactured in Texas.

We have here the potential of heading off a corporate or personal income tax for many years to come without Texans having to pay one cent more taxes. But this potential is useless unless some of this revenue can be used for purposes other than building new highways.

The highway construction lobby has done its work well. We hope that Texans who do not favor allowing this "Sacred Cow" highway fund to back us into a corporate or personal income tax corner will immediately urge their representatives and senators to vote for the Sullivant-Doyle proposal and allow the Legislature the flexibility to tap this readily available source of revenue for our State.



June 21, 1974

To: Convention office, SO, Anderson, Higgins, Conner, Sugihara, Farmer

From: Meg Titus

Re: Memo to all Constitutional Convention delegates re separate submission on funds from increase in gasoline tax

(In view of our rather low priority for action on the Highway Trust Fund, I suggest, after a phone call from Susan Reid, that we simply have the following reminder on the desks of all delegates. Susan is guessing that this will come up for third reading possibly as early as Tuesday, but probably not until Wednesday. She also told me in her phone call this morning that there seems to be much back-room discussion about the wording, and that Common Cause has reason to believe that the Good Roads lobby is working to have the separate submission worded so badly that the voters will not accept it. Susan also indicated that this had not been discussed in committee therefore we can hardly refer to it in our memo to them. This statement is quite innocuous and really only reiterates our previous position statement to them)

TO ALL DELEGATES TO THE TEXAS CONSTITUTIONAL CONVENTION:

THE LEAGUE OF WOMEN VOTERS OF TEXAS URGES YOU TO VOTE TO RETAIN THE SEPARATE SUBMISSION WHEN THE FINANCE ARTICLE IS BROUGHT UP FOR THIRD READING. THIS ALTERNATIVE ON THE BALLOT WHICH WOULD ALLOCATE THREE FOURTHS OF ANY INCREASE IN THE GASOLINE TAX TO THE GENERAL REVENUE FUND WILL GIVE THE VOTERS OF TEXAS A CHANCE TO EXPRESS THEIR VIEWS. THE LEAGUE SUPPORTS, AND WE THINK THE PEOPLE OF TEXAS WILL WANT TO HAVE A CHANCE TO SUPPORT, A MORE FLEXIBLE HIGHWAY FUND.

P.S. This is Friday--the day I had promised in my memo to everyone last week that I would have a first draft of the material for the September Voter on the Texas Water Plan in the mail for you to study and comment on. I still have so very little current information that I simply cannot meet that deadline. I have called Marty K. to tell her that I am still expecting to hear from several sources--Louisiana, the Corps of Engineers, EPA, and Dr Frank Blair, professor at UT, all of whom have some current information, I understand. I am afraid summer vacations have run this aground. I do, though, feel it will be necessary to get this up-date in the Sept. issue as I learned that Houston is planning a General meeting on Water in October--and I've had rumors that others will be having fall meetings on it. Revised plan? To postpone all the deadline dates in my previous letter one week, providing this meets with Marty's approval. I personally would prefer to have the Voter arrive one week late, if that is going to be our only option, that to have the material in the November Voter. Any comments or reactions to this?

*This may not concern you, Susan. I'll just saving for type*



MEMORANDUM FROM:

*League of Women Voters of Texas*

DICKINSON PLAZA CENTER • DICKINSON, TEXAS 77539

June 24, 1974

To the Delegates of the Constitutional Convention:

The LWV of Texas urges you to vote to retain the separate submission when the Finance Article is brought up for third reading. This alternative on the ballot, which would allocate three-fourths of any increase in the gasoline tax to the General Revenue Fund, will give the voters of Texas a chance to express their views. The League supports, and we think the people of Texas will want to have a chance to support, a more flexible highway fund.

Cordially yours,

*Veta Winick*

Mrs. Darvin M. Winick, President

League of Women Voters of Texas  
OBSERVER FORM

Style & Drafting  
COMMITTEE

June 19, 1974

DATE

M. Berie

OBSERVER

Presiding Officer

Committee number present

Finance Article

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Note changes p. 12 section C  
p 18 - question as to definition of household & personal goods  
p 19 - discussed  
p 22 Sec. 5 - should it be extended to renters -  
p 25 Section 6 -  
p 26 - Explanation to be rewritten as requested by Mr. Nugent to be sure the protesting stay papers has clear access to court action

p 18 - line 23-24 (H. Worth Trustee by this) ownership not defined  
? to be sent back to committee for intent

p 19 - (4)

p 33 - Section 8 - see note

p 34 - add words - of the state - line 4

p 35 - discussion of Section 9 - as related to Note 1  
p 37

p 38 - change

<sup>But</sup> Mr. Nugent will introduce an amendment to Amend Article IV Section 26 of Executive Order (which not success as yet) has to do with River Authority and State will be in the field - no decision from this committee

OBSERVER COMMENTS

p 42 - Sullivan amendment - no

Vote on everything except Section 6 + 7 - (6 + 7 to be read by Committee) 11:11 AM - 11:20 AM

Committee will meet again in morning

Item to be announced -

Wanted to finish their work before the 4th

6/11/74  
11:20 AM



League of Women Voters of Texas  
OBSERVER FORM

A & D

COMMITTEE

June 24 <sup>night</sup> <sub>p.m.</sub>

DATE

Reid

OBSERVER

Presiding Officer

Committee number present

Judicial

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

2a gives Sp. Ct. rule making authority.  
Mauzy Amendment in Sec. 7 d intended to prohibit Sp. Ct.  
from criminal rule making authority. These are  
inconsistent.

Sec. 10 (was 9) Qualifications Commission is a mess.

Removal, <sup>censure,</sup> suspension, & impeachment. - Removal by  
Legis. is much easier (as prescribed by law) than is  
removal by Governor (takes 2/3's vote of each house)

Grant & Kester voted no

Sherman, Von Dohlen, Doggett, Coody,  
Andujar - yes

OBSERVER COMMENTS



June 25

Caldwell

Harrington - Homestead - mandatory -  
except that any person may request in writing  
an exemption from exemption adopted No. 10

Caldwell - sep. sub. on Old folks exemption  
Yahled 89 yes 62 no

Division of question on Sep. Sub.

1:30 Thursday

Williamson - Welfare

Doyle  
label 80 yes 73 no

Juan } questioning Note on sep sub. first  
Pentony }

Hatchison -

only to the limitations  
provided by law.

Patman - division of question on Article itself

Sec. 1 adopted

Sec. 2 121-25

Sec. 3 106-40

Sec. 4 119-30

Sec. 5 -18

Sec. 6 126-21

Sec 7 101-47

Sec 8 12-19

Sec. 9 140-9

Sec. 10 141-8

Sec. 11 148-2

A&D - 7:30

2 p.m. Thursday



# A NEW CONSTITUTION FOR TEXAS?

# Research on Revision

prepared by the

TEXAS RESEARCH LEAGUE, P. O. BOX 12456, AUSTIN, TEXAS 78711



BULLETIN NO. 1 - 1974

February 12, 1974

## THE CONVENTION AND THE PROPERTY TAX

A great many of the provisions in the present Texas Constitution relate, directly or indirectly, to the property tax which now provides more than \$1.7 billion annually for the support of local governmental services in this State. Many of these provisions are inappropriate for a fundamental document and some actually stand in the way of meaningful reform of the property tax - reform which all observers agree is badly needed and long overdue.

This Bulletin discusses some of the more important property tax issues now under consideration by the Constitutional Convention. There are still other issues of importance - most notably the question of a provision for the valuation of farmland and open space - which will generate much discussion and which are not covered in this Bulletin. These will be discussed in later issues.

The Convention has before it, as a basic starting point, the proposed Constitution prepared and recommended by the Constitutional Revision Commission (CRC). This was introduced into the Convention by the President (Delegate Price Daniel, Jr.) and the Vice President (Delegate A. M. Aikin, Jr.) and is known as Constitutional Convention Proposal No. 1 - CCP 1 for short. More than 300 other proposals subsequently have been introduced by one or more delegates, and these are referred to in this Bulletin by their shorthand notation (i.e., CCP \_\_) with the name of the Delegate(s) that introduced them shown in parenthesis immediately following the numbers.

### THE EQUAL AND UNIFORM ISSUE

Few actions of the Constitutional Revision Commission (CRC) have generated as much discussion as its decision to omit the phrase "taxation shall be equal and uniform" from the Finance article of its proposed State Constitution. The Commission's decision was based on a line of reasoning which held:

1. Essentially the same protection is afforded the taxpayer

---

#### 1974 OFFICERS

GROGAN LORD, Chairman

WALTER F. JOHNSON, Vice Chairman

LEWIS H. BOND, Treasurer

JAMES W. MCGREW, Executive Director

by the Bill of Rights Article of the State Constitution (specifically by Art. I, Sec. 3) and by the Fourteenth Amendment to the Federal Constitution.

2. The equal and uniform clause *might* be interpreted to prohibit the use of a graduated income tax.

In effect, said the CRC, it could see no positive benefit from the equal and uniform provision, and it felt there was a possibility of it standing in the way of important tax revisions that might be deemed desirable by the Legislature at some time in the future.

A number of the Convention Delegates disagree, at least in part, with this position. Four proposals would apply the equal and uniform provision to *all* taxes: CCP 81 (Jones of El Paso), CCP 146 (Reynolds), CCP 184 (Ogg), and CCP 196 (Denton). In addition, there are two proposals that would only apply to property taxation: CCP 100 (Munson) and CCP 141 (Salem). Another four proposals have a substantially broader purpose, but also embody some version of the equal and uniform clause in relation to the property tax: CCP 61 (Coleman), CCP 94 (Nugent and Munson), CCP 138 (Bales), and CCP 168 (Sullivant). Equal and uniform provisions applying to all taxes have also been submitted as part of a complete Constitution - CCP 54 (Reynolds) - and as part of a complete redraft of Article VIII - CCP 136 (Calhoun).

#### THE "ALL PROPERTY" PROVISION

Nearly every authority on the Texas property tax agrees that the major roadblock to meaningful reform of that tax is the Constitutional requirement that "all property" be taxed in proportion to its value. Because this phrase includes *intangible* personal property (i.e., stocks, bonds, cash, etc.), it mandates a tax that has never been successfully administered anywhere else in the world. Because Texas assessors, like their counterparts elsewhere, are unable to find and assess intangibles, there is not a truly legal tax roll in the entire State.

The CRC draft Constitution eliminated this phrase in its entirety. While this could set the stage for Legislative reform action, it went too far in the opinion of some observers because it would seem to permit the classification of both real and tangible personal property, possibly to the extent of permitting the exemption of at least certain types of tangibles.

At this writing, news stories indicate that the Finance Committee has tentatively agreed to loosen up the "all property" phrase, by requiring a tax that would apply to real and *tangible* personal property.

While this would bar special treatment for such things as motor vehicles and business inventories, it would permit the Legislature to tackle the problem of taxing or exempting intangible personalty without running afoul of the Constitution. This approach was suggested



in a League report published last August (The Texas Property Tax: Background for Revision) and was specifically recommended by the Texas Advisory Commission on Intergovernmental Relations in a report approved in September 1973.

Approval of this type of language would not automatically exempt intangible personal property from ad valorem taxation; it would merely give the Legislature the power either to exempt such property or to provide a special tax on it if that were deemed preferable. Until the Legislature acted, the statutes making such property taxable on the same basis as all other property would continue to apply.

#### TAXPAYER REDRESS

The Texas property owner who suspects that his property is over-assessed in relation to other property in his community has almost no way of knowing if his suspicions are correct or of proving discrimination in a court of law. Even when he can make a pretty good case, the courts have seldom provided meaningful relief.

The League has commented on this deplorable state of affairs several times since its first major property tax study in 1959-1962. Recently the same point was forcefully made by University of Texas Law Professor Mark G. Yudof in a report to the Legislative Property Tax Committee:

"Despite the many cases in which Texas courts have affirmed statutory and constitutional requirements to property taxation, the fact is that taxpayers have no effective way of compelling assessors and boards of equalization to abide by the law. The reason for this is that the courts have imposed a heavy burden of proof on taxpayers which they are almost always incapable of meeting, and they have been niggardly in granting remedies sufficient to force compliance with the law."

CCP 94 (Nugent and Munson) attempts to cope with the problem by specifically providing that a taxpayer complaining of an inequitable assessment may, after exhausting administrative remedies, appeal to a court for redress. If he proves that his property has been over-assessed in relation to other property in the community, the court would be empowered to provide relief in the form of an "adjustment of such assessed valuation to an equal and uniform basis with other property in the taxing jurisdiction."

The Finance Committee invited the Texas Research League to comment on this proposal and on January 31 the Executive Director appeared before that Committee. After reviewing the need for such a provision, he noted that it could be provided by statute as well as by a Constitutional provision. Assuming it were made Constitutional, however, he cautioned against any assumption that the provision, standing by itself, would provide the protection sought. What was needed, he said, was an implementing statute which would do four things:

1. Provide the court (or a quasi-judicial appellate body) with sufficient resources to actually make the adjustments it deems necessary to achieve equity for the taxpayer.
2. Provide a "small claims procedure" so that the little taxpayer will not be forced to spend more on the appeal than he can save in tax relief.
3. Establish and fund state administered assessment ratio studies so that taxpayers will know the general level of assessment in their community and so that the courts will have some basis for evaluating taxpayer claims and adjusting taxpayer valuations when deemed to be excessive.
4. To avoid clogging the courts with frivolous appeals based on small and statistically insignificant deviations in assessments, the Legislature should consider establishing a statutory definition of an "inequitable assessment" - more than ten percent above the community average generally is deemed a reasonable measure of inequity.

A copy of the full League statement on this subject is available upon request.

Related to the question of taxpayer redress are two proposals which would specify that the Legislature "shall establish" a State board of equalization. CCP 61 (Coleman) specifically states that the board would "equalize valuation of property both within and between taxing authorities" and "hear and decide complaints concerning tax valuations." CCP 138 (Bales) also directs the Legislature to establish such a board which would enforce other provisions of the proposal, including a requirement that property taxes be equal and uniform either generally or (if approved by referendum) within specified classes. Presumably, the agency established under CCP 138 would have to be empowered to hear taxpayer appeals to effectively discharge its overall responsibilities.

Two closely related proposals are (1) CCP 141 (Salem) which directs the Legislature to create a "property tax auditing board" which would have as one of its responsibilities the enforcement of an equal and uniform provision applying to the property tax, and (2) CCP 168 (Sullivan) which establishes a Board of Assessment Appeals in the State Comptroller's Department to hear taxpayer complaints and adjust valuations to an equal and uniform basis.

#### PROPERTY TAX LIMITS

One of the oldest techniques for trying to hold the property tax to an acceptable level is the tax rate limit - i.e., the specification of the maximum *rate* of taxation which can be imposed. In Texas there are constitutional tax rate limits for the counties, the cities, and several types of special districts (hospitals, airport, fire protection, etc.). There are statutory rate limits for the school districts, junior college districts and water districts.



Since these various rate limits overlap one another and since there is no legal reason why assessments could not be set at full market value, they are not really effective in providing a realistic limit on the property tax. In a recent report, the League found that in some instances the total of all property taxes could be as high as 8.7 percent of the market value of property without violating either constitutional or statutory rate limits. On the other hand, the rate limits have been a factor in creating an extremely complex and wasteful system of property tax administration and they have promoted the proliferation of special purpose governments.

Most property tax students favor keeping tax rate limits out of the Constitution, and this was the recommendation of the CRC. On the other hand, there are those who believe that eliminating the rate limits from the Constitution will cause many taxpayers to vote against the document.

After examining the literature on the subject, the League (in its recent report) stated that a realistic tax rate limit would have the following characteristics:

1. It would be based on *market* value - a determinable figure not subject to manipulation by local officials.
2. It would be an *overall* limit applying to the sum of all taxes levied on the property and thus not subject to being circumvented by the creation of overlapping special purpose districts.
3. The limit should apply only to the levy for *operating* purposes; it should *not* apply to debt service levies. The reason is that the application of rate limits to debt service results in higher interest rates being paid on government bonds. In the long run, property taxpayers will pay more if limits apply to debt service levies.

The League report suggested constitutional language that would follow these principles and that language has now been introduced by Delegate Munson as CCP 62:

"The total of all ad valorem taxes, exclusive of taxes for debt service, levied on any property in this State shall not exceed two percent of the market value of such property. The Legislature shall have the power to apportion the limit herein prescribed among the various political subdivisions and may establish a lower overall limit."

It should be understood, of course, that a tax rate limit such as this cannot be administered and enforced unless the State undertakes to make annual studies of the assessment practices of each local jurisdiction and from these studies determines a defensible estimate of the market value against which the rate limit is to apply. Thus, assessment ratio studies would be virtually mandated if CCP 62 were adopted



just as they would be essential to make appeal to the courts for redress from inequitable assessments really effective under a provision such as that in CCP 94.

Assuming that the State did make such studies, the biggest problem would be the division of the limit between overlapping jurisdictions; i.e., within the overall limit, what should be the specific limit for the county, the city, the school district and for any special purpose districts?

Despite the technical and administrative problems, it is possible to make effective use of the overall, market value rate limit approach. New York State, for example, has enforced such a limit for some time, although it is statutory rather than constitutional.

Before leaving the subject of rate limits, it should be noted that CCP 109 (Finney and Mengden) would reinsert in the Constitution the existing property tax rate limits (based on assessed value) for counties and cities. The proposal does not speak to special district tax rate limits and does not fully reinstate the county rate limit, because it leaves out an optional 30¢ per \$100 valuation authorized in Art. VIII, Sec. 1-a of the present document. (CCP 108 by the same authors repeats the tax rate limit provisions of CCP 109 and has been referred to the Committee on Local Government.)

Convention Office  
A NEW CONSTITUTION FOR TEXAS?

# Research on Revision

prepared by the

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## PROPOSED FINANCE ARTICLE CONTEMPLATES REFORMS

A reform-minded Finance Committee has submitted its report and a proposed new Article VIII to the Constitutional Convention. Floor debate will follow completion of the Executive Article.\*

In brief, the highlights of the proposed Finance Article are:

1. It takes what a recent TRL report called the "essential first step in property tax reform" - and then goes well beyond that "first step."
2. It preserves intact the "pay as you go" provision of the present Constitution.
3. It tightens up the definition of state debt, but preserves the provision that requires voter approval before such debt can be created.
4. It is silent on the question of state income taxation, deleting the positive statement that such taxes may be levied (as in the present document) and also rejecting proposals that such taxes be prohibited without approval of the electorate.
5. It retains the dedication of highway-user funds, including the allocation of one-quarter of the motor fuels tax to the public schools. It also retains the dedication of one-fourth of the so-called "occupation" taxes to the Available School Fund, thus further complicating the problem of school finance equalization.

### THE PROPERTY TAX

*"Given an impossible tax law to administer and denied the authority and tools with which to work, local officials and tax assessors must be given a great deal of credit for making the system work at all."*

- Texas Committee on State and Local Tax Policy, 1967

*\*Note: In his letter transmitting the Finance Committee Report to the Convention, Chairman Neil Caldwell expressed thanks for the assistance of a panel of tax authorities (including James W. McGrew) "whose experience in the subject matter under consideration provided an invaluable resource to the Committee."*

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JAMES W. MCGREW, Executive Director



The "impossible tax law" stems from a provision in the present Constitution which states that *all* property must be taxed uniformly and in proportion to its value. *All* property clearly means what it says and includes real property (land and buildings), tangible personal property (motor vehicles, machinery, equipment, inventories, furniture, etc. ad infinitum) and - the problem area - *intangible personal property* (cash, bonds, stock, mortgages and other "paper" evidences of wealth). While there is an economic argument against taxing intangibles ad valorem, the real case against including them in the property tax base is that it has never been possible to successfully administer a tax on intangibles as part and parcel of a general property tax which includes all other types of property. Despite the present constitutional mandate, intangibles (with the exception of bank stock) are not now taxed by Texas local governments and, as a result, there is not a truly legal tax roll in the State.

The Finance Committee proposes the following language:

"Taxation shall be equal and uniform on all *real property* and *tangible personal property* and all such property shall be taxed in proportion to market value."

If adopted, the *mandatory* property tax base would consist of realty and tangible personalty and would leave it to the Legislature to deal with the question of intangibles as a separate issue. As the Committee Report points out, "The Legislature could choose from a variety of methods for taxing intangibles, including continuing an ad valorem tax or exempting some or all intangible property from the ad valorem tax and utilizing other, perhaps more successful, methods of taxation." Under the existing statutes, intangibles would remain legally taxable ad valorem until the Legislature decided to act; in actual fact, any tax successfully imposed on this property would represent a net gain since (again excepting bank stock) it is escaping taxation today, albeit illegally.

The proposed language also encompasses two other matters which are of considerable interest. The use of the term "equal and uniform" effectively rules out the enactment of a classified real property tax, and the Committee Report specifically calls attention to this as its purpose. In this respect the Committee differed with the Constitutional Revision Commission which would have left the door open to a classified tax under which commercial and industrial property might be assessed at a different ratio to value than residential and farm realty. Most property tax authorities would support the Finance Committee position.

Finally, this important section would require that property be taxed in proportion to *market* value rather than merely to "value." While this leaves the local jurisdictions free to select varying percentages of market value as the basis for their assessments, the use of this terminology, according to the Finance Committee commentary, will "make clear that the value of property is its market value and not an amount arbitrarily determined as a result of bargaining between a tax collector and a property owner." On its face, this appears to be a harmless attempt to attain a desirable goal. The possibility of problems arising from the



term should not be overlooked, however, for "market value" is a nebulous term in some instances:

"Industrial properties are not part of any market in the sense that residential properties are. When they are 'sold,' transfer considerations adjust, magnify, minimize or conceal any dollar amount that might be called the price....The need remains to find a better standard for valuing properties basically resistant to the concept of market value."\*

Standards for Appraisal. The proposed Article VIII directs the Legislature to "provide for the establishment and enforcement of appraisal standards and procedures which shall be applied uniformly throughout the state." Except that the language attempts to mandate legislative action, this probably confers no greater power on that body than the language of the present Constitution which states that value for ad valorem tax purposes "shall be ascertained as may be provided by law."

Unitary Appraisal. The Finance Committee was justifiably disturbed at the multiplicity of local governments that are involved in property tax administration - a recent count placed the total of counties, cities, school districts and special districts operating their own tax offices at 2,559 as of 1972. At the same time, the Committee recognized that any attempt to impose unitary *assessment* at one fell swoop would almost certainly create a chaotic condition in hundreds of local governments that have based their whole local financing plans on the fact that they control the level of the property assessments that form their tax base.

As an alternative, the Committee enacted a provision mandating unitary *appraisal* designed to have the market value of each parcel determined by a single appraiser. Each eligible taxing jurisdiction would use that appraisal or a specified percentage of it as the basis for the *assessed* value which it would tax.

Originally, the Committee proposed that the counties be the only appraisal authorities, but it was persuaded that many Texas counties are currently ill-equipped to assume such a responsibility. As an alternative, each county is "to provide for" appraisals, and the commentary explains that this may be done by contract with other jurisdictions within the county or with private appraisal firms.

Farmland Appraisals. The proposed Finance Article mandates ("the Legislature *shall*") the enactment of special formulas for the valuation of farm and ranch land and permits ("the Legislature *may*") similar treatment for timberland. The provision makes it clear that these formulas may be based upon the "productive capacity" of the land and provides for any limitations and sanctions (i.e., "rollback taxes" or restrictive

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\*Advisory Commission on Intergovernmental Relations, Financing Schools and Property Tax Relief - A State Responsibility (Washington, D. C., January 1973), pp. 73-74.

contracts to prevent abuse) that the Legislature may deem appropriate. The provision replaces an extremely detailed and cumbersome article in the present Constitution and wisely leaves the details of this complicated subject to legislative discretion.

Property Tax Exemptions. For the most part, the proposed Article VIII repeats in simpler language the exemptions found in the present Constitution. There are, however, these significant changes:

- All household goods and personal effects would be exempt from the property tax *unless* they were used to produce income. The present Constitution exempts only the first \$250 of assessed value of household and kitchen furniture, but assessors are unable to administer any tax on the remainder. This provision recognizes another aspect of the "impossible tax law" but does retain the taxable status of office furniture and furniture used in hotels, restaurants, furnished apartments, etc.
- A new exemption for nonprofit water supply corporations is provided despite the fact that a similar proposal was defeated in the general election of 1973.
- A new provision makes it clear that the Legislature has the power to enact "circuit breaker" statutes to provide residential property tax relief for the elderly, the disabled or the poor. Similar provisions - based on the relationship of property taxes to income - are in effect in 26 states and have been widely praised as the most efficient and fairest means of providing property tax relief for specific needy groups without undermining the tax base of local governments. (In line with the circuit breaker concept, the cost of any relief provided would be borne by the state government. This concept is muddled up, however, by the insertion of language which would permit the Legislature to authorize local option exemptions which would be a burden on local resources.)

Appeal From Inequitable Assessment. Recognizing that property owners have considerable trouble in finding effective relief in the state courts, the Finance Committee has added a provision in its draft of Article VIII clarifying the right of a taxpayer to appeal what he thinks is an inequitable assessment to the courts, and to get an adjustment in his assessment and a refund of taxes if the court finds for him. To qualify for the appeal, the taxpayer must exhaust all administrative remedies and must protest at the time he pays the tax.

Like some of the other reform measures recommended by the Committee, it is not absolutely essential that this be in the Constitution. On the other hand, so long as details are kept to a minimum, it does no great harm to give these provisions the dignity of constitutional status, and doing so may impel legislative action to make them truly effective. The important thing to keep in mind, however, is the fact that simply putting the basis for reform in the Constitution does not guarantee that it will become a reality. In the last analysis, property tax reform must stem from the Legislature, acting through statutory law.



## THE INCOME TAX ISSUE

It is probable that few Texans are aware of the fact that the Constitution of 1876, from the very beginning, has included a direct authorization for the Legislature to tax the incomes of "natural persons and corporations." In the CRC draft proposal, this authorization was carried forward with considerably more detail to make it clear that such a tax could be graduated and could be tied to definitions in the federal Internal Revenue Code. The Finance Committee agreed with the unanimous opinion of the experts it consulted and deleted this language as unnecessary.

The major income tax battle shaping up on the Convention floor may be over whether or not to include a provision which would *prohibit* the Legislature from enacting an income tax of any nature without an affirmative vote in a statewide referendum. A minority report signed by eight members of the Committee called for such a provision.

## STATE DEBT

Because the 1876 Constitution flatly prohibits state debt, it has been necessary to create state debt by repeated detailed amendments of the Constitution. That process requires a two-thirds vote by each House of the Legislature and approval of the electorate in referendum. The Finance Committee would retain these controls without change, but would make it possible to enact bond issues without inserting detailed statutory clutter into the Constitution itself.

The Committee report goes beyond this, however, to define state debt in terms that would make it impossible to evade the referendum provision by use of such devices as tuition or student-fee-supported bonds or by the creation of "authorities" which build facilities and then "rent" them to the State. While the goal of tightening up the definition of state debt appears to have unanimous support in the Committee, there are those who feel that facilities financed from student fees should not be included in the definition, and seven members signed a minority report that probably will form the basis for a floor debate on this item. The point at issue revolves around the creation of debt to build a library, gymnasium, or a student union and pledging the receipts from mandatory student fees levied for this specific purpose by the Trustees of the issuing institution. There is no difference of opinion over dormitories and other revenue-producing facilities - all agree that these should be excluded from the state debt definition.

## THE HIGHWAY FUND

Since 1946 the Texas Constitution has included a provision which dedicates certain so-called "highway user taxes" to the construction, maintenance, administration and policing of public roads. The dedication covers 75 percent of the net revenues of the motor fuels tax (the balance being dedicated to the Available School Fund) and all of the motor vehicle registration fees beyond those needed to satisfy the county shares in effect when the 1946 amendment was adopted.



The Finance Committee majority would continue the dedicated fund provision exactly as now written, but there are three minority reports differing with this decision. One (signed by nine members) would apply the dedication only to the present tax rates; revenue from any future tax increase (for example, raising the gasoline tax from 5¢ to 6¢ per gallon) would be allocated at the discretion of the Legislature. Another proposal (six signatories) would allow the Legislature to change the distribution - i.e., "undedicate" highway-user taxes by a two-thirds majority vote in each House. The final proposal (six signatories) would reword the present language to state that "not more than" 75 percent of the motor fuels tax is dedicated to use on the public roads, thus making it possible to reallocate the proceeds of this tax. This version would dedicate "not less than" 25 percent of the motor fuel tax to "free public schools" rather than to the Available School Fund - an important distinction discussed below.

In all, 11 members of the Finance Committee signed one or more of these anti-dedicated highway fund reports, and this would seem to foreshadow an active floor debate on the subject.

#### SCHOOL FINANCE IMPLICATIONS

As pointed out in Bulletin No. 4 of this series, the twin dedications of one-fourth of the motor fuel taxes and one-fourth of the "occupation" taxes to an Available School Fund which must be distributed on a "per capita" basis substantially compound the State's finance problems in any effort to equalize local school district resources. The per capita distribution of more than \$150 per student (with nearly 80 percent derived from the dedicated taxes) could add more than \$300 million to the State's equalization burden. The proposed Finance Article maintains both the motor fuel and the occupation tax dedications.

ARTICLE VIII

FINANCE

1       Sec. 1. TAXATION. State taxes may be levied and collected  
2       only by general law.

3       Sec. 2. AD VALOREM TAXATION. (a) Except as otherwise  
4       permitted in this article, all real and tangible personal property  
5       must be taxed equally and uniformly in proportion to market  
6       value.

7       (b) The legislature by general law shall provide for the  
8       establishment and enforcement of standards and procedures for the  
9       appraisal of property for ad valorem tax purposes. Established  
10      standards and procedures must be applied uniformly throughout  
11      the state. Except as limited by general law, a taxing authority  
12      levying a tax on property within a county may seek countywide  
13      enforcement of these standards and procedures.

14      (c) Each county shall provide for periodic appraisals  
15      of all taxable property within its boundaries. Each taxing  
16      authority imposing a tax on property within the county shall tax  
17      in proportion to the county appraisal. The costs and expenses  
18      of appraisals are to be allocated among the taxing authorities



1 in the manner prescribed by general law.

2 (d) Ad valorem taxes delinquent less than 10 years may not  
3 be released.

4 Sec. 3. AD VALOREM TAX EXCEPTIONS. (a) In order to promote  
5 the preservation of agricultural and forest land, the legislature  
6 by general law shall establish separate formulas for appraising  
7 farm or ranch open-space land devoted to agricultural production,  
8 may establish separate formulas for appraising forest land devoted  
9 to timber production, and may provide limitations and impose  
10 sanctions in furtherance of the appraisal policy of this section.

11 (b) The legislature by general law may permit the rolling  
12 stock of railroads to be assessed for ad valorem tax purposes by  
13 the county in which the principal office of the railroad is  
14 located and require the comptroller of public accounts to apportion  
15 on the basis of track mileage the assessed value of the rolling  
16 stock among the counties through which the railroad runs.

17 Sec. 4. AD VALOREM TAX EXEMPTIONS. (a) The following  
18 property is exempt from ad valorem taxation:

19 (1) State property except as otherwise provided by law;

20 (2) Property of political subdivisions of the state  
21 used for public purposes;

22 (3) Household goods and personal effects not used for  
23 the production of income; and

24 (4) Farm products in the hands of the producer and



1 family supplies for home and farm use.

2 (b) Each residential homestead is exempt from state ad  
3 valorem taxation in the amount of \$3,000 of appraised value.  
4 The legislature by law may increase this amount.

5 (c) The residential homestead of each person at least 65  
6 years old is exempt from ad valorem taxation in the amount of  
7 \$3,000 of assessed value in each taxing political subdivision.  
8 A political subdivision may increase this amount within its  
9 jurisdiction. In a political subdivision that has pledged its  
10 ad valorem tax for the payment of debt, a residential homestead  
11 exemption does not become effective if the exemption would impair  
12 the obligation of the contract under which the tax was pledged.

13 (d) Subject to such limitations, classifications, or  
14 exclusions as it may prescribe, the legislature by law may  
15 exempt from ad valorem taxation:

16 (1) Property used exclusively for educational or  
17 charitable purposes;

18 (2) Nonresidential property owned and used  
19 exclusively by organizations chartered by both the State of Texas  
20 and the United States whose membership is composed solely of  
21 former members of the armed services of the United States;

22 (3) Places of burial not held for profit;

23 (4) Property owned by a disabled veteran of the armed  
24 services of the United States, by the surviving spouse or minor

1 children of a disabled veteran of the armed services of the United  
2 States, or by the surviving spouse or minor children of a member  
3 of the armed services of the United States whose life was lost  
4 while on active duty;

5 (5) Actual places of religious worship;

6 (6) Property owned by a church or a strictly religious  
7 society for exclusive use as a dwelling place for the ministry  
8 of the church or religious society if the property yields no  
9 revenue to the church or religious society, but the exemption  
10 may not extend to more property than is reasonably necessary for  
11 a dwelling place and in no event to more than one acre of land; or

12 (7) Property owned by a nonprofit water supply  
13 corporation whose board of directors is elected by the members  
14 it serves if the property is not held for profit and is  
15 reasonably necessary for and is used in the acquisition, storage,  
16 transportation or distribution of water or in providing sewage  
17 or waste water treatment service.

18 Sec. 5. AD VALOREM TAX RELIEF. (a) The legislature by  
19 law may grant relief from residential ad valorem taxes payable  
20 directly or indirectly by persons determined to be in need of  
21 relief because of economic circumstance and either age or dis-  
22 ability. A law granting relief must provide either that political  
23 subdivisions are reimbursed for revenue losses or that relief  
24 applies to the ad valorem taxes of a political subdivision only



1 if the political subdivision approves.

2 (b) The legislature by law may provide for the preservation  
3 of cultural, historical, or natural history resources by:

4 (1) Granting relief from state ad valorem taxes on  
5 appropriate property so designated in the manner prescribed by  
6 law; or

7 (2) Authorizing political subdivisions to grant relief  
8 from ad valorem taxes on appropriate property so designated by  
9 the political subdivision in the manner prescribed by general law.

10 Sec. 6. AD VALOREM TAX ACTIONS. Notwithstanding other  
11 remedies and appeals provided by law, an owner of property,  
12 after the exhaustion of administrative remedies, may pay under  
13 protest ad valorem taxes due on that property and sue for a  
14 refund in a district court. In a suit for a refund of taxes, a  
15 court has the duty of entering those orders necessary to ensure  
16 equal treatment under the law, including refunds of taxes,  
17 equalization of property appraisals and assessments within the  
18 taxing authority, and other orders as provided by law.

19 Sec. 7. ALLOCATIONS AND USES OF CERTAIN REVENUES. (a) Each  
20 county receives from the net revenue derived annually from state  
21 motor vehicle registration fees attributable to the county an  
22 amount prescribed by general law but that amount must be at least  
23 equal to all fees collected up to \$50,000 and 50 percent of the  
24 next \$250,000 of fees collected.



1 (b) Net revenue from state motor vehicle registration fees  
2 not retained by the counties and three-fourths of the net revenue  
3 derived from state taxes on motor fuels and lubricants used to  
4 propel motor vehicles over public roadways, except gross pro-  
5 duction and ad valorem taxes, may be appropriated only for  
6 (1) acquisition of rights-of-way for, (2) construction of, (3)  
7 maintenance of, (4) administration of laws pertaining to super-  
8 vision of traffic or safety on, or (5) policing of, public roadways.

9 (c) One-fourth of the net revenue from the motor fuel tax and  
10 from state occupation taxes is dedicated to the Available School  
11 Fund.

12 Sec. 8. STATE DEBT. (a) State debt may be incurred only as  
13 authorized in this constitution.

14 (b) "State debt" means bonds or other evidences of  
15 indebtedness that are secured by the general credit of the state  
16 or are to be repaid from taxes, fees, tuition, or other charges  
17 of the state, a state senior college or university, or a state  
18 agency or institution having statewide jurisdiction. "State  
19 debt" does not include bonds or other evidences of indebtedness  
20 issued to finance a project if the debt is payable solely from  
21 revenues generated by the project.

22 (c) State debt may be authorized by law if approved by a  
23 record affirmative two-thirds vote of the membership of each house  
24 of the legislature and submitted to and approved by a majority of

1 the qualified voters voting on the question.

2 (d) State debt may be authorized by law to refund out-  
3 standing state debt.

4 Sec. 9. APPROPRIATIONS. (a) No money may be drawn from  
5 the state treasury except in accordance with specific appropriation  
6 made by law. No law may appropriate money from the state treasury  
7 for a purpose not previously authorized by law.

8 (b) No appropriation of money from the state treasury may  
9 be made for a period longer than two years.

10 (c) Upon the convening of the legislature in regular  
11 session, the comptroller of public accounts shall submit to the  
12 governor and the legislature a report that shows (1) the condition  
13 of the treasury at the end of the preceding fiscal period, (2) an  
14 estimate of the probable receipts and disbursements for the  
15 current fiscal year, (3) an itemized estimate of anticipated  
16 revenues for the next applicable fiscal period, and (4) other  
17 information required by law. Upon the convening of a special  
18 session of the legislature, the comptroller of public accounts  
19 shall submit a report showing changes from the regular report  
20 previously submitted. In the event of changes at other times,  
21 the comptroller of public accounts shall report the changes to  
22 the governor and to the members of the legislature.

23 (d) No bill containing an appropriation may be  
24 considered as passed or be presented to the governor unless the



1 comptroller of public accounts has certified that the amount  
2 appropriated is within the estimated revenue for the applicable  
3 fiscal period or unless the appropriation is made in response  
4 to imperative public necessity and approved by a record  
5 affirmative four-fifths vote of the membership of each house  
6 of the legislature.

7 Sec. 10. PUBLIC FUNDS. Public money and public credit may  
8 be used only for public purposes. No public funds or public  
9 credit may be used to influence the election of a public officer.

10 Sec. 11. REPORT OF DEDICATED FUNDS. The legislature  
11 shall provide by law for an annual report of the receipts and  
12 expenditures of constitutionally dedicated funds.

13  
14  
15  
16  
17 SEPARATE PROPOSAL  
18

19 As an amendment to the 1876 constitution:

20 That portion of the net revenues from taxes on motor  
21 fuels and lubricants used to propel motor vehicles over public  
22 roadways, except gross production and ad valorem  
23 taxes, derived from increases in the respective rates  
24 of these taxes over the rates in effect on November 5,



1 1974, is to be allocated one-fourth to the Available School  
2 Fund and three-fourths to general revenue.

3 As additional words to Sec. 7 of the proposed constitution:

4 (b) Net revenue from state motor vehicle registration fees  
5 not retained by the counties and three-fourths of the net  
6 revenue derived from that portion computed at the tax rates in  
7 effect on November 5, 1974, of state taxes on motor fuels and  
8 lubricants used to propel motor vehicles over public roadways,  
9 except gross production and ad valorem taxes, may be appropri-  
10 ated only for (1) acquisition of rights-of-way for, (2) con-  
11 struction of, (3) maintenance of, (4) administration of laws  
12 pertaining to supervision of traffic or safety on, or (5)  
13 policing of, public roadways.

14 (c) One-fourth of the net revenue from (1) state  
15 occupation taxes, (2) the motor fuel tax computed at the  
16 tax rate in effect on November 5, 1974, and (3) that portion  
17 of the net revenue from taxes on motor fuels and lubricants  
18 used to propel motor vehicles over public roadways, except  
19 gross production and ad valorem taxes, derived from increases  
20 in the respective rates in effect on November 5, 1974, are  
21 dedicated to the Available School Fund. The balance of the  
22 net revenue derived from increases in these taxes is general  
23 revenue.  
24

## FINANCE

### EXPLANATION

The problems are solved by limiting Section 1 to "state taxes." The new formulation raises a possible question concerning



1 a special district or authority that has been denominated a  
2 "state agency." If the legislature wishes to give a state agency  
3 taxing power, the power would have to be by general law. If the  
4 legislature wished to give taxing power to a particular authority,  
5 this could be done by making the authority a political subdivision.  
6 This, of course, would bring the local government article into  
7 operation. Under that article voter approval is required for ad  
8 valorem taxes and for bond issues payable from ad valorem taxes.

9 It should also be noted that the problems discussed here did  
10 not arise under the 1876 constitution because every local law  
11 exception to the equivalent section (Section 3 of Article VIII)  
12 was added by amendment. This could be construed to be a particu-  
13 lar provision that superseded the preexisting general provision.  
14 (See Brown v. Memorial Villages Water Authority, 361 S.W. 2d 453  
15 (Tex. Civ. App.--Houston 1962, writ ref'd n.r.e..) )

16  
17  
18  
19  
20 Sec. 2. AD VALOREM TAXATION. (a) ~~[Taxation shall be equal~~  
21 ~~and-uniform-on]~~ <sup>(1)</sup> Except as otherwise permitted in this article,  
22 all real [property] and tangible personal property ~~[and-all-such~~  
23 ~~property]~~ <sup>(2)</sup> must [shall] be taxed equally and uniformly in  
24 proportion to market value.



1           (b) ~~[For-all-ad-valorem-tax-purposes,]~~ The ~~[the]~~ legislature  
2 by general law shall provide for the establishment and enforcement  
3 of ~~[appraisal]~~ standards and procedures for the appraisal of  
4 property for ad valorem tax purposes. Established standards and  
5 procedures must ~~[which-shall]~~ be applied uniformly throughout the  
6 state. <sup>(3)</sup> Except as limited by general law, a taxing authority  
7 levying a tax on property within a county may seek countywide  
8 enforcement of these standards and procedures. <sup>(4)</sup>

9           (c) Each county shall provide for ~~periodic~~ <sup>(5)</sup> ~~appraisals~~ <sup>an</sup>  
10 ~~appraisal]~~ of all taxable property within its boundaries. Each  
11 ~~[All]~~ taxing authority ~~[authorities]~~ imposing a tax on property  
12 within the county shall tax in proportion to ~~the~~ <sup>this</sup> ~~[this]~~  
13 ~~county~~ appraisal ~~[and-shall-have-the-power,-subject-to-limitation~~  
14 ~~by-general-law,-to-seek-countywide-enforcement-of-the-application~~  
15 ~~of-the-appraisal-standards-and-procedures-established-under~~  
16 ~~Subsection-(b)]~~. <sup>(4)</sup> The costs and expenses of ~~[the]~~ ~~appraisals~~  
17 ~~[appraisal]~~ are to ~~[shall]~~ be allocated among the taxing  
18 authorities in the manner prescribed ~~[as-shall-be-provided]~~ by  
19 general law. <sup>(6)</sup>

20           (d) ~~[The-legislature-may-not-release]~~ Ad ~~[ad]~~ valorem taxes  
21 ~~[unless]~~ delinquent less than ~~[at-least]~~ 10 years may not be  
22 released. <sup>(7)</sup>

23           ~~[(e)--The-rolling-stock-of-railroads-may-be-assessed-in-gross~~  
24 ~~in-the-county-where-the-principal-office-of-the-company-is~~

1 located, and the county tax paid upon it shall be apportioned by  
2 the Comptroller, in proportion to the distance such road may run  
3 through any such county, among the several counties through which  
4 the road passes, as a part of their tax assets.] (8)

6 EXPLANATION

7  
8 (1) The "except" clause removes the "conflict" between  
9 taxing all property equally and uniformly and the sections  
10 granting and permitting exemptions, exceptions, and relief.

11 (2) In the context of this subsection "equal and uniform"  
12 applies only to the taxation of property "in proportion to market  
13 value." Turning "equal" and "uniform" into adverbs modifying the  
14 verb "tax" makes clear the relationship between equal and uniform  
15 taxation of property and taxation in proportion to market value.

16 (3) The changes in this subsection are in part stylistic and  
17 in part to conform to the committee's drafting rules.

18 (4) This sentence has been moved from Subsection (c). The  
19 delegated power relates to Subsection (b) rather than to  
20 Subsection (c). This is demonstrated by the cross-reference in  
21 the original wording.  
22  
23  
24



1 (5) "Periodic" has been added and "appraisal" made plural  
2 to avoid the argument, strained though it would be, that the  
3 constitutional mandate covers only a "one-shot" appraisal.

4 (6) The changes conform to the committee's drafting  
5 standards. (For "shall" see note (2) to Section 2 of Article VI;  
6 for "manner prescribed" see note ( ) to Section of Article .

7 (7) This redraft is stylistic only.

8 (8) This subsection has been moved to Section 3 and made  
9 Subsection (b) of that section.

10  
11  
12  
13 (1)  
14 Sec. 3. AD VALOREM TAX EXCEPTIONS [APPRAISAL-FOR-LAND  
15 PRESERVATION]. (2) (a) In order to promote the preservation of  
16 agricultural and forest land, the [The] legislature by general  
17 law shall establish [prescribe] separate formulas for appraising  
18 [the-appraisal-of-land-to-promote-the-preservation-of] farm or  
19 ranch open-space land devoted to agricultural production [farm-or  
20 ranch-purposes,-and] , may establish [by-general-law-may-prescribe]  
21 separate formulas for appraising forest land devoted to timber  
22 production, and may provide limitations and impose sanctions  
23 in furtherance of the appraisal policy of this section [the  
24 appraisal-of-land-to-promote-the-preservation-of-forest-land  
devoted-to-timber-production].



(b)<sup>(3)</sup> The legislature by general law may permit the rolling stock of railroads to be assessed for ad valorem tax purposes by the county in which the principal office of the railroad is located and require the comptroller of public accounts to apportion on the basis of track mileage the assessed value of the rolling stock among the counties through which the railroad runs.

[~~(b)--In passing laws pursuant to this section, the legislature by general law may provide for the appraisal of land on the basis of productive capacity and may prescribe all limitations and sanctions as may be appropriate.~~]

### EXPLANATION

(1) The title of the section has been changed to reflect the true purpose of the two subsections. Each subsection is an exception to the constitutional mandate set forth in Section 1(a).

(2) The redraft contains three changes of significance:

(1) the verb "establish" has been substituted for "prescribe" to parallel the wording of Section 2(b); (2) the words "agricultural production" have been used to emphasize that the purpose of the section is both to promote preservation of open-space land and to promote production of agricultural products; and (3) the permission to appraise on the basis of productive capacity has been omitted as unnecessary. In this last instance it is important to note

1 that inclusion of an unnecessary power raises a question whether  
2 other powers are limited or denied. The formulas under this  
3 section may very well be based on productive capacity, but there  
4 are other possible formulas and it seems inappropriate to single  
5 out only one.

6 The power to "provide limitations and impose sanctions"  
7 is constitutionally necessary. It permits the legislature to  
8 limit the availability of preferred treatment. For example,  
9 under Section 1-d of Article VIII of the present constitution  
10 only a natural person whose primary occupation is agricultural  
11 and whose primary income is from that occupation qualifies. It  
12 also permits the recoupment of lost taxes in a situation where  
13 an owner disposes of his land for a price higher than the pre-  
14 ferred appraised value. Section 1-d of the present constitution  
15 also permits recoupment. Limitations and sanctions like these  
16 are inconsistent with equality and uniformity.

17 Section 1-d is self-operative. It will be preserved in the  
18 transition schedule until the legislature acts under the new  
19 constitution.

20 (3) The subsection as adopted on second reading consisted  
21 of the second sentence of Section 8 of Article VIII of the 1876  
22 constitution. That sentence is ambiguous. It seems to say that  
23 the county of the principal office of the railroad collects the  
24 county tax on all rolling stock and that the comptroller



1 apporitions the tax receipts. Since 1879 an implementing statute  
2 has provided otherwise. Under the statute the rolling stock is  
3 assessed in one county and the assessed valuation apportioned  
4 by the comptroller.

5 The committee is advised that the subsection is included  
6 to permit continuation of the statutory system. This system can  
7 be continued only by an explicit constitutional provision  
8 because, unless every county with trackage uses the same  
9 assessment ratio and the same tax rate, the rolling stock is not  
10 taxed equally and uniformly in proportion to market value.

11 Since a reader could not know from reading the original  
12 subsection what it meant or why it is in the constitution, it is  
13 appropriate to redraft it in terms of the system that is to be  
14 permitted to continue. This is what the redraft does.

15  
16  
17  
18  
19 (1)  
20 Sec. 4. AD VALOREM TAX EXEMPTIONS. (a) The following  
21 property is ~~[There-shall-be]~~ exempt from ~~[all]~~ ad valorem  
22 taxation:

23 (1) State ~~[The]~~ property ~~[of-the-state]~~ except as  
24 otherwise provided by law; ~~[and]~~



1           (2) Property of political subdivisions of the state  
2 used for public purposes;

3           (3) <sup>(4)</sup> [~~42~~--~~44~~] Household [~~household~~] goods and personal  
4 effects not used for the production of income; and

5           <sup>(5)</sup> [~~43~~--~~44~~] Farm [~~farm~~] products in the hands of the  
6 producer and family supplies for home and farm use.

7           <sup>(1)</sup> (b) Each residential homestead is [~~There-shall-be~~] exempt  
8 from state ad valorem taxation in the amount of [~~at-least~~]  
9 \$3,000 [~~as-may-be-provided-by-general-law~~] of [~~the~~] appraised  
10 value [~~of-all-residence-homesteads~~]. The legislature by law  
11 may increase this amount.

12           <sup>(2)</sup> (c) The residential homestead of each person at least 65  
13 years old is exempt from ad valorem taxation in the amount of  
14 \$3,000 of assessed value in each taxing political subdivision.  
15 A political subdivision may increase this amount within its  
16 jurisdiction. In a political subdivision that has pledged its  
17 ad valorem tax for the payment of debt, a residential homestead  
18 exemption does not become effective if the exemption would impair  
19 the obligation of the contract under which the tax was pledged.

20           (d) [e] Subject to such limitations, classifications, or  
21 [~~and~~] exclusions as it may prescribe, the legislature by [~~general~~] <sup>(3)</sup>  
22 law may exempt from ad valorem taxation:

→ 23           (1) Property used exclusively for educational or  
24 charitable purposes; [7]

(2) Nonresidential [~~nonresidential~~] property owned  
(4)  
and used exclusively by organizations chartered by both the State  
of Texas and the United States whose membership is composed  
solely of former members of the armed services of the United  
States; ~~-(7-er)~~

(3) Places [~~places~~] of burial not held for profit;

(4) [+2+] Property owned by a disabled veteran of the armed services of the United States, by the surviving spouse or minor children of a disabled veteran of the armed services of the United States, or by the surviving spouse or minor children of a [any] member of the armed services of the United States whose life was lost while on active duty;

(5)  
(5) [~~43~~] Actual places of religious worship;

(6) ~~[(4)---Any]~~ Property [property] owned by a church or [by] a strictly religious society for [the] exclusive use as a dwelling place for the ministry of the [such] church or religious society if the property yields no revenue to the church or religious society, but the [such] exemption may [shall] not extend to more property than is reasonably necessary for a dwelling place and in no event to more than one acre of land; or [and]

(7) [(+)] Property [~~not held for profit~~] owned by a nonprofit water supply corporation [7] whose board of directors is elected by the members it serves [~~which~~] if the property is not held for profit and is reasonably necessary for [7] and is



1 used in the acquisition, storage, transportation or [and]  
2 distribution of [7] water or [is-used] in providing sewage or  
3 waste water treatment service.

4 ~~[(d)--Each political subdivision of the state shall exempt~~  
5 ~~by its own action not less than \$3,000 of the assessed value of~~  
6 ~~residence homesteads of married or unmarried persons 65 years of~~  
7 ~~age or older, including those living alone, from all ad valorem~~  
8 ~~taxes levied by the political subdivision.--Where any ad valorem~~  
9 ~~tax has theretofore been pledged for the payment of any debt, the~~  
10 ~~taxing officers of the political subdivision shall have authority~~  
11 ~~to continue to levy and collect the tax against the homestead~~  
12 ~~property at the same rate as the tax so pledged until the debt~~  
13 ~~is discharged, if the cessation of the levy would impair the~~  
14 ~~obligation of the contract by which the debt was created.]~~

15 [(e) -- See Section 5 below.]

16 [(f) -- See Section 5 below.]

17  
18 EXPLANATION

19  
20 (1) The changes in Subsections (a) and (b) are either  
21 stylistic or in accordance with the committee's drafting rules.  
22 In Subsection (b) the adjective "general" has been deleted because  
23 the committee uses the adjective only when the context creates  
24 an ambiguity in the term "by law." (See note ( ) to Section



1 of Article .) In the context here an increase in an  
2 exemption would always be by general law.

3 (2) This was Subsection (d). It has been moved in order to  
4 group all constitutional grants ahead of the subsection permitting  
5 exemptions. The extensive redraft contains two major changes that  
6 are not substantive in ultimate effect but are ostensibly  
7 "substantive" in that they cut out unnecessary steps in reaching  
8 the desired effect.

9 The first sentence of the redraft simply grants the exemption  
10 directly instead of imposing a duty on every political subdivision  
11 to take affirmative action to grant the exemption. In the  
12 redraft only the term "residential homestead" is used. That term  
13 is defined in Section of Article X.

14 The third sentence goes directly to the point. An exemption  
15 may not impair the obligation of a contract. (Indeed, this would  
16 be true even if the third sentence were omitted.) All that need  
17 be put into the constitution is this ultimate limitation. A tax  
18 officer has the power to ignore the purported exemption whether  
19 the power is specifically granted as in the original draft or is  
20 necessarily implied as in the redraft. In both cases the power  
21 is not discretionary; the tax must continue to be collected  
22 because of a fact--the tax is pledged by contract.

23 (3) See note (1) above.

24 (4) "Both" makes it explicit that "and" in this context

1 means that the organizations must have both a national and a  
2 state charter.

3 (5) This is a rare instance where a meaningless adjective  
4 is not deleted. A place of worship is obviously "actual." But  
5 if the adjective were removed, an argument could be made that a  
6 change in meaning from the 1876 constitution was intended.

7  
8  
9  
10  
11  
12  
13 <sup>(1)</sup>  
14 Sec. 5. AD VALOREM TAX RELIEF. (a) ~~[t]~~ The legislature  
15 <sup>(2)</sup>  
16 by ~~[general]~~ law may grant ~~[provide]~~ relief ~~[7-including-tax~~  
17 <sup>(3)</sup>  
18 ~~meratoriums]~~ from residential ad valorem taxes payable directly  
19 <sup>(4)</sup>  
20 or indirectly by ~~[for]~~ persons determined to be in need of ~~[such]~~  
21 <sup>(5)</sup>  
22 relief because of economic circumstance and either age or dis-  
23 ability ~~[and-economic-circumstance]~~. A ~~[Any-such]~~ law granting  
24 relief must ~~[shall]~~ provide either that ~~[for-reimbursement-of]~~  
<sup>(1)</sup> political subdivisions are reimbursed for revenue losses ~~or~~  
*caused by such relief or* <sup>(2)</sup> ~~[caused-by-such-relief-or-shall-provide]~~ that ~~[no-such]~~ relief  
[~~shall~~] applies ~~[apply]~~ to the ad valorem taxes of a political  
subdivision only if ~~[unless-approved-by]~~ the political subdivision  
approves.



(6)  
1       (b) [~~+~~+] The legislature by [~~general~~] law may provide for  
2 the preservation of cultural, historical, or natural history  
3 resources by:

(7)  
4       (1) Granting [~~tax~~] relief [~~or-exemption~~] from state ad  
5 valorem taxes on [~~for~~] appropriate property [~~which-shall-be~~] so  
6 designated in the manner prescribed [~~as-provided~~] by [~~general~~]  
7 law; or [~~and~~]

(8)  
8       (2) Authorizing political subdivisions [~~of-the-state~~]  
9 to grant [~~tax~~] relief [~~or-exemption~~] from ad valorem taxes [~~of-the~~  
10 ~~political-subdivision~~] on [~~for~~] appropriate property [~~which-shall~~  
11 ~~be~~] so designated by the political subdivision in the manner  
12 prescribed [~~as-provided~~] by general law.

#### EXPLANATION

15  
16       (1) Subsections (e) and (f) of Section 4 are logically  
17 different from the balance of the section, which deals only with  
18 exemptions. These two subsections permit the granting of tax  
19 relief. "Relief" is a comprehensive term that includes total or  
20 partial exemption, a direct reduction of a tax, a moratorium on  
21 payment of taxes, or a different method of valuation of property.

22       (2) See note (1) to Section 4.

23       (3) "Relief" is a comprehensive term. It would include a  
24 tax moratorium. To insert "including tax moratoriums" is to cast



1 doubt on the meaning of "relief" because the implication would  
2 be that whatever "relief" normally means it means something  
3 else in this subsection since "moratorium" had to be set forth  
4 specifically. For this reason "including tax moratoriums" has  
5 been deleted as both unnecessary and confusing. See also note  
6 (1) above.

7 (4) In the context the word "for" clearly implies that  
8 relief may be granted to persons in need whether they own  
9 property and thus pay property taxes or rent property and thus  
10 indirectly pay property taxes. The new formulation makes this  
11 explicit.

12 (5) The floor amendment on second reading was clearly  
13 designed to limit tax relief to those needy people who are also  
14 disabled or of some undefined age.

15 (6) See note (1) to Section 4 and note (8) below.

16 (7) As pointed out in note (1) above, "relief" is a  
17 comprehensive term that includes exemption. See also note (3)  
18 above.

19 (8) In this case "general" is retained in order to make  
20 it clear that the method of designation cannot vary from political  
21 subdivision to subdivision. The authorization to grant relief  
22 clearly must be by general law because the authorization is to  
23 political subdivisions. If, under the normal drafting preference  
24 for the singular, the authorization were to "a" political

1 subdivision, the words preceding the colon would have to be "by  
2 general laws."

3  
4  
5  
6 Sec. 6 [5]. AD VALOREM TAX ACTIONS<sup>(1)</sup> [APPEALS]. Notwith-  
7 standing [~~in-addition-to~~] other remedies and appeals provided by  
8 law, an owner of [~~every person-owning~~] property, [~~subject-to-ad~~  
9 ~~valorem-taxation-is-entitled~~], after the exhaustion of administra-  
10 tive remedies, may [~~te~~] pay under protest ad valorem taxes due on  
11 that [~~such~~] property [~~under-protest~~] and sue for a refund in [~~te~~  
12 ~~appeal-to~~] a district court [~~of-record-of-competent-jurisdiction~~  
13 ~~for-rehearing-of-the-appraisal-of-the-property-and-the-assessment~~  
14 ~~of-the-tax-in-trial-de-novo-in-the-same-manner-and-to-the-same~~  
15 ~~extent-as-though-the-matter-had-been-committed-to-the-courts-in~~  
16 ~~the-first-instance-and-there-had-been-no-intervening-adminis-~~  
17 ~~trative-or-executive-action-or-decision~~]. In a suit for a refund  
18 of taxes, a [~~The~~] court has the duty of entering those [~~shall-make~~  
19 ~~all-such~~] orders [~~as~~] necessary to ensure equal treatment under  
20 the law, including refunds of taxes, equalization of property  
21 appraisals and assessments within the taxing authority, and [~~such~~]  
22 other orders as [~~may-be~~] provided by law.  
23  
24



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It should be noted that the suit for refund is not limited to personal relief for the individual taxpayer. Neither the original wording in terms of an appeal for a refund nor the redraft in terms of a simple lawsuit for a refund by themselves would have turned the action into a general device for correcting improper administration of the tax laws. It is the final



1 sentence of the section that imposes a duty on the court to take  
2 action beyond entering judgment for or against a refund.

3 (2) The committee is advised that in using "court of record  
4 of competent jurisdiction," the Committee on Finance had in mind  
5 the district court. Since this section is a self-operative grant  
6 of the right to bring a lawsuit and since the proposed judiciary  
7 article lets the legislature determine the jurisdiction of the  
8 several courts, the intended court is specified so that the  
9 constitutional right is not subject to legislative change.

10  
11  
12  
13 (1)  
14 Sec. 7 [6]. ALLOCATIONS AND USES OF CERTAIN REVENUES.

15 (a) Each county receives from the net revenue derived annually  
16 from state motor vehicle registration fees attributable to the  
17 county an amount prescribed by general law but that amount must  
18 be at least equal to all fees collected up to \$50,000 and 50  
19 percent of the next \$250,000 of fees collected.

20 (b) Net revenue from state motor vehicle registration fees  
21 not retained by the counties and three-fourths of the net revenue  
22 derived from state taxes on motor fuels and lubricants used to  
23 propel motor vehicles over public roadways, except gross  
24 production and ad valorem taxes, may be appropriated only for

1 (1) acquisition of rights-of-way for, (2) construction of,  
2 (3) maintenance of, (4) administration of laws pertaining to  
3 supervision of traffic or safety on, or (5) policing of, public  
4 roadways.

5 (c) One-fourth of the net revenue from the motor fuel tax  
6 and from state occupation taxes is dedicated to the Available  
7 School Fund.

8 [~~(a) -- Subject to legislative appropriation, allocation, and~~  
9 ~~direction, all net revenues remaining after payment of all refunds~~  
10 ~~allowed by law and expenses of collection derived from motor~~  
11 ~~vehicle registration fees, and all taxes, except gross production~~  
12 ~~and ad valorem taxes, on motor fuels and lubricants used to propel~~  
13 ~~motor vehicles over public roadways, shall be used for the sole~~  
14 ~~purpose of acquiring rights of way, constructing, maintaining,~~  
15 ~~and policing such public roadways, and for the administration of~~  
16 ~~such laws as may be prescribed by the legislature pertaining to~~  
17 ~~the supervision of traffic and safety on such roads, and for the~~  
18 ~~payment of the principal and interest on county and road district~~  
19 ~~bonds or warrants voted or issued prior to January 27, 1939, and~~  
20 ~~declared eligible prior to January 27, 1945, for payment out of~~  
21 ~~the County and Road District Highway Fund under existing law,~~  
22 ~~provided, however, that one-fourth of such net revenue from the~~  
23 ~~motor fuel tax shall be allocated to the Available School Fund,~~  
24 ~~and provided, however, that the net revenue derived by counties~~



1 from-motor-vehicle-registration-fees-shall-never-be-less-than-the  
2 maximum-amounts-allowed-to-be-retained-by-each-county-and-the  
3 percentage-allowed-to-be-retained-by-each-county-under-the-laws  
4 in-effect-on-January-1, 1945.--Nothing-contained-herein-shall-be  
5 construed-as-authorizing-the-pledging-of-the-state's-credit-for  
6 any-purpose.

7 (b)--The-legislature-may-allocate-and-dedicate-the-receipts  
8 from-other-state-taxes-not-dedicated-by-this-constitution-to-be  
9 used-for-the-support-of-mass-transportation,--and-may-authorize  
10 the-establishment-of-local-mass-transit-authorities.--Local-general  
11 obligation-bond-issues-for-mass-transportation-purposes-shall-be  
12 subject-to-approval-by-voters-in-the-affected-jurisdiction.

13 (c)--In-addition-to-revenues-dedicated-elsewhere-in-this  
14 constitution,--one-fourth-of-the-revenue-from-state-occupation  
15 taxes-is-dedicated-to-the-Available-School-Fund.]

#### 17 EXPLANATION

18  
19 (1) The extensive redraft serves two purposes: one, to make  
20 the provision more readable, and two, to make explicit what was  
21 implicit. The points to be noted are:

22 (a) The formula for sharing registration fees has  
23 been set forth. This avoids requiring the reader to look up a  
24 statute to find out how much counties retain. It takes no more



1 words to set out the formula than it does to describe it. Since  
2 the original formulation started out "shall never be less than,"  
3 it follows that the legislature has full power to increase the  
4 amount that can be retained by counties. This has been made  
5 explicit. Since this sharing covers "each" county, the term  
6 "general law" is used.

7 (b) Since the original formulation began "subject to  
8 appropriation," it follows that the restriction is on the use to  
9 which the revenues may be put. In other words, there is no  
10 command to appropriate all receipts every appropriation period;  
11 there is only a prohibition on appropriating the revenues for any  
12 except the stated purposes. The opening words of the original  
13 formulation make it clear that only state taxes are covered, for  
14 the legislature can hardly appropriate local taxes. Thus, "state"  
15 has been added in the first sentences of the redrafted  
16 Subsections (a) and (b).

17 (c) The reference to the County and Road District  
18 Highway Fund has been deleted here. The committee is advised that  
19 the last bonds will be retired by 1977. A reference here would  
20 preserve permanently a provision that becomes obsolete two or  
21 three years after the constitution is adopted. The proper way to  
22 handle the bond fund is in the transition schedule. The provision  
23 in the schedule would simply provide that, until the last bond is  
24 retired, payment of principal and interest is one of the purposes

1 for which revenue from registration fees and motor fuel taxes may  
2 be appropriated.

3 (d) The final sentence of the original Subsection (a)  
4 has been omitted as unnecessary. To pledge the state's credit is  
5 to incur debt. Section 6 permits debt to be incurred only as  
6 authorized in the constitution. By no stretch of the imagination  
7 can Section 5 be construed to authorize the pledging of the  
8 state's credit. Indeed, there is nothing to pledge; Section 5  
9 does not require the legislature to charge any particular  
10 amount for motor registration or to levy any taxes on motor fuels.

11 (e) The first sentence of the original Subsection (b)  
12 has been deleted as an unnecessary grant of power to the legis-  
13 lature. The legislature can always dedicate a tax in the sense  
14 of announcing that, until it changes its mind, it will appropriate  
15 at least the revenue from the tax for the dedicated purpose.

16 (There is no indication in the report of the Committee on Finance  
17 that the purpose of the deleted sentence was to authorize  
18 appropriations for an indefinite future in contravention of  
19 Section 9(b).) Likewise, there is no need to grant the authority  
20 to establish mass transit authorities. In any event, the power  
21 happens to have been granted indirectly by Section 7(a) of  
22 Article IX.

23 The report of the Committee on Finance states that the  
24 sentence is necessary to "prevent any possibility that courts in



1 the future would hold that mass transit would not be considered a  
2 public purpose." This is a groundless fear. If the construction  
3 of highways with tax revenues is a public purpose, subsidizing or  
4 operating a mass transit system is equally a public purpose, for  
5 they are simply two methods of providing transportation. The  
6 Committee on Style and Drafting is particularly careful to avoid  
7 an unnecessary grant of power because the inference may arise that  
8 other powers not granted are by implication denied. Likewise, to  
9 include an unnecessary power in order to be sure that it is  
10 recognized as a public purpose raises a question whether every  
11 public purpose must be spelled out in the constitution. In any  
12 event, the second sentence of the original subsection covers  
13 "public purpose." (See the discussion below.)

14 The Committee on Finance also expressed the view that the  
15 sentence is "necessary to insure that the state would not be  
16 prevented from making grants to local subdivisions" for mass  
17 transportation. Actually, the sentence does not speak to this,  
18 but in any event there is no constitutional prohibition on grants-  
19 in-aid. (There is one in the 1876 constitution, but it has not  
20 prevented all grants-in-aid. See Section 51 of Article III.)  
21 Again, if the sentence were left in for this purpose, the question  
22 would arise whether all other possible grants-in-aid were  
23 prohibited.

24 The second sentence of the original Subsection (b) is a



1 proper limitation. Since it deals with political subdivisions it  
2 has been moved to Article IX and made a subsection of Section 10  
3 of that article. As an incidental by-product of the sentence,  
4 the limitation nails down the public purpose of mass transporta-  
5 tion, for a provision requiring voter approval of bonds for mass  
6 transportation necessarily implies that the purpose is a public  
7 one.  
8  
9  
10  
11

12 Sec. 8 [7]. STATE DEBT. (a) [~~No~~] State [~~state~~] debt may  
13 [~~shall~~] be incurred only as [~~unless~~] authorized [~~as-provided~~] in  
14 this constitution.

15 (b) "State debt" [~~shall~~] means [~~mean~~] bonds or other  
16 evidences of indebtedness that [~~which~~] are secured by the general  
17 credit of the state or are to be repaid from taxes [~~tax-revenues~~],  
18 fees, tuition, or other charges of the state, a state senior  
19 college or university, or a state agency or institution having  
20 statewide jurisdiction. "State debt" does [~~shall~~] not include  
21 bonds or other evidences of indebtedness issued to finance  
22 a project if the debt is [~~authorized-by-law-which-are-to-be~~]  
23 payable solely from [~~the~~] revenues [~~to-be~~] generated by [~~the~~]  
24 ~~charges-of~~ the project [~~to-be-financed~~].  
(1)

has narrow definition  
as to future meaning

Mr. Froder says the agencies  
cannot act without  
law authorization  
in the first place

1 (c) State debt may be authorized by law if approved by a  
2 <sup>(2)</sup>  
3 record affirmative two-thirds vote of the membership of each house  
4 of the legislature and submitted to and approved by a majority of  
5 the qualified voters <sup>of the state</sup> ~~[electors]~~ voting on the question.  
6 <sup>(3)</sup>

7 (d) State debt may be authorized by ~~[general]~~ law to refund  
8 outstanding state debt.  
9

#### 10 EXPLANATION

11 (1) The original formulation used one word, "charges,"  
12 in specifying what is within state debt and what is excluded  
13 from state debt. This seemed somewhat illogical since "charges"  
14 in the first sentence would seem to include the "charges" in  
15 the second sentence. The redraft uses "taxes" and "charges"  
16 in the first sentence and "revenues" in the second sentence. The  
17 focus in the second sentence is placed on "project." To be  
18 excluded from state debt, there must be a project financed by a  
19 debt issue that specifies that the debt is payable only from the  
20 revenue generated by the project.

21 (2) The committee uses this formulation throughout the  
22 constitution. "Record" was not in the draft on second reading,  
23 but the committee is advised that this was an inadvertent  
24 omission.

(3) In accordance with the committee's care in the use of



1 "general" as opposed to "local" or "special" law, the adjective  
2 is omitted here. There may be occasions when one specific bond  
3 issue is to be refunded. The use of "general" here would simply  
4 confuse everything.

5  
6  
7  
8  
9 Sec. 9 [8]. APPROPRIATIONS. (a) No money may [~~shall~~] be  
10 drawn from the state treasury except in accordance with specific  
11 appropriation made by law. No law may appropriate [~~appropriation~~  
12 ~~of~~] money from the state treasury for a purpose not previously  
13 [~~shall-be-made-unless~~] authorized by [~~preexisting~~] law. (1)

14 (b) No appropriation of money from the state treasury may  
15 [~~shall~~] be made for a period [~~term~~] longer than two years.

16 (2)  
17 (c) Upon the convening of the legislature in regular session,  
18 the comptroller of public accounts shall submit to the governor  
19 and the legislature a report that shows (1) the condition of the  
20 treasury at the end of the preceding fiscal period, (2) an  
21 estimate of the probable receipts and disbursements for the  
22 current fiscal year, (3) an itemized estimate of anticipated  
23 revenues for the next applicable fiscal period, and (4) other  
24 information required by law. Upon the convening of a special  
session of the legislature, the comptroller of public accounts



1 shall submit a report showing changes from the regular report  
2 previously submitted. In the event of changes at other times *(update estimate)*  
3 the comptroller of public accounts shall report the changes to the  
4 governor and to the members of the legislature.

5 (d) ~~[(e)]~~ No bill containing an appropriation may be  
6 considered as passed or be presented ~~[sent]~~ to the governor ~~[for~~  
7 ~~consideration-until-and]~~ unless the comptroller ~~[Comptroller]~~ of  
8 public accounts ~~[Public-Accounts]~~ has certified ~~[certifies]~~ that  
9 the amount appropriated is within the estimated revenue for the  
10 applicable fiscal period ~~[=]~~ or ~~[(d)--No appropriation in excess~~  
11 ~~of the estimated revenue shall be valid]~~ unless the appropriation  
12 ~~[it]~~ is made in response to imperative public necessity and  
13 approved by a record affirmative <sup>(3)</sup> four-fifths vote of the member-  
14 ship of each house of the legislature.

15 ~~[(e)--A report shall be prepared by the Comptroller of Public~~  
16 ~~Accounts in advance of each regular session of the legislature and~~  
17 ~~submitted to the governor and legislature upon its convening which~~  
18 ~~shows the condition of the state treasury at the close of the last~~  
19 ~~fiscal period and an estimate of the probable receipts and~~  
20 ~~disbursements for the then current fiscal year.--The report shall~~  
21 ~~contain an itemized estimate of the anticipated revenue based on~~  
22 ~~the laws then in effect that will be received by the state from~~  
23 ~~all sources, showing the fund accounts to be credited during the~~  
24 ~~succeeding biennium, and said report shall contain such other~~

1 ~~information-as-may-be-required-by-law---Supplemental-statements~~  
2 ~~shall-be-submitted-at-any-special-session-of-the-legislature-and~~  
3 ~~at-such-other-times-as-may-be-necessary-to-show-probable-changes-]~~

4  
5 EXPLANATION

6  
7 (1) The committee is advised that the purpose of the floor  
8 amendment that added the second sentence is to preclude the use of  
9 an appropriation bill to authorize the expenditure of money for a  
10 new purpose. (The wording is susceptible of being read to require  
11 an authorization bill to precede the appropriation of money much  
12 in the manner that Congress acts. The author of the floor  
13 amendment has advised the committee that he did not intend that  
14 reading; his intent was as stated above.) The redraft focuses on  
15 that intent and avoids using words that imply "authorization"  
16 bills.

17 (2) This was Subsection (e). It has been moved ahead of  
18 Subsection (d) because the comptroller's report obviously precedes  
19 the certification process. The redraft is stylistic except for  
20 the last two sentences. The final sentence of the original  
21 subsection was vague. The redraft spells out the comptroller's  
22 duties.

23 (3) See note (2) to Section 8 above.  
24



1           Sec. 10[9]. PUBLIC FUNDS. Public <sup>funds</sup>~~money~~ and public credit  
2    may [~~shall~~] be used only for public purposes. No public funds or  
3    public credit may [~~shall~~] be used to influence the election of a  
4    public officer [~~official~~].  
5  
6  
7  
8

9                   (1)  
10    [~~Sec. 10. PUBLIC PURPOSES. Public purposes, as that term~~  
11    ~~is used in this constitution, include, but are not limited to,~~  
12    ~~purposes for which taxes could be levied or public money or public~~  
13    ~~credit could be used before the adoption of this constitution.~~]  
14

15                                   EXPLANATION

16           (1) This section, if it serves any purpose, belongs in the  
17    transition schedule. The purpose of the sentence is to avoid  
18    an implication arising from the use of "public purposes" in Sec-  
19    tion 10 and the use of the same words in Section 3 of Article VIII  
20    of the 1876 constitution. The problem is that someone might argue  
21    that the term means the same thing here that it meant in the 1876  
22    constitution. Moreover, someone might argue that some of the many  
23    amendments of the 1876 constitution were adopted because the per-  
24    mitted use of public funds or credit was not a "public purpose." To

1 put it another way, it is arguable that the "definition" of "public  
2 purposes" was altered by amendments to the constitution and that  
3 there must be some indication in the new constitution that the term  
4 as used in the new Section 8 encompasses the definition "as amended."

5 Actually, "public purposes" is one of the "accordion"  
6 terms in a constitution--a term that changes meaning as the  
7 society changes. The courts recognize this nature of "public  
8 purposes." In Bullock v. Calvert, 480 S.W. (2d) 367 (Tex. 1972),  
9 the court overruled Waples v. Marrast, 108 Tex. 5, 184 S.W. 180  
10 (1916), saying:

11 Whatever the circumstances of the party primaries in  
12 1916 which may have justified their being regarded as  
13 purely private affairs, this cannot be said today . . . .

14 The holding in the Waples cases that the expenditure  
15 of public funds to finance party primary elections cannot  
16 meet the public purpose test, and that any such  
17 expenditure is necessarily proscribed by the Constitution,  
18 must be overruled. We hold that it lies within the  
19 discretion and power of the Legislature to appropriate  
20 state funds for this purpose. (480 S.W. 2d at 370.)

21 In the light of the Bullock case and many other recent  
22 cases approving expenditures for purposes that would not have  
23 been considered "public purposes" 50 to a 100 years ago, it  
24 seems unnecessary to try to "define" public purposes in terms  
of the 1876 constitution as amended. In an abundance of caution,  
however, it is appropriate to state in the transition schedule  
that no one is to "define" public purposes by referring to any  
of the specific grants of power to spend money that were in the



1 old constitution but are omitted from the new document. The  
2 transition provision would read:

3 A grant of power to use public funds or public  
4 credit contained in the constitution of 1876, as  
5 amended, has not been lost by omission from this  
6 constitution. A grant of power in the constitution  
7 of 1876, as amended, is not to be deemed to have been  
8 included in that constitution because the permitted  
9 use of public funds or public credit was not for a  
10 public purpose.

11 There are two reasons for covering this problem in the  
12 transition schedule in this formulation. The first is to avoid  
13 a provision in the new constitution that drags along thousands  
14 words of the old constitution and incorporates them by reference.  
15 Section 10 literally requires a copy of the 1876 constitution  
16 as of January 1, 1974, if the reader is to know what Section 10  
17 is all about. (Over 30 sections of the old constitution are  
18 relevant.) The draft transition section requires nothing,  
19 for it stops anyone from using the old constitution in arguing  
20 whether a use of funds or credit is for a public purpose. In  
21 other words, Section 10 carries the old constitution through  
22 the door and dumps it in the middle of the room; the transition  
23 schedule shuts the door and keeps the old constitution out  
24 altogether.

1       The second reason for a different formulation is that  
2       Section 10 is a confining "definition." The words "but are  
3       not limited to" are not traditionally read as open-ended; the  
4       tendency is to construe "but are not limited to" as words that  
5       confine the definition to the general class to which the included  
6       examples are not to be limited. Thus, a sound argument could  
7       be made that Section 10 confines "public purposes" to a general  
8       class of purposes close to the purposes spelled out in such  
9       detail in the old constitution. The report of the Committee on  
10      Finance states that "Section 10 provides for a public purpose  
11      test of a broader nature than that contained in the 1876  
12      Constitution." If this is true, deletion of Section 10 and  
13      use of the transition schedule provision makes the "broader  
14      nature" clearer because the new formulation states that "public  
15      purposes" in Section 8 cannot be confined by reference to the  
16      old constitution. In short, the problem is not to "broaden"  
17      public purpose; the problem is to prevent the old constitution  
18      from confining public purpose. The transition schedule provision  
19      does this better than Section 10.



1           Sec. 11. REPORT OF DEDICATED FUNDS. The legislature  
2 shall provide by [~~general~~] law for an annual report of the  
3 receipts and expenditures of [~~all~~] constitutionally dedicated  
4 funds.

5  
6  
7  
8                           SEPARATE PROPOSAL

9  
10           That portion of the net revenues from [~~all~~] taxes on motor  
11 fuels and lubricants used to propel motor vehicles over public  
12 roadways, except gross production and ad valorem taxes, derived  
13 from [~~any~~] increases [~~increase~~] in the respective rates of these  
14 taxes over the rates in effect on November 5, 1974, [~~at-the-time~~  
15 ~~of-adoption-of-this-constitution~~] is [~~shall~~] to be allocated  
16 [~~deposited-as-fellows:~~] one-fourth [~~(1/4)~~] to the Available  
17 School Fund and three-fourths to general revenue [~~the-balance~~  
18 ~~to-the-General-Revenue-Fund-to-be-allocated-as-provided-by-law~~].

19  
20                           EXPLANATION

21  
22           For the present it is assumed that the proposed constitution  
23 will be voted upon at the general election. In any event, it is  
24 not possible to use the original wording if this provision were

1 to go into the 1876 constitution. The term "general revenue"  
2 is substituted for "General Revenue Fund" because the General  
3 Revenue Fund is not a constitutional fund. Use of "general  
4 revenue" makes it clear that the money would be available for  
5 appropriation for any public purpose.

6 It should be noted that the sentence would be added to  
7 Section 7-a of Article VIII of the old constitution but would not  
8 be added in that form to Section 7 of the new constitution.  
9 If the voters approved the separate proposal and the new  
10 constitution, Subsections (b) and (c) would be reworded to read:

11 (b) Net revenue from state motor vehicle  
12 registration fees not retained by the counties and  
13 three-fourths of the net revenue derived from that  
14 portion computed at the tax rates in effect on  
15 November 5, 1974, of state taxes on motor fuels and  
16 lubricants used to propel motor vehicles over public  
17 roadways, except gross production and ad valorem  
18 taxes, may be appropriated only for (1) acquisition  
19 of rights-of-way for, (2) construction of, (3) maintenance  
20 of, (4) administration of laws pertaining to super-  
21 vision of traffic or safety on, or (5) policing of,  
22 public roadways.

23 (c) One-fourth of the net revenue from (1) state  
24 occupation taxes, (2) the motor fuel tax computed



1       at the tax rate in effect on November 5, 1974, and  
2       (3) that portion of the net revenue from taxes  
3       on motor fuels and lubricants used to propel motor  
4       vehicles over public roadways, except gross pro-  
5       duction and ad valorem taxes, derived from increases  
6       in the respective rates in effect on November 5, 1974,  
7       are dedicated to the Available School Fund. The balance  
8       of the net revenue derived from increases in these taxes  
9       is general revenue.

10       These alternative wordings will be covered in the Adoption  
11       Schedule. The schedule provision could read:

12       Sec. \_\_\_\_\_. (a) If Separate Question \_\_\_\_ is approved by the  
13       qualified voters and if the proposed constitution is adopted,  
14       the following changes are made in Section 7 of Article VIII  
15       of the proposed constitution:

16       (i) In Subsection (b), insert "that portion computed  
17       at the tax rates in effect on November 5, 1974, of"  
18       between the words "derived from" and the words "state  
19       taxes."

20       (ii) Subsection (c) is revised to read:

21       One-fourth of the net revenue from (1) state  
22       occupation taxes, (2) the motor fuel tax computed  
23       at the tax rate in effect on November 5, 1974,  
24       and (3) that portion of the net revenue from taxes

1 on motor fuels and lubricants used to propel motor  
2 vehicles over public roadways, except gross pro-  
3 duction and ad valorem taxes, derived from increases  
4 in the respective rates in effect on November 5, 1974,  
5 are dedicated to the Available School Fund. The balance  
6 of the net revenue derived from increases in these taxes  
7 is general revenue.

8 (b) If Separate Question \_\_\_\_ is approved by the qualified  
9 voters but the proposed constitution is not adopted, the  
10 following sentence is added at the end of Section 7-a of  
11 Article VIII of the constitution of 1876, as amended:  
12

13 That portion of the net revenues from taxes on motor  
14 fuels and lubricants used to propel motor vehicles over  
15 public roadways, except gross production and ad valorem  
16 taxes, derived from increases in the respective rates of  
17 these taxes over the rates in effect on November 5, 1974,  
18 is to be allocated one-fourth to the Available School  
19 Fund and three-fourths to general revenue.  
20  
21  
22  
23  
24



*Jones 106ff  
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ARTICLE IV  
THE EXECUTIVE

1       Sec. 1. OFFICERS. The governor is the chief executive  
2 officer of the state. Officers of the executive department of  
3 the executive branch are the governor, lieutenant governor,  
4 attorney general, comptroller of public accounts, treasurer,  
5 commissioner of the general land office, secretary of state, <sup>*Commissioner of Ag.*</sup> and  
6 [these] other officers as provided by law.

7       Sec. 2. SELECTION AND TERMS OF OFFICERS. (a) [~~At-general~~  
8 ~~elections beginning in 1978 qualified voters of the state shall~~  
9 ~~elect the~~] <sup>(1)</sup> The governor, lieutenant governor, attorney general,  
10 comptroller of public accounts, treasurer, [~~the~~] commissioner of  
11 the general land office, <sup>*Comm. of Ag.*</sup> and [these] other elected officers of  
12 the executive department provided for by law are elected by the  
13 qualified voters of the state for four-year terms. Separate votes  
14 are cast for candidates for governor and lieutenant governor. <sup>(2)</sup>

15 Quadrennial elections for officers of the executive department  
16 start with the general election in 1978. [The governor may not  
17 serve more than two four-year terms in succession.] <sup>(3)</sup>

18       (b) The secretary of state and other appointed officers

1 of the executive department are appointed by the governor with  
2 the advice and consent of the senate and serve at the pleasure  
3 of the governor.

(4)

4 (c) Officers appointed by the governor to state agencies  
5 are appointed with the advice and consent of the senate.

(5)

6 (d) [~~e~~] Officers appointed by a governor with the advice  
7 and consent of the senate and not serving at the pleasure of the  
8 governor may be removed by the governor only for stated reasons.

9 ~~[The-governor-shall-have-authority-to-remove-for-cause-all~~  
10 ~~officers-who-were-appointed-by-any-governor-and-who-were-confirmed~~  
11 ~~by-the-senate.]~~ Prior to removal [7] the governor shall advise

12 the senate in writing of the reasons for <sup>the proposed</sup> removal ~~[provide-the~~

13 ~~senate-a-proposal-of-removal-containing-the-cause-for-the~~  
14 ~~recommended-action].~~ If within 45 days of receipt of the

15 governor's statement of reasons the senate by majority vote  
16 of the membership rejects the governor's <sup>proposed removal</sup> stated reasons, the  
17 governor may not remove the officer for those <sup>stated</sup> reasons. [The

18 ~~senate-may-refuse-the-removal-by-a-majority-vote-of-the-membership,~~  
19 ~~within-45-days-of-submission.]~~

20 (e) [~~e~~]-Except-as-otherwise-provided-in-this

(6)

21 constitution, The term of an [each] officer [~~of-the-executive~~

(7)

22 branch] appointed by the governor to a statutory <sup>(8)</sup> state

23 [governmental] agency <sup>(9)</sup> [agencies-created-by-statute-shall-have  
24 a-term-that] expires on a date prescribed by law but the date



1 must fall between February 1 and May 1 <sup>in</sup> ~~of~~ odd-numbered years.

2 The terms of officers [~~Officers~~] of multi-member <sup>state</sup> agencies must be

3 [~~shall-have~~] staggered. [~~terms-and-the-number-of-officers-to-be~~

4 ~~appointed-by-the-governor-shall-be-provided-by-law--At-the~~ (10)

5 ~~expiration-of-the-term-the-office-shall-become-vacant.]~~ An

6 officer does not serve beyond the expiration of the term. (11)

(12)

7 (f) [~~and~~] Only an appointed officer of a multi-member

8 statutory state agency having appointed members may serve as

9 its chairman. The legislature by law may specify which appointed

10 officers are eligible to serve as chairman. The governor

11 designates the chairman in odd-numbered years to serve for two

12 years. <sup>and in the event of a vacancy designates a new chairman to serve for</sup> [~~The-governor-shall-designate-in-the-manner-prescribed~~

13 ~~by-law-the-chairman-from-among-the-appointive-officers-of-state~~

14 ~~governmental-agencies.]~~ If the governor fails to designate the

15 [a] chairman prior to May 1 [~~of-odd-numbered-years~~] the appointed

16 [appointive] members [~~officers~~] designate the chairman [~~shall~~

17 ~~choose-the-chairman-from-among-their-membership].~~ (13) If the governor

18 designates a new appointee as chairman and the officer is not

19 confirmed by the senate, the governor designates a new chairman. (12)

20 [~~and~~]~~--Officers-appointed-by-the-governor-to-state~~

21 ~~governmental-agencies-must-be-confirmed-with-the-advice-and~~

22 ~~consent-of-the-senate.]~~ (4)

EXPLANATION

(1) The specification of the four-year election cycle has been made a separate sentence at the end of the subsection.

(2) This has been moved from Section 19. The redraft is designed to fit in with the first sentence of the subsection.

(3) The two-term limitation has been moved to Section 4(a).

(4) This replaces Subsection (f). The redrafted subsection has been moved for purposes of logical progression from elected officers, to appointed officers, to removal of appointed officers, to terms of office of appointed officers, to designation of chairmen.

The original subsection was designed to serve two purposes. One was to limit the legislature's power to give the governor a power of appointment to state agencies without the advice and consent of the senate. The other purpose was apparently to be sure that an appointee who failed to be confirmed by the senate would have to vacate the office. (This was a problem under Section 12 of Article IV of the 1876 Constitution, but the problem arose from complex drafting, including the term "reject," which is different from "not confirmed.") The original draft of the subsection does not clarify this problem in any way. Section 14 of Article III as approved on second reading does solve the problem.



1 (5) The extensive redraft is principally stylistic. There  
2 are ~~two~~ <sup>three</sup> changes designed to eliminate ambiguities. One is to  
3 make it clear that officers who serve "at the pleasure of the  
4 governor" are not covered. The other change is to use "reasons"  
5 instead of "cause" to make it clear that an officeholder has  
6 no redress in court, that only the senate can second guess the  
7 governor's "cause." <sup>The 3rd change makes it clear that the governor must send the reasons for removal in time for the Senate to act</sup> The distinction between "a governor" and  
8 "the governor" should be noted. This makes it clear that the  
9 governor's power of removal extends to officers appointed by the  
10 governor's predecessor in office.

11 (6) This phrase is deleted because there is no "otherwise  
12 provided."

13 (7) Of the subsections dealing with state agencies, this  
14 is the only one that specifies agencies "of the executive branch."  
15 The committee understands that there was no intention to make  
16 a differentiation here between state agencies and state agencies  
17 in the executive branch. (Section 24 provides that state  
18 agencies are in the executive branch "unless otherwise provided  
19 by law.") Since the words "of the executive branch" appear  
20 to be an inadvertent limitation, they have been omitted. Thus,  
21 Subsections (c) through (f) are consistent in covering appointments  
22 to state agencies whether in or out of the executive branch.

23 (8) The term "statutory" replaces "created by statute." The  
24 reason for limiting the coverage of the subsection to agencies

1 created by statute is to exclude gubernatorial appointees to  
2 interstate agencies created by interstate compacts. The use of  
3 "statutory" also excludes constitutional agencies. There appear  
4 to be three constitutional agencies with appointed members: the  
5 Board of Pardons and Paroles, a judicial council, and a judicial  
6 qualifications commission. (The State Board of Education is a  
7 constitutional agency but the members are elected.) Of the three  
8 constitutional agencies, only the Board of Pardons and Paroles  
9 necessarily has members appointed by the governor. The provisions  
10 concerning the two judicial agencies do not specify whether  
11 members are appointed or who appoints any appointed members, but  
12 it is unlikely that the legislature would call for elected members.  
13 In any event, since these are not statutory agencies, Subsec-  
14 tions (e) (in part) and (f) are not applicable. (Subsections (c)  
15 and (d) are applicable; the agencies referred to are not limited  
16 by the adjective "statutory.") That part of Subsection (e) dealing  
17 with staggered terms is applicable since the adjective is omitted.  
18 The legislature can specify, of course, that the term of office  
19 expires between February 1 and May 1 of odd-numbered years.

20 It should be noted that there are references in the consti-  
21 tution to the Board of Regents of The University of Texas System  
22 and to the Board of Directors of The Texas A&M University System.  
23 These are statutory agencies. They appear in the constitution  
24 only because of a couple of "constitutional statutes." Simple



1 reference to these boards in these "constitutional statutes" in  
2 no way subtracts from the legislature's power to change the  
3 composition of the boards. The only limitation imposed by the  
4 constitution is changing their names. In other words, the legis-  
5 lature must designate some agency the "Board of Regents of The  
6 University of Texas System" and another agency the "Board of  
7 Directors of the Texas A&M University System."

8 (9) Since Section 24 (formerly Section 26) defines "state  
9 agency," the adjective "governmental" is unnecessary.

10 (10) The second half of the original compound sentence is  
11 unnecessary. The legislature has the inherent power to create  
12 agencies, to specify how many members they have, to specify how  
13 many of the members are to be appointed by the governor, and  
14 to specify who else has the appointing power. The first two  
15 sentences of the subsections are limitations on the inherent  
16 power. There is no reason to mention what the legislature can  
17 do, only what it cannot do.

18 (11) This formulation of "vacancy" is used to parallel  
19 the rest of the subsection which speaks to "officers," not to  
20 "office." For technical drafting reasons it is not possible  
21 to shift all sentences to "office" instead of "officer."

22 (12) The extensive redraft is to make explicit two necessary  
23 implications. First, the original words "in the manner prescribed  
24 by law" were designed to cover a situation where some appointed

1 members represent particular interests and others represent  
2 the public. (An example is the Industrial Accident Board which  
3 has a public member, an employer member, and an employee member.  
4 The public member is the chairman.) The new second sentence  
5 makes explicit the purpose of the quoted words. Second, the  
6 reason for giving the governor the power to designate the  
7 chairman is to enhance the governor's influence over the agency.  
8 The original wording was ambiguous in a case where the governor  
9 designates a new appointee chairman and the senate fails to  
10 confirm. The ambiguity has been resolved in accordance with  
11 the purpose of the subsection.

12 (13) In the context of the subsection the designation has  
13 to be from among the membership, for "designate" cannot be read  
14 to mean "appoint."

15  
16 Sec. 3. RETURNS OF ELECTION. Election returns for executive  
17 officers must ~~[shall]~~ be canvassed <sup>(1)</sup> ~~[tabulated]~~ and certified in  
18 a public forum ~~[7]~~ in the ~~[a]~~ manner prescribed <sup>(2)</sup> ~~[provided]~~ by  
19 law.  
20  
21

22 EXPLANATION

23  
24 (1) "Canvassed" is the traditional term used.



1 (2) In cases where the legislature's power is limited  
2 to carrying out a command the verb "prescribed" is used instead  
3 of "provided."  
4

5 Sec. 4. GOVERNOR'S ELIGIBILITY AND INSTALLATION. (a) To  
6 <sup>(1)</sup> be ~~[A-person-is]~~ eligible to serve as <sup>(2)</sup> ~~[for-the-office-of]~~  
7 governor, a person must be a citizen of the United States ~~[if~~  
8 ~~he-is]~~ at least 30 years old ~~[of-age, a-citizen-of-the-United~~  
9 ~~States,]~~ and have ~~[has]~~ been a resident of the state for at  
10 least five years immediately preceding election. A person serving  
11 as governor in the second of two consecutive four-year terms is  
12 not eligible for a third consecutive term. <sup>(3)</sup>

13 (b) The legislature shall provide an appropriation <sup>(4)</sup>  
14 ~~[appropriations]~~ <sup>(5)</sup> for assistance to a governor-elect prior to  
15 inauguration. A ~~[The]~~ governor-elect is ~~[shall-be]~~ entitled to  
16 receive any information and ~~[from-the-officers-and-state~~  
17 ~~governmental-agencies-these]~~ reports ~~[to]~~ that ~~[which]~~ the ~~[an]~~  
18 incumbent governor is entitled ~~[.]~~ to require from officers and  
19 state agencies. <sup>(6)</sup>

20 (c) <sup>see redraft</sup> The governor is ~~[shall-be]~~ inaugurated on the Thursday  
21 following the second Tuesday ~~[Thursday]~~ of the ~~[in]~~ January  
22 following election or as soon thereafter as practicable. <sup>(7)</sup>  
23  
24

April 30, 1974

Article IV  
Redraft of Section 4(c)

(c) The governor is inaugurated on the second day following the convening of the legislature in regular session following election or as soon thereafter as practicable.

*Date of election & date of convening Legislature is set by law & therefore moveable. would be problems if inauguration day frozen in 'Constitution'.*



EXPLANATION

(1) The order of the sentence has been changed to parallel the wording used in Article III for eligibility to serve in the legislature.

(2) Using this formulation permits the deletion of the second sentence of Subsection (f) of Section 5 and simplifies the qualifications sentence in Section 19.

(3) This was removed from Section 2(a). The change in wording is stylistic.

(4) There is no apparent reason for use of the plural. Use of the singular does not prevent the legislature from having separate line items in separate parts of an appropriation bill or even items in separate bills.

(5) Although money cannot be appropriated for a private purpose, it seems advisable to mention some "official" purpose for providing money to a governor-elect.

(6) The redraft ties this privilege of the governor to the information and reports provided for by Section 14.

(7) This ties down the date of the inauguration. Since the second Thursday can precede the second Tuesday, it is appropriate to make it clear that inauguration does not precede the traditional date for convening the legislature.

1           Sec. 5. GUBERNATORIAL SUCCESSION. (a) If the governor-  
2 elect is disqualified, ~~[resigns7-or]~~ dies, or refuses the office (1)  
3 prior to inauguration, ~~[taking-office7]~~ the lieutenant governor-  
4 elect becomes governor for the full term. If the governor-elect  
5 fails to assume office for any other reason, the lieutenant  
6 governor-elect acts ~~[serves]~~ as governor. If the governor-  
7 elect does not assume office by the end of (2) ~~[within]~~ the first  
8 year of the term, ~~[the-office-becomes-vacant7-and]~~ the lieutenant  
9 governor becomes governor and serves for the remainder of the term.

10           (b) If after inauguration the ~~[office-of]~~ governor dies,  
11 resigns, becomes permanently disabled, or is removed from office, (3)  
12 ~~[becomes-vacant7]~~ the lieutenant governor becomes governor and  
13 serves for the remainder of the term.

14           (4) *both*  
15 *redrafts* (c) If the ~~[offices-of-both-governor-and]~~ lieutenant  
16 *and governor die, resign, become permanently disabled, or are removed from office*  
17 *see item 8* governor becomes ~~[become]~~ governor and thereafter dies, resigns,  
18 becomes permanently disabled, or is removed from office, ~~[vacant7]~~ (5)  
19 the speaker of the house of representatives, if eligible  
20 [qualified], becomes governor and serves for the remainder of the  
21 term ~~[under-the-same-conditions-and-for-the-same-term-as-provided~~  
22 ~~for-the-lieutenant-governor]~~.

23           (d) If the governor is absent from the state or temporarily  
24 disabled, the lieutenant governor acts as governor until the  
governor returns or is no longer disabled. If ~~[both]~~ the  
~~[governor-and]~~ lieutenant governor is also ~~[are]~~ absent from



1 the state or temporarily disabled, the president pro tempore of  
2 the senate acts as governor until either the governor or  
3 lieutenant governor returns or is no longer disabled [during  
4 such-time].

(6)  
5 (e) While serving or acting as governor [7] a person  
6 ~~[the-lieutenant-governor-or-president-pro-tempore-of-the-senate]~~  
7 receives only the compensation payable to a governor.

8 (f) The legislature shall provide by law for further  
9 ~~[Further]~~ succession to the office of governor. ~~[shall-be~~  
10 ~~provided-by-law.--No-person-may-serve-as-governor-unless-qualified~~  
11 ~~for-that-office.]~~ (7)

#### EXPLANATION

15 (1) One normally "resigns" only after taking office.

16 (2) The operative cut-off is the end of the year.

17 (3) This spells out the ways in which the office becomes  
18 "vacant."

19 (4) It is the understanding of the committee that the line  
20 of gubernatorial succession from the elected governor is:

21 (1) the originally elected lieutenant governor, (2) the speaker  
22 of the house of representatives, if eligible, and (3) whatever  
23 the legislature provides in accordance with the duty set forth  
24 in Subsection (f). It is also the understanding of the commit-

1     tee that, under Section 23 (formerly Section 25), the governor  
2     by appointment fills a vacancy in the office of lieutenant gover-  
3     nor but that the appointed lieutenant governor is not constitu-  
4     tionally in the line of succession. Likewise, a lieutenant  
5     governor elected at mid-term as provided in Section 23 is not  
6     constitutionally in the line of succession. Of course, the  
7     legislature in its line of further succession could provide that  
8     both the appointed and the elected-at-mid-term lieutenant gover-  
9     nor or only the latter are in the line of succession. But,  
10    again, this would be the case only after the speaker of the  
11    house, if eligible, had become governor and the office sub-  
12    sequently became vacant.

13         The redrafted Subsection (c) omits the words "under the  
14    same conditions and for the same term as provided for the lieu-  
15    tenant governor" and substitutes "for the remainder of the term."  
16    This eliminates an unclear phrase that might have been read to  
17    imply that there could be circumstances when the speaker would  
18    not serve to the end of the term. This implication could only  
19    lead to the conclusion that the speaker's tenure was related to  
20    a lieutenant governor who would not serve for the remainder of  
21    the term. This could only be an appointed lieutenant governor.

22         In the context of Section 5 as a whole it is clear that "the  
23    lieutenant governor" is the person who started out as "the lieu-  
24    tenant governor-elect." This offsets the implication just dis-  
cussed.



1 (5) Section 4 speaks to "eligibility."

2 (6) This covers all eventualities. The original draft was  
3 inconsistent with the original Subsection (c) (new Subsection (d)  
4 and did not cover whatever the legislature provides under Sub-  
5 section (i).

6 (7) This is taken care of by the new formulation of  
7 Section 4(a). See note (2) of the explanation of that section.

8  
9 Sec. 6. DISABILITY OF ELECTIVE OFFICERS OF EXECUTIVE

10 ~~Branch Department~~ (1)

11 DEPARTMENT. (a) The [When-the] governor may notify [notifies]  
12 the chief justice of the supreme court in writing of the  
13 governor's temporary disability. If, because of the disability,  
14 the governor is <sup>fails</sup> unable to send notification to the chief justice,  
15 a majority of the following officers may jointly send the  
16 notification: the lieutenant governor, attorney general,  
17 comptroller of public accounts, treasurer, commissioner of the  
18 general land office, <sup>Com. of Ag.</sup> speaker of the house of representatives,  
19 and president pro tempore of the senate. A temporary disability  
20 ends on the delivery to the chief justice of the governor's  
21 sworn statement to that effect. The governor's sworn statement  
22 may not be denied by another notification to the chief justice.  
23 At the end of one year a temporary disability becomes a permanent  
24 disability without a determination by the Supreme Court of Texas.  
The same procedure applies in the case of the temporary disability

1 of the lieutenant governor except that the governor and not the  
2 lieutenant governor is one of the seven officers voting on a  
3 notification. [~~that he will be temporarily unable to carry out~~  
4 ~~the duties of his office or when the governor is unable to com-~~  
5 ~~municate such inability to the chief justice of the supreme court,~~  
6 ~~the temporary disability of the governor shall be determined by~~  
7 ~~a majority vote of the governor, lieutenant governor, attorney~~  
8 ~~general, comptroller of public accounts, treasurer, commissioner~~  
9 ~~of the general land office, speaker of the house of representa-~~  
10 ~~tives, and president pro tempore of the senate.~~ --Restoration of  
11 ~~ability shall be evidenced by delivery of a sworn statement from~~  
12 ~~the governor acknowledging recovery filed with the supreme court.~~  
13 After restoration, the governor may not be determined temporarily  
14 disabled again for the same incident. --If the governor does not  
15 acknowledge recovery from a temporary disability within one year  
16 from the time the lieutenant governor begins serving as governor,  
17 the office of governor shall be vacant. --The same procedure shall  
18 apply to the temporary disability of the lieutenant governor.]

19 (b) Whether an elected officer of the executive <sup>department</sup> ~~branch~~  
20 is permanently disabled and unable to discharge the duties of  
21 office is to be determined only by the Supreme Court of Texas  
22 in a proceeding conducted under rules of procedure prescribed  
23 by that court. <sup>(2)</sup> [The permanent disability of any elected  
24 officer of the executive department to perform the duties of



1 the-office-during-the-term-for-which-elected-shall-be-determined  
2 in-a-proceeding-in-the-supreme-court-of-the-state-under-such  
3 rules-of-procedure-as-may-be-prescribed-by-that-court.] The  
4 proceeding may be initiated only by a [A] majority vote of the  
5 governor, lieutenant governor, attorney general, comptroller of  
6 public accounts, treasurer, commissioner of the general land  
7 office, speaker of the house of representatives, and president  
8 pro tempore of the senate. [~~shall-initiate-such-proceedings.~~]  
9 If the supreme court determines that the officer [~~any-elected~~  
10 ~~officer-of-the-executive-department~~] is permanently disabled,  
11 [~~is-unable-to-discharge-the-duties-of-his-office-by-reason-of-a~~  
12 ~~permanent-disability,~~] it shall declare the office vacant [~~the~~  
13 ~~office-shall-be-declared-vacant~~].

14 [~~(e)--The-supreme-court-shall-have-exclusive-jurisdiction~~  
15 ~~to-determine-the-existence-of-a-vacancy-arising-under-this~~  
16 ~~section.~~]  
17 (3)

#### 18 EXPLANATION

19  
20 (1) The original draft was confusing in that it implied  
21 that the collection of officers voted even if the governor said  
22 in writing that he was disabled and in that it seemed to say that  
23 he voted upon his own disability. The redraft clears this up.  
24 Other changes in the redraft should be noted. The word "incident"

1 to cover an attempted re-notification of disability when nothing  
2 had changed seemed ill-advised because, whatever its technical  
3 meaning in the world of medicine, the ordinary reader would be  
4 puzzled by the word. The purpose of the limitation on re-notifi-  
5 cation for the same "incident" was to prevent an effort to keep  
6 the governor from resuming office and to prevent a governor from  
7 feigning disability in order to draw his salary but not work.  
8 The reformulation covers both situations. In the one case, if  
9 the governor swears that he has recovered, a new notification  
10 from the named officers in effect would have to allege a new  
11 "incident" in order to avoid being simply a denial of recovery.  
12 In the other case, the governor would have to send a notifica-  
13 tion based on a new "incident," else he would simply be denying  
14 that he had recovered.

15 The statement concerning a temporary disability's becoming  
16 permanent at the end of a year conflicted with Subsection (b).  
17 The redraft eliminates the inconsistency.

18 (2) The reformulation of the first sentence is stylistic  
19 except for the insertion of "only," which eliminates the need  
20 for Subsection (c). The changes in the balance of the subsec-  
21 tion are stylistic.

22 (3) See note (2) above.  
23  
24



1           Sec. 7. COMPENSATION OF OFFICERS OF EXECUTIVE DEPARTMENT.

2   [~~The compensation of the governor, lieutenant-governor, attorney~~  
3   ~~general, comptroller of public accounts, treasurer, commissioner~~  
4   ~~of the general land office, and secretary of state~~ <sup>dipt.?</sup> shall be as  
5   provided by law.]   (1)   The compensation of <sup>the</sup> officers of the

6   executive department may not be diminished during their term  
7   of office.   The governor <sup>(2)</sup> has [shall-have] the use of the  
8   Governor's Mansion.

9  
10                           EXPLANATION

11  
12           (1)   There is no constitutional need to say that these  
13   officers will get paid for their services or that the amount  
14   will be set by law. It is of constitutional significance to  
15   prohibit a salary cut and to make it clear that the governor's  
16   mansion is rent free.

17           (2)   The present tense is used in accordance with the  
18   committee's standard rule of style.

19                   (1)  
20           Sec. 8.   DUAL OFFICE HOLDING AND EMPLOYMENT [~~OTHER~~  
21   ~~COMPENSATION~~].   An [~~No~~] officer of the executive department  
22   may not hold any other civil or corporate office [~~nor may~~  
23   ~~the officer~~] and may not practice any other profession  
24   or hold any other employment for [~~and receive~~] compensation [~~or~~]  
   or the promise of compensation [~~thereof for the same~~].

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EXPLANATION

(1) The changes are stylistic. The change in title more nearly reflects the subject matter.

Sec. 9. COMMANDER-IN-CHIEF; CALLING FORTH MILITIA. The governor <sup>(1)</sup> is ~~[shall-be]~~ commander-in-chief of the military forces of the state [7] except when they are called into actual service of the United States. <sup>(2)</sup> The governor may ~~[7-and-shall-have-power-to]~~ call forth the militia to execute the laws of the state, <sup>(3)</sup> ~~[to]~~ suppress insurrections, repel invasions, and ~~[for-the]~~ protect ~~[protection-of]~~ life and property in cases of natural disasters.

EXPLANATION

(1) The constitution is not imposing a duty on the governor; the provision simply states a fact of power.

(2) "May" means "has the power to."

(3) This change is to provide consistency in the compound predicate.

Sec. 10. EXECUTION OF LAWS; CONDUCT OF BUSINESS WITH OTHER STATES, THE UNITED STATES, AND FOREIGN NATIONS. The governor



1 shall cause the laws to be faithfully executed and shall conduct,  
2 in person or in the [such] manner prescribed <sup>(1)</sup> ~~[as-shall-be-pre-~~  
3 ~~vided]~~ by law, all intercourse and business of the state with  
4 other states, the United States, and foreign nations.

5  
6 EXPLANATION

7  
8 (1) See note (2) to the Explanation of Section 3.

9 *Item 10*

10 (1) Sec. 11. CONVENING THE LEGISLATURE IN SPECIAL SESSION.

11 The governor ~~[may]~~, on extraordinary occasions, may convene the  
12 legislature in special session stating specifically the purpose  
13 of the session. (Special sessions may ~~[shall]~~ not exceed 30 days.)  
14 *- take out if covered in Legislative session.*

15 EXPLANATION

16  
17 (1) If Section 7(e) of Article III provides for special  
18 sessions, it will be necessary either to delete this section  
19 or revise Section 7(e) to delete the duplication.  
20  
21  
22  
23  
24

New notes

May 16, 1974

Con Off

# EXECUTIVE ARTICLE

1. Section 2(a), new note (2). <sup>other</sup> Number inserted on line 12; note inserted at lines 4-5 on p. 18. (Footnotes will be renumbered.)
2. Section 2(d), revised sentence replacing sentence on lines 11 and 12, p. 16.
3. Section 2(d), revised note to replace note (5), lines 1-10, p. 19.
4. Section 2(e), new note explaining "staggered terms." Number inserted on line 3, p. 17; note inserted at lines 9-10, p. 21.
5. Section 2(f), revised sentence replacing sentence on lines 10-11, p. 17.
6. Section 2(f), revised note to replace note 12, line 22, p. 21, through line 11, p. 22.
7. Section 4(a), revised note replacing note (1), lines 3-5, p. 24.
8. Section 5(c), revision replacing subsection on lines 14-19, p. 25.
9. Section 5(c), revised note replacing note (4), line 19-24, p. 26.



10. Section 10, new note (2) to be added on p. 34.
11. Section 13(a), new note (3). Number inserted in line 8 after "law." (Delete entry (2) at "becomes." Note (2) itself is not deleted.) New note is inserted at lines 10-11, p. 37. (Notes will be renumbered.)
12. Section 13(c), new note (8). Number inserted at beginning of draft appearing on handout dated May 1, 1974. (Note "2A" on handout will be note (9).)
13. Section 14, revised note (1) replacing note on lines 9-13, p. 38.
14. Section 16(b), new note (3). Number inserted after "legislature" on line 4. New note replaces lines 22 and 23, p. 40.
15. Section 20, revision of note (3), lines 13-19, p. 48. (Note renumbered to (2).)
16. Section 24(b).
  - (a) Redraft of second sentence, lines 9-13, p. 52.
  - (b) Redraft of note (5), lines 12-14, p. 53.
17. Section 24(b).
  - (a) Redraft of third sentence, lines 13-15, p. 52.
  - (b) New note (7). Number inserted at end of sentence. Note inserted on p. 53.

[NOTE: Section 20 is subject to further revision. In all other respects, the executive article is tentatively finished.]

Item 1

May 14, 1974

Article IV, Section 2(a), Note (2)

NOTE (2) The insertion of "executive department" is necessary to preserve the intent of this provision, which is to set forth which executive department officers are to be elected and to establish their terms of office at four years. Without the added words the provision would limit all elected officers of the executive branch (for example, Railroad Commission members) to four-year terms--obviously an unintended result.



Item 2

May 14, 1974

Article IV, Section 2(d)

Redraft of second sentence of Section 2(d):

Prior to removal and not less than 45 days prior to the required adjournment of a regular session or not more than two days after the convening of a special session, the governor shall advise the senate in writing of the reasons for the proposed removal.

May 13, 1974

Article IV, Section 2(d)  
Revised note (6) (formerly (5)).

(6) The extensive redraft is principally stylistic. There are three changes designed to eliminate ambiguities. One is to make it clear that officers who serve "at the pleasure of the governor" are not covered. The second change is to use "reasons" instead of "cause" to make it clear that an officeholder has no redress in court, that only the senate can second guess the governor's "cause." The third change makes it clear that the governor must send the reasons for removal in time for the senate to act. The distinction between "a governor" and "the governor" should be noted. This makes it clear that the governor's power of removal extends to officers appointed by the governor's predecessor in office.



May 16, 1974

Article IV, Section 2(e), new note

NOTE (11) Because the vast majority of state agencies are statutory with appointed members, the operation of the staggered terms requirement is affected by the previous sentence, which prescribes that the terms of appointed officers of statutory agencies expire in odd-numbered years. From that requirement it necessarily follows that terms of appointed members of statutory state agencies must be multiples of two years. When applied to a constitutional agency (e.g. the Board of Pardons and Paroles or the State Board of Education), however, the staggered term requirement is not limited by the odd-year expiration requirement.

"Staggered terms" means that not all the terms expire at the same time--it does not mean that the same number of terms must expire on each expiration date. Thus the limitation does not preclude an agency with an odd number of members. For example, a three-member statutory agency with appointed members can have two officers whose terms expire in odd year X and one whose term expires in year X + 2. If the terms are for six years, one can expire in odd year X, another in X + 2, and the third in X + 4. Under the preceding example, if the agency is constitutional, it could have two terms expire in year X and one in year X + 3.

May 13, 1974

*new draft  
after this*

Article IV, Section 2(e), new note

NOTE (11) "Staggered terms" means that not all the terms expire at the same time--it does not mean that the same number of terms must expire on each expiration date. Thus, this sentence does not preclude an agency with an odd number of members. For example, a three-member agency with two-year terms can have two members whose terms expire in one year and one member whose term expires the following year. If the terms are for six years, one can expire in year X, another in year X + 2, and the third in year X + 4; another variation would have two terms expire in year X and one in year X + 3.

There is a different pattern in the case of appointed officers of statutory state agencies because the terms of those officers expire in odd-numbered years. From that requirement it necessarily follows that terms of appointed officers of statutory state agencies must be multiples of two years.



*Check with  
Meier to see whether  
it should be labeled as a  
substantive change*

Item 5

May 13, 1974

Article IV, Section 2(f)

Redraft of 3rd sentence of Section 2(f):

The governor designates the chairman in odd-numbered years to serve for a term of two years and in the event of a vacancy designates a new chairman to serve for the remainder of the term.

May 13, 1974

Article IV, Section 2(f), revised note (14) (formerly note (12)).

(14) The extensive redraft is to make explicit two necessary implications and to cover an eventuality inadvertently overlooked. First, the original words "in the manner prescribed by law" were designed to cover a situation where some appointed members represent particular interests and others represent the public. (An example is the Industrial Accident Board which has a public member, an employer member, and an employee member. The public member is the chairman.) The new second sentence makes explicit the purpose of the quoted words. Second, the reason for giving the governor the power to designate the chairman is to enhance the governor's influence over the agency. The original wording was ambiguous in a case where the governor designates a new appointee chairman and the senate fails to confirm. The ambiguity has been resolved in accordance with the purpose of the subsection. Third, the original subsection inadvertently omitted the power of the governor to designate a new chairman in the event of a vacancy. The power would probably have been held to be implied, but since the omission has been spotted, it is appropriate to cover the matter. It may be noted in passing that this subsection imposes no limitation on the power of the governor to redesignate a chairman or on the number of terms a chairman may serve.



Item 7

May 14, 1974

Section 4(a), revised note (1).

(1) The order of the sentence has been changed in order to eliminate the masculine pronoun.

May 14, 1974

Article IV, Section 5(c)

(c) If both the governor and lieutenant governor die, resign, become permanently disabled, or are removed from office, or if the lieutenant governor becomes governor and thereafter dies, resigns, becomes permanently disabled, or is removed from office, the speaker of the house of representatives, if eligible, becomes governor and serves for the remainder of the term.



May 13, 1974

Article IV, Section 5(c), revised note (4)

(4) The line of gubernatorial succession from the elected governor is: (1) the lieutenant governor, (2) the speaker of the house of representatives, if eligible, and (3) whatever the legislature provides in accordance with the duty set forth in Subsection (f).

If the office of lieutenant governor becomes vacant, it remains so. See Section 8(c) of Article III, which provides that the president pro tempore of the senate is to "perform the duties of lieutenant governor . . . when the office is vacant." Thus, the office of lieutenant governor is "otherwise provided" for and excluded from Section 23, "Vacancies in Statewide Elective Offices."

The redrafted Subsection (c) omits the words "under the same conditions and for the same term as provided for the lieutenant governor" and substitutes "for the remainder of the term." This eliminates an unclear phrase that might have been read to imply that there could be circumstances when the speaker would not serve to the end of the term. This implication could only lead to the conclusion that the speaker's tenure was related to a lieutenant governor who would not serve for the remainder of the term and that could only have been an appointed lieutenant governor.

*Language same as in 1876 Const. Daniel & Hivers didn't appoint a gov. because they felt they couldn't.*

Item 10

May 14, 1974

Article IV, Section 10

NOTE (2) Section 11 of the local government article provides that political subdivisions may conduct business with the United States. At first blush, this seems inconsistent with the governor's power set forth in this section. However, the purpose of this section is to establish the governor as the spokesman for the state government in the conduct of state business. It follows that this section is not inconsistent with the power of a political subdivision to enter into agreements with the United States concerning local matters. In any event the practice under the 1876 constitution indicates that the comparable section (also Section 10) has not been construed to require the governor to participate in contractual activity between political subdivisions and the United States. For example, local housing authorities and urban renewal agencies enter into annual contracts with the Department of Housing and Urban Development. (See R.C.S., Art. 1269k, Sec. 8(d), and Art. 1269l-3, Sec. 9(g), respectively.) The committee is advised that the local agencies do not handle their contracting through the governor's office.



May 14, 1974

Article IV, Section 13(a), Note (3)

NOTE (3) Under an attorney general's interpretation of the corresponding provision in the 1876 constitution a bill did not become a law immediately upon the governor's signature.

[Op. No. O-5310 (1943).] That opinion said that the governor could "reconsider his action" after signing a bill--in effect, "unsign" the bill--so long as he retained the bill in his possession and his "reconsideration" occurred within the 10-day time period. The wording of the 1876 provision permitted such a construction, but under the language of this sentence a bill "becomes a law" the moment it is signed, irrespective of whether the governor maintains possession of the bill for the allotted 10 days. The last sentence of this subsection simply requires bills that have already become law (by the governor's signing or otherwise) to be filed; it does not make the filing a condition precedent to a bill becoming a law.

May 14, 1974

Article IV, Section 13(c), Note (8)

NOTE (8) The term "orders" has been eliminated as obsolete. While the term is used in the United States Constitution, no explanation of the term has been found. (It seems likely that the term had significance in the English Parliament in the 18th century.) No evidence has been found that any Texas legislature has ever used the term. It seems appropriate to limit the subsection to "resolutions," the only legislative vehicle traditionally used. It is not appropriate to use an all-inclusive term such as "actions," "matters," or "votes" because by definition an all-inclusive term would include "bills." Indeed, Subsection (c) could be omitted except for the traditional practice in Texas of using the resolution route in cases that approach law-making. [See note ( ) to Section of Article , concerning the significance of requiring the legislature to act "by law."]



May 14, 1974

Article IV, Section 14, Note (1)

NOTE (1) The committee believes that the intent is to require both information and reports to be in writing. The new formulation inserts "written" in front of both information and reports to make that intent clear. The phrase "written information and reports" is open to the construction that "written" modifies only "information." In common parlance "information" is less formal than "reports," so if anything is to be in writing, most people would assume that it should be reports.

May 14, 1974

Article IV, Section 16(b), Note (3)

NOTE (3) Note that the term "by law" has not been substituted for "by the legislature." [See note to Section of Article , concerning the significance of "by law."] It is the committee's understanding that the intent is to permit the legislature to circumvent the law-making process by the use of resolutions to direct the expenditure of these appropriations.



May 14, 1974

Article IV, Section 20, Note (2)

NOTE (2) The change from "may be" to "is" is not substantive; it is made to clarify the intent of the provision, which is to establish the attorney general's duty to represent the state when the state is a party in a civil suit. The "may be" language comes from the 1876 constitution, and drafters in those days tended to say "may be" when they meant "is." The problem with using "may be" is that it could be taken to mean that the attorney has the duty to intervene in every case in which the state could conceivably be or might be made a party--obviously an unintended result. The substitution of "is" follows the committee's style rules by stating the proposition in a direct form in the present tense and avoids the ambiguity resulting from "may be."

Item 16

May 14, 1974

Article IV, Section 24(b), redraft of second sentence and revised note (5).

Appointed officers serving on the effective date of a renewal continue to hold office for the terms for which they (5) were appointed unless otherwise provided by law.

NOTE (5) The original wording appeared to be an unnecessary grant of power. The intent of the sentence was to foreclose an argument that the constitution ended the life of an agency, that "renewal" by law meant "recreate," and that consequently all appointments died. The redrafted sentence destroys that argument but preserves the power of the legislature to decide how to handle hold-overs.



May 14, 1974

Article IV, Section 24(b), Redraft of third sentence and Note (7)

Redraft of third sentence:

A bill for renewal of a state agency must be brought to a vote of each house not less than 20 days prior to adjournment.

NOTE (7) The intent of this provision is to ensure a vote prior to the rush and confusion of the closing days of a session. The original wording was somewhat ambiguous, and the new language is substituted to clarify the meaning.

April 16, 1974

TO: Glickman, Titus, Anderson, SO, Lancaster, Conder, Cono  
FROM: Schmitt  
RE: Texas Research League Policy

I discovered quite by accident that the ERL is analyzing each of the Convention articles. Only Ed is completed through 2nd reading but I thought the others were worth your seeing. I will send copies to the appropriate chairmen.

Because Finance is tied so closely to Education and Loc 1 Govt I am sending all of you copies of all three. In a separate letter to Linda Ayers I asked her advice about handling per pupil allotment of the Available Fund considering the additional dedication in the Finance article.

Please note on pp. 4-7 their comments on tax rates, debt limitation and their effects on special districts. Is it too late for the League to take any further action? What does our Finance consensus permit?

Awaiting your decisions!

Grace



CONSENSUS

The League of Women Voters of Texas supports constitutional provisions for flexibility within a coordinated finance structure. Specifically:

- (1) Taxes shall be levied and collected by General law.
- (2) Money shall be appropriated only for a public purpose and spent only pursuant to an appropriation.
- (3) Debt may be incurred subject to limitations but no dollar amount should be stated in the constitution.
- (4) All other provisions shall be statutory (such as: special funds, dedicated revenue, grants and loans).



FINANCE COMMITTEE  
OFFICIAL SECOND READING ADOPTION - ARTICLE VIII

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS,

That there be a new article on finance to read as follows:

ARTICLE VIII

FINANCE

1       Sec. 1. TAXATION. Taxes shall be levied and collected by  
2 general law.

3       Sec. 2. AD VALOREM TAXATION. (a) Taxation shall be equal  
4 and uniform on all real property and tangible personal property  
5 and all such property shall be taxed in proportion to market  
6 value.

7       (b) For all ad valorem tax purposes, the legislature by  
8 general law shall provide for the establishment and enforcement  
9 of appraisal standards and procedures which shall be applied  
10 uniformly throughout the state.

11       (c) Each county shall provide for an appraisal of all  
12 taxable property within its boundaries. All taxing authorities  
13 imposing a tax on property within the county shall tax in  
14 proportion to this appraisal and shall have the power, subject  
15 to limitation by general law, to seek countywide enforcement of  
16 the application of the appraisal standards and procedures  
17 established under Subsection (b). The costs and expenses of the  
18 appraisal shall be allocated among the taxing authorities as shall  
19 be provided by general law.

20       (d) The legislature may not release ad valorem taxes unless  
21 delinquent at least 10 years.

22       (e) The rolling stock of railroads may be assessed in gross  
23 in the county where the principal office of the company is located,  
24 and the county tax paid upon it shall be apportioned by the  
25 Comptroller, in proportion to the distance such road may run  
26 through any such county, among the several counties through which  
27 the road passes, as a part of their tax assets.

28       Sec. 3. APPRAISAL FOR LAND PRESERVATION. (a) The  
29 legislature by general law shall prescribe separate formulas for  
30 the appraisal of land to promote the preservation of open space  
31 land devoted to farm or ranch purposes, and by general law may  
32 prescribe separate formulas for the appraisal of land to promote  
33 the preservation of forest land devoted to timber production.

34       (b) In passing laws pursuant to this section, the  
35 legislature by general law may provide for the appraisal of land  
36 on the basis of productive capacity and may prescribe all  
37 limitations and sanctions as may be appropriate.

38       Sec. 4. AD VALOREM TAX EXEMPTIONS. (a) There shall be



1 exempt from all ad valorem taxation:

2 (1) The property of the state except as provided by  
3 law and property of political subdivisions of the state used for  
4 public purposes;

5 (2) All household goods and personal effects not  
6 used for the production of income; and

7 (3) All farm products in the hands of the producer  
8 and family supplies for home and farm use.

9 (b) There shall be exempt from state ad valorem taxation  
10 at least \$3,000 as may be provided by general law of the appraised  
11 value of all residence homesteads.

12 (c) Subject to such limitations, classifications, and  
13 exclusions as it may prescribe, the legislature by general law  
14 may exempt from ad valorem taxation:

15 (1) Property used exclusively for educational or  
16 charitable purposes, nonresidential property owned and used  
17 exclusively by organizations chartered by the State of Texas and  
18 the United States whose membership is composed solely of former  
19 members of the armed services of the United States, or places of  
20 burial not held for profit;

21 (2) Property owned by a disabled veteran of the armed  
22 services of the United States, by the surviving spouse or minor  
23 children of a disabled veteran of the armed services of the United  
24 States, or by the surviving spouse or minor children of any member  
25 of the armed services of the United States whose life was lost  
26 while on active duty;

27 (3) Actual places of religious worship;

28 (4) Any property owned by a church or by a strictly  
29 religious society for the exclusive use as a dwelling place for  
30 the ministry of such church or religious society if the property  
31 yields no revenue to the church or religious society, but such  
32 exemption shall not extend to more property than is reasonably  
33 necessary for a dwelling place and in no event more than one acre  
34 of land; and

35 (5) Property, not held for profit, owned by a  
36 nonprofit water supply corporation, whose board of directors is  
37 elected by the members it serves, which is reasonably necessary  
38 for, and is used in the acquisition, storage, transportation and  
39 distribution of, water or is used in providing sewage or waste  
40 water treatment service.

41 (d) Each political subdivision of the state shall exempt  
42 by its own action not less than \$3,000 of the assessed value of  
43 residence homesteads of married or unmarried persons 65 years of  
44 age or older, including those living alone, from all ad valorem  
45 taxes levied by the political subdivision. Where any ad valorem  
46 tax has theretofore been pledged for the payment of any debt, the  
47 taxing officers of the political subdivision shall have authority  
48 to continue to levy and collect the tax against the homestead



1 property at the same rate as the tax so pledged until the debt  
2 is discharged, if the cessation of the levy would impair the  
3 obligation of the contract by which the debt was created.

4 (e) The legislature by general law may provide relief,  
5 including tax moratoriums, from residential ad valorem taxes for  
6 persons determined to be in need of such relief because of age  
7 or disability and economic circumstance. Any such law shall  
8 provide for reimbursement of political subdivisions for revenue  
9 losses caused by such relief or shall provide that no such relief  
10 shall apply to the ad valorem taxes of a political subdivision  
11 unless approved by the political subdivision.

12 (f) The legislature by general law may provide for the  
13 preservation of cultural, historical, or natural history resources  
14 by:

15 (1) Granting tax relief or exemption from state ad  
16 valorem taxes for appropriate property which shall be designated  
17 as provided by general law; and

18 (2) Authorizing political subdivisions of the state  
19 to grant tax relief or exemption from ad valorem taxes of the  
20 political subdivision for appropriate property which shall be  
21 designated by the political subdivision as provided by general  
22 law.

23 Sec. 5. AD VALOREM TAX APPEALS. In addition to other  
24 remedies and appeals provided by law, every person owning property  
25 subject to ad valorem taxation is entitled, after the exhaustion  
26 of administrative remedies, to pay ad valorem taxes due on such  
27 property under protest and to appeal to a court of record of  
28 competent jurisdiction for rehearing of the appraisal of the  
29 property and the assessment of the tax in trial de novo in the  
30 same manner and to the same extent as though the matter had been  
31 committed to the courts in the first instance and there had been  
32 no intervening administrative or executive action or decision.  
33 The court shall make all such orders as necessary to insure equal  
34 treatment under the law including refunds of taxes, equalization  
35 of property appraisals and assessments within the taxing authority,  
36 and such other orders as may be provided by law.

37 Sec. 6. ALLOCATIONS AND USES OF CERTAIN REVENUES. (a)  
38 Subject to legislative appropriation, allocation, and direction,  
39 all net revenues remaining after payment of all refunds allowed  
40 by law and expenses of collection derived from motor vehicle  
41 registration fees, and all taxes, except gross production and ad  
42 valorem taxes, on motor fuels and lubricants used to propel motor  
43 vehicles over public roadways, shall be used for the sole purpose  
44 of acquiring rights-of-way, constructing, maintaining, and policing  
45 such public roadways, and for the administration of such laws as  
46 may be prescribed by the legislature pertaining to the supervision  
47 of traffic and safety on such roads; and for the payment of the  
48 principal and interest on county and road district bonds or



1 warrants voted or issued prior to January 2, 1939, and declared  
2 eligible prior to January 2, 1945, for payment out of the County  
3 and Road District Highway Fund under existing law; provided,  
4 however, that one-fourth of such net revenue from the motor fuel  
5 tax shall be allocated to the Available School Fund; and provided,  
6 however, that the net revenue derived by counties from motor  
7 vehicle registration fees shall never be less than the maximum  
8 amounts allowed to be retained by each county and the percentage  
9 allowed to be retained by each county under the laws in effect  
10 on January 1, 1945. Nothing contained herein shall be construed  
11 as authorizing the pledging of the state's credit for any purpose.

12 (b) The legislature may allocate and dedicate the receipts  
13 from other state taxes not dedicated by this constitution to be  
14 used for the support of mass transportation, and may authorize  
15 the establishment of local mass transit authorities. Local general  
16 obligation bond issues for mass transportation purposes shall be  
17 subject to approval by voters in the affected jurisdiction.

18 (c) In addition to revenues dedicated elsewhere in this  
19 constitution, one-fourth of the revenue from state occupation  
20 taxes is dedicated to the Available School Fund.

21 Sec. 7. STATE DEBT. (a) No state debt shall be incurred  
22 unless authorized as provided in this constitution.

23 (b) State debt shall mean bonds or other evidences of  
24 indebtedness which are secured by the general credit of the state  
25 or are to be repaid from tax revenues, fees, tuition, or other  
26 charges of the state, a state senior college or university, or  
27 a state agency or institution having statewide jurisdiction.  
28 State debt shall not include bonds or other evidences of  
29 indebtedness authorized by law which are to be payable solely  
30 from the revenues to be generated by the charges of the project  
31 to be financed.

32 (c) State debt may be authorized by law if approved by  
33 two-thirds vote of the membership of each house of the legislature  
34 and submitted to and approved by a majority of the qualified  
35 electors voting on the question.

36 (d) State debt may be authorized by general law to refund  
37 outstanding state debt.

38 Sec. 8. APPROPRIATIONS. (a) No money shall be drawn from  
39 the state treasury except in accordance with specific appropriation  
40 made by law. No appropriation of money from the state treasury  
41 shall be made unless authorized by preexisting law.

42 (b) No appropriation of money from the state treasury shall  
43 be made for a term longer than two years.

44 (c) No bill containing an appropriation may be considered  
45 as passed or be sent to the governor for consideration until and  
46 unless the Comptroller of Public Accounts certifies that the  
47 amount appropriated is within the estimated revenue for the  
48 applicable fiscal period.



1 (d) No appropriation in excess of the estimated revenue  
2 shall be valid unless it is made in response to imperative public  
3 necessity and approved by four-fifths vote of the membership of  
4 each house of the legislature.

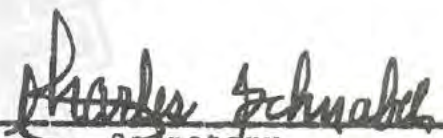
5 (e) A report shall be prepared by the Comptroller of Public  
6 Accounts in advance of each regular session of the legislature  
7 and submitted to the governor and legislature upon its convening  
8 which shows the condition of the state treasury at the close of  
9 the last fiscal period and an estimate of the probable receipts  
10 and disbursements for the then current fiscal year. The report  
11 shall contain an itemized estimate of the anticipated revenue  
12 based on the laws then in effect that will be received by the  
13 state from all sources, showing the fund accounts to be credited  
14 during the succeeding biennium, and said report shall contain  
15 such other information as may be required by law. Supplemental  
16 statements shall be submitted at any special session of the  
17 legislature and at such other times as may be necessary to show  
18 probable changes.

19 Sec. 9. PUBLIC FUNDS. Public money and public credit shall  
20 be used only for public purposes. No public funds or public  
21 credit shall be used to influence the election of a public  
22 official.

23 Sec. 10. PUBLIC PURPOSES. Public purposes, as that term  
24 is used in this constitution, include, but are not limited to,  
25 purposes for which taxes could be levied or public money or public  
26 credit could be used before the adoption of this constitution.

27 Sec. 11. REPORT OF DEDICATED FUNDS. The legislature shall  
28 provide by general law for an annual report of the receipts and  
29 expenditures of all constitutionally dedicated funds.

I hereby certify that Article VIII was passed on Second  
Reading by the Constitutional Convention on March 28, 1974, by  
the following vote: Yeas 93, Nays 67, and 3 present not voting.

  
Secretary



SEPARATE PROPOSAL

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS,

That the following be submitted as a separate proposal to the voters of Texas, which, if adopted by a majority of the electors voting on the question, shall amend Article VIII, Section 6, Subsection (a) of the majority proposal by adding a new paragraph or if adopted by a majority of the electors voting on the question and the constitution proposed by the Constitutional Convention is not adopted, shall amend Article VIII, Section 7-a of the Constitution of 1876, as amended, by adding a new paragraph thereto as follows:

1 That portion of the net revenues from all taxes on fuels  
2 and lubricants used to propel motor vehicles over public roadways,  
3 except gross production and ad valorem taxes, derived from any  
4 increase in the respective rates of these taxes over the rates  
5 in effect at the time of the adoption of this constitution shall  
6 be deposited as follows: one-fourth (1/4) to the Available School  
7 Fund and the balance to the General Revenue Fund to be allocated  
8 as provided by law.

I hereby certify that this separate proposal for addition to Article VIII was passed on Second Reading by the Constitutional Convention on March 27, 1974, by the following vote: Yeas 89, Nays 76, and 2 present not voting.

  
Secretary

*Con Office  
2nd Reading*

FINANCE COMMITTEE  
OFFICIAL SECOND READING ADOPTION - ARTICLE VIII

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS,

That there be a new article on finance to read as follows:

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2 general law.

3       Sec. 2. AD VALOREM TAXATION. (a) Taxation shall be equal  
4 and uniform on all real property and tangible personal property  
5 and all such property shall be taxed in proportion to market  
6 value.

7       (b) For all ad valorem tax purposes, the legislature by  
8 general law shall provide for the establishment and enforcement  
9 of appraisal standards and procedures which shall be applied  
10 uniformly throughout the state.

11       (c) Each county shall provide for an appraisal of all  
12 taxable property within its boundaries. All taxing authorities  
13 imposing a tax on property within the county shall tax in  
14 proportion to this appraisal and shall have the power, subject  
15 to limitation by general law, to seek countywide enforcement of  
16 the application of the appraisal standards and procedures  
17 established under Subsection (b). The costs and expenses of the  
18 appraisal shall be allocated among the taxing authorities as shall  
19 be provided by general law.

20       (d) The legislature may not release ad valorem taxes unless  
21 delinquent at least 10 years.

22       (e) The rolling stock of railroads may be assessed in gross  
23 in the county where the principal office of the company is located,  
24 and the county tax paid upon it shall be apportioned by the  
25 Comptroller, in proportion to the distance such road may run  
26 through any such county, among the several counties through which  
27 the road passes, as a part of their tax assets.

28       Sec. 3. APPRAISAL FOR LAND PRESERVATION. (a) The  
29 legislature by general law shall prescribe separate formulas for  
30 the appraisal of land to promote the preservation of open space  
31 land devoted to farm or ranch purposes, and by general law may  
32 prescribe separate formulas for the appraisal of land to promote  
33 the preservation of forest land devoted to timber production.

34       (b) In passing laws pursuant to this section, the  
35 legislature by general law may provide for the appraisal of land  
36 on the basis of productive capacity and may prescribe all  
37 limitations and sanctions as may be appropriate.

38       Sec. 4. AD VALOREM TAX EXEMPTIONS. (a) There shall be



1 exempt from all ad valorem taxation:

2 (1) The property of the state except as provided by  
3 law and property of political subdivisions of the state used for  
4 public purposes;

5 (2) All household goods and personal effects not  
6 used for the production of income; and

7 (3) All farm products in the hands of the producer  
8 and family supplies for home and farm use.

9 (b) There shall be exempt from state ad valorem taxation  
10 at least \$3,000 as may be provided by general law of the appraised  
11 value of all residence homesteads.

12 (c) Subject to such limitations, classifications, and  
13 exclusions as it may prescribe, the legislature by general law  
14 may exempt from ad valorem taxation:

15 (1) Property used exclusively for educational or  
16 charitable purposes, nonresidential property owned and used  
17 exclusively by organizations chartered by the State of Texas and  
18 the United States whose membership is composed solely of former  
19 members of the armed services of the United States, or places of  
20 burial not held for profit;

21 (2) Property owned by a disabled veteran of the armed  
22 services of the United States, by the surviving spouse or minor  
23 children of a disabled veteran of the armed services of the United  
24 States, or by the surviving spouse or minor children of any member  
25 of the armed services of the United States whose life was lost  
26 while on active duty;

27 (3) Actual places of religious worship;

28 (4) Any property owned by a church or by a strictly  
29 religious society for the exclusive use as a dwelling place for  
30 the ministry of such church or religious society if the property  
31 yields no revenue to the church or religious society, but such  
32 exemption shall not extend to more property than is reasonably  
33 necessary for a dwelling place and in no event more than one acre  
34 of land; and

35 (5) Property, not held for profit, owned by a  
36 nonprofit water supply corporation, whose board of directors is  
37 elected by the members it serves, which is reasonably necessary  
38 for, and is used in the acquisition, storage, transportation and  
39 distribution of, water or is used in providing sewage or waste  
40 water treatment service.

41 (d) Each political subdivision of the state shall exempt  
42 by its own action not less than \$3,000 of the assessed value of  
43 residence homesteads of married or unmarried persons 65 years of  
44 age or older, including those living alone, from all ad valorem  
45 taxes levied by the political subdivision. Where any ad valorem  
46 tax has theretofore been pledged for the payment of any debt, the  
47 taxing officers of the political subdivision shall have authority  
48 to continue to levy and collect the tax against the homestead



1 property at the same rate as the tax so pledged until the debt  
2 is discharged, if the cessation of the levy would impair the  
3 obligation of the contract by which the debt was created.

4 (e) The legislature by general law may provide relief,  
5 including tax moratoriums, from residential ad valorem taxes for  
6 persons determined to be in need of such relief because of age  
7 or disability and economic circumstance. Any such law shall  
8 provide for reimbursement of political subdivisions for revenue  
9 losses caused by such relief or shall provide that no such relief  
10 shall apply to the ad valorem taxes of a political subdivision  
11 unless approved by the political subdivision.

12 (f) The legislature by general law may provide for the  
13 preservation of cultural, historical, or natural history resources  
14 by:

15 (1) Granting tax relief or exemption from state ad  
16 valorem taxes for appropriate property which shall be designated  
17 as provided by general law; and

18 (2) Authorizing political subdivisions of the state  
19 to grant tax relief or exemption from ad valorem taxes of the  
20 political subdivision for appropriate property which shall be  
21 designated by the political subdivision as provided by general  
22 law.

23 Sec. 5. AD VALOREM TAX APPEALS. In addition to other  
24 remedies and appeals provided by law, every person owning property  
25 subject to ad valorem taxation is entitled, after the exhaustion  
26 of administrative remedies, to pay ad valorem taxes due on such  
27 property under protest and to appeal to a court of record of  
28 competent jurisdiction for rehearing of the appraisal of the  
29 property and the assessment of the tax in trial de novo in the  
30 same manner and to the same extent as though the matter had been  
31 committed to the courts in the first instance and there had been  
32 no intervening administrative or executive action or decision.  
33 The court shall make all such orders as necessary to insure equal  
34 treatment under the law including refunds of taxes, equalization  
35 of property appraisals and assessments within the taxing authority,  
36 and such other orders as may be provided by law.

37 Sec. 6. ALLOCATIONS AND USES OF CERTAIN REVENUES. (a)  
38 Subject to legislative appropriation, allocation, and direction,  
39 all net revenues remaining after payment of all refunds allowed  
40 by law and expenses of collection derived from motor vehicle  
41 registration fees, and all taxes, except gross production and ad  
42 valorem taxes, on motor fuels and lubricants used to propel motor  
43 vehicles over public roadways, shall be used for the sole purpose  
44 of acquiring rights-of-way, constructing, maintaining, and policing  
45 such public roadways, and for the administration of such laws as  
46 may be prescribed by the legislature pertaining to the supervision  
47 of traffic and safety on such roads; and for the payment of the  
48 principal and interest on county and road district bonds or



1 (d) No appropriation in excess of the estimated revenue  
2 shall be valid unless it is made in response to imperative public  
3 necessity and approved by four-fifths vote of the membership of  
4 each house of the legislature.

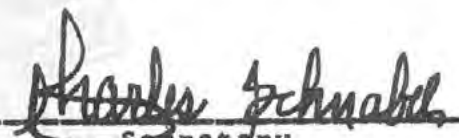
5 (e) A report shall be prepared by the Comptroller of Public  
6 Accounts in advance of each regular session of the legislature  
7 and submitted to the governor and legislature upon its convening  
8 which shows the condition of the state treasury at the close of  
9 the last fiscal period and an estimate of the probable receipts  
10 and disbursements for the then current fiscal year. The report  
11 shall contain an itemized estimate of the anticipated revenue  
12 based on the laws then in effect that will be received by the  
13 state from all sources, showing the fund accounts to be credited  
14 during the succeeding biennium, and said report shall contain  
15 such other information as may be required by law. Supplemental  
16 statements shall be submitted at any special session of the  
17 legislature and at such other times as may be necessary to show  
18 probable changes.

19 Sec. 9. PUBLIC FUNDS. Public money and public credit shall  
20 be used only for public purposes. No public funds or public  
21 credit shall be used to influence the election of a public  
22 official.

23 Sec. 10. PUBLIC PURPOSES. Public purposes, as that term  
24 is used in this constitution, include, but are not limited to,  
25 purposes for which taxes could be levied or public money or public  
26 credit could be used before the adoption of this constitution.

27 Sec. 11. REPORT OF DEDICATED FUNDS. The legislature shall  
28 provide by general law for an annual report of the receipts and  
29 expenditures of all constitutionally dedicated funds.

I hereby certify that Article VIII was passed on Second  
Reading by the Constitutional Convention on March 28, 1974, by  
the following vote: Yeas 93, Nays 67, and 3 present not voting.

  
Secretary

1 warrants voted or issued prior to January 2, 1939, and declared  
2 eligible prior to January 2, 1945, for payment out of the County  
3 and Road District Highway Fund under existing law; provided,  
4 however, that one-fourth of such net revenue from the motor fuel  
5 tax shall be allocated to the Available School Fund; and provided,  
6 however, that the net revenue derived by counties from motor  
7 vehicle registration fees shall never be less than the maximum  
8 amounts allowed to be retained by each county and the percentage  
9 allowed to be retained by each county under the laws in effect  
10 on January 1, 1945. Nothing contained herein shall be construed  
11 as authorizing the pledging of the state's credit for any purpose.

12 (b) The legislature may allocate and dedicate the receipts  
13 from other state taxes not dedicated by this constitution to be  
14 used for the support of mass transportation, and may authorize  
15 the establishment of local mass transit authorities. Local general  
16 obligation bond issues for mass transportation purposes shall be  
17 subject to approval by voters in the affected jurisdiction.

18 (c) In addition to revenues dedicated elsewhere in this  
19 constitution, one-fourth of the revenue from state occupation  
20 taxes is dedicated to the Available School Fund.

21 Sec. 7. STATE DEBT. (a) No state debt shall be incurred  
22 unless authorized as provided in this constitution.

23 (b) State debt shall mean bonds or other evidences of  
24 indebtedness which are secured by the general credit of the state  
25 or are to be repaid from tax revenues, fees, tuition, or other  
26 charges of the state, a state senior college or university, or  
27 a state agency or institution having statewide jurisdiction.  
28 State debt shall not include bonds or other evidences of  
29 indebtedness authorized by law which are to be payable solely  
30 from the revenues to be generated by the charges of the project  
31 to be financed.

32 (c) State debt may be authorized by law if approved by  
33 two-thirds vote of the membership of each house of the legislature  
34 and submitted to and approved by a majority of the qualified  
35 electors voting on the question.

36 (d) State debt may be authorized by general law to refund  
37 outstanding state debt.

38 Sec. 8. APPROPRIATIONS. (a) No money shall be drawn from  
39 the state treasury except in accordance with specific appropriation  
40 made by law. No appropriation of money from the state treasury  
41 shall be made unless authorized by preexisting law.

42 (b) No appropriation of money from the state treasury shall  
43 be made for a term longer than two years.

44 (c) No bill containing an appropriation may be considered  
45 as passed or be sent to the governor for consideration until and  
46 unless the Comptroller of Public Accounts certifies that the  
47 amount appropriated is within the estimated revenue for the  
48 applicable fiscal period.



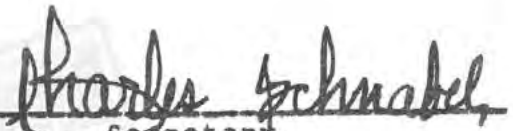
SEPARATE PROPOSAL

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS,

That the following be submitted as a separate proposal to the voters of Texas, which, if adopted by a majority of the electors voting on the question, shall amend Article VIII, Section 6, Subsection (a) of the majority proposal by adding a new paragraph or if adopted by a majority of the electors voting on the question and the constitution proposed by the Constitutional Convention is not adopted, shall amend Article VIII, Section 7-a of the Constitution of 1876, as amended, by adding a new paragraph thereto as follows:

1 That portion of the net revenues from all taxes on fuels  
2 and lubricants used to propel motor vehicles over public roadways,  
3 except gross production and ad valorem taxes, derived from any  
4 increase in the respective rates of these taxes over the rates  
5 in effect at the time of the adoption of this constitution shall  
6 be deposited as follows: one-fourth (1/4) to the Available School  
7 Fund and the balance to the General Revenue Fund to be allocated  
8 as provided by law.

I hereby certify that this separate proposal for addition to Article VIII was passed on Second Reading by the Constitutional Convention on March 27, 1974, by the following vote: Yeas 89, Nays 76, and 2 present not voting.

  
Secretary

COMPARISON OF THE FINANCE ARTICLE  
PASSED BY THE CONVENTION ON SECOND READING  
WITH THE FINANCE PROVISIONS OF THE  
1876 CONSTITUTION, AS AMENDED

Convention Staff Document  
March 28, 1974

*SUMMARY: The Convention-passed Finance Article is in part a simplification and reorganization of the lengthy finance provisions scattered throughout the Texas Constitution of 1876. New or substantively changed provisions are included to provide the basis for major reform of the ad valorem tax on property, increased citizen review of state borrowing and more flexible limitations on the use of public money or credit. The proposed article contains approximately 1,795 words compared to almost 11,000 in the finance provisions of the 1876 Constitution.*



COMPARISON OF FINANCE PROVISIONS

CONVENTION ARTICLE  
PASSED ON SECOND READING

1876 CONSTITUTION

I. Taxation

- |   |  |
|---|--|
| A. Requires that all real and tangible personal property be taxed on the basis of market value and at the same effective rate.  | A. <i>Requires that all property (real, tangible and intangible personal property) be taxed on the basis of value and at the same effective rate.</i>    |
| B. Provides for an ad valorem tax structure which requires periodic appraisals at market value for all taxable property in the state. The appraisals are to be provided for by the county according to standards and procedures established by the legislature. | B. <i>There is no similar provision.</i>   |
| C. Mandates the legislature to provide by law for the appraisal of certain land (farm, ranch) on the basis of productivity and allows the legislature to provide for similar appraisals for timberland.   | C. <i>Provides directly for a right of appraisal on the basis of productivity for land owned by natural persons and designated for agricultural use.</i> |
| D. Provides for certain exemptions from ad valorem tax.   | D. <i>Same</i>   |
| E. Provides for a right of appeal in trial de novo for ad valorem taxpayers.  | E. <i>There is no similar provision.</i>   |
| F. Dedicates 3/4 of the motor fuel tax to use on public roadways and 1/4 to the Available School Fund.  | F. <i>Same</i>   |

## II. State Debt

- |  |  |
|--|--|
| <p>A. Requires that before state debt may be incurred, it must be approved by two-thirds vote of the membership of each house of the legislature and at a state-wide election.</p> <p>B. Defines state debt to include bonds which obligate the general credit of the state or which are payable from tax revenue, tuition, fees or other charges of state colleges and universities or certain state agencies unless such bonds are payable solely from the revenues of the project to be financed.</p> | <p>A. Prohibits state debt, but \$1.2 billion has been authorized by amendment to the constitution, which is basically the same approval process recommended in the Convention article.</p> <p>B. Does not specifically define state debt, but the courts have limited the term to bonds which obligate the general credit of the state.</p> |
|--|--|

## III. Appropriations

- |  |                               |
|--|-------------------------------|
| <p>A. Requires that appropriations remain within the revenue estimated to be available for the fiscal period.</p> <p>B. Permits appropriations in excess of estimated revenue only in response to imperative public necessity and a four-fifths vote of the membership of each house of the legislature.</p> | <p>A. Same</p> <p>B. Same</p> |
|--|-------------------------------|

## IV. Public Spending

- |  |   |
|--|---|
| <p>A. Requires that public money and public credit be used only for public purposes.</p> <p>B. Prohibits public funds from being used to influence the election of public officials.</p> | <p>A. Prohibits grants and loans to individuals, associations or corporations unless made for a public purpose.</p> <p>B. Has no similar provision.</p> |
|--|---|



V. Separate Proposal

The voters of Texas will be given the opportunity to decide whether to change the proposed constitution or the present one to allow the revenue from any increase in the rate of the motor fuel tax to be allocated one-fourth to the Available School Fund and three-fourths to the General Revenue Fund.

*office*

FINANCE  
OFFICIAL COMMITTEE REPORT - ARTICLE VIII

March 11, 1974

THE HONORABLE PRICE DANIEL, JR., President  
Constitutional Convention of 1974

Sir:

We, your Committee on Finance, to whom was referred Article VIII of Constitutional Convention Proposal Number 1, have had the same under consideration and beg to report back with the recommendation that it do pass in the form attached.

The proposal was reported from  
committee by the following  
record vote:

21 yeas  
0 nays  
present,  
not voting

Respectfully submitted,

*Neil Caldwell*  
Neil Caldwell, Chairman

(January 11, 1974, filed; January 14, 1974, referred to Committee on Finance; March 11, 1974, reported favorably by a vote of 21 yeas, 0 nays, with minority reports attached; March 11, 1974, sent to printer.)



TEXAS CONSTITUTIONAL CONVENTION

REPORT  
OF THE  
COMMITTEE ON FINANCE

Article VIII

Finance

  
Chairman

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BE IT PROPOSED BY THE COMMITTEE ON FINANCE,

That there be a new article on finance to read as follows:

## ARTICLE VIII

### FINANCE

1       Sec. 1. TAXATION. Taxes shall be levied and collected by  
2 general law.

3       Sec. 2. AD VALOREM TAXATION. (a) Taxation shall be equal  
4 and uniform on all real property and tangible personal property  
5 and all such property shall be taxed in proportion to market  
6 value.

7       (b) For all ad valorem tax purposes, the legislature by  
8 general law shall provide for the establishment and enforcement  
9 of appraisal standards and procedures which shall be applied  
10 uniformly throughout the state.

11       (c) Each county shall provide for an appraisal of all  
12 taxable property within its boundaries. All taxing authorities  
13 imposing a tax on property within the county shall tax in  
14 proportion to this appraisal. The costs and expenses of the  
15 appraisal shall be allocated among the taxing authorities as shall  
16 be provided by general law.

17       (d) The legislature may not release ad valorem taxes unless  
18 delinquent at least 10 years.

19       (e) The rolling stock of railroads may be assessed in gross  
20 in the county where the principal office of the company is located,  
21 and the county tax paid upon it shall be apportioned by the  
22 Comptroller, in proportion to the distance such road may run  
23 through any such county, among the several counties through which  
24 the road passes, as a part of their tax assets.

25       Sec. 3. APPRAISAL FOR LAND PRESERVATION. (a) The  
26 legislature by general law shall prescribe separate formulas for  
27 the appraisal of land to promote the preservation of open space  
28 land devoted to farm or ranch purposes, and by general law may  
29 prescribe separate formulas for the appraisal of land to promote  
30 the preservation of forest land devoted to timber production.

31       (b) In passing laws pursuant to this section, the  
32 legislature by general law may provide for the appraisal of land  
33 on the basis of productive capacity and may prescribe all  
34 limitations and sanctions as may be appropriate.

35       Sec. 4. AD VALOREM TAX EXEMPTIONS. (a) There shall be  
36 exempt from all ad valorem taxation:

37       (1) The property of the state except as provided by  
38 law and property of political subdivisions of the state used for



1 public purposes;

2 (2) All household goods and personal effects not  
3 used for the production of income; and

4 (3) All farm products in the hands of the producer  
5 and family supplies for home and farm use.

6 (b) There shall be exempt from state ad valorem taxation  
7 at least \$3,000 as may be provided by general law of the appraised  
8 value of all residence homesteads.

9 (c) Subject to such limitations, classifications, and  
10 exclusions as it may prescribe, the legislature by general law  
11 may exempt from ad valorem taxation:

12 (1) Property used exclusively for educational or  
13 charitable purposes, nonresidential property owned and used  
14 exclusively by organizations chartered by the State of Texas and  
15 the United States whose membership is composed solely of former  
16 members of the armed services of the United States, or places of  
17 burial not held for profit;

18 (2) Property owned by a disabled veteran of the armed  
19 services of the United States, by the surviving spouse or minor  
20 children of a disabled veteran of the armed services of the United  
21 States, or by the surviving spouse or minor children of any member  
22 of the armed services of the United States whose life was lost  
23 while on active duty;

24 (3) Actual places of religious worship;

25 (4) Any property owned by a church or by a strictly  
26 religious society for the exclusive use as a dwelling place for  
27 the ministry of such church or religious society if the property  
28 yields no revenue to the church or religious society, but such  
29 exemption shall not extend to more property than is reasonably  
30 necessary for a dwelling place and in no event more than one acre  
31 of land; and

32 (5) Property, not held for profit, owned by a  
33 nonprofit water supply corporation which is reasonably necessary  
34 for, and is used in the acquisition, storage, transportation and  
35 distribution of, water or is used in providing sewage or waste  
36 water treatment service.

37 (d) The governing body of any political subdivision may  
38 exempt from ad valorem taxation \$3,000, or any larger amount as  
39 authorized by the legislature, of the assessed value of a residence  
40 homestead owned and occupied by persons 65 years of age or older.  
41 The governing body, on a petition signed by qualified voters equal  
42 in number to at least five percent of the voters registered in  
43 the political subdivision, shall call an election to determine  
44 by majority vote whether to grant, repeal, increase, or reduce  
45 such exemption. After the first petition, no such petition shall  
46 be effective if submitted less than 12 months from the date of  
47 a preceding valid petition.

48 (e) The legislature by general law may provide relief,



1 including tax moratoriums, from residential ad valorem taxes for  
2 persons determined to be in need of such relief because of age,  
3 disability, or economic circumstance. Any such law shall provide  
4 for reimbursement of political subdivisions for revenue losses  
5 caused by such relief or shall provide that no such relief shall  
6 apply to the ad valorem taxes of a political subdivision unless  
7 approved by the political subdivision.

8 (f) The legislature by general law may provide for the  
9 preservation of cultural, historical, or natural history resources  
10 by:

11 (1) Granting tax relief or exemption from state ad  
12 valorem taxes for appropriate property which shall be designated  
13 as provided by general law; and

14 (2) Authorizing political subdivisions of the state  
15 to grant tax relief or exemption from ad valorem taxes of the  
16 political subdivision for appropriate property which shall be  
17 designated by the political subdivision as provided by general  
18 law.

19 Sec. 5. AD VALOREM TAX APPEALS. In addition to other  
20 remedies and appeals provided by law, every person owning property  
21 subject to ad valorem taxation is entitled, after the exhaustion  
22 of administrative remedies, to pay ad valorem taxes due on such  
23 property under protest and to appeal to a court of record of  
24 competent jurisdiction for rehearing in trial de novo of the  
25 appraisal of the property and the assessment of the tax. The  
26 court shall make all such orders as necessary to insure equal  
27 treatment under the law including refunds of taxes, equalization  
28 of property appraisals and assessments within the taxing authority,  
29 and such other orders as may be provided by law.

30 Sec. 6. ALLOCATIONS AND USES OF CERTAIN REVENUES. (a)  
31 Subject to legislative appropriation, allocation, and direction,  
32 all net revenues remaining after payment of all refunds allowed  
33 by law and expenses of collection derived from motor vehicle  
34 registration fees, and all taxes, except gross production and ad  
35 valorem taxes, on motor fuels and lubricants used to propel motor  
36 vehicles over public roadways, shall be used for the sole purpose  
37 of acquiring rights-of-way, constructing, maintaining, and policing  
38 such public roadways, and for the administration of such laws as  
39 may be prescribed by the legislature pertaining to the supervision  
40 of traffic and safety on such roads; and for the payment of the  
41 principal and interest on county and road district bonds or  
42 warrants voted or issued prior to January 2, 1939, and declared  
43 eligible prior to January 2, 1945, for payment out of the County  
44 and Road District Highway Fund under existing law; provided,  
45 however, that one-fourth of such net revenue from the motor fuel  
46 tax shall be allocated to the Available School Fund; and provided,  
47 however, that the net revenue derived by counties from motor  
48 vehicle registration fees shall never be less than the maximum



1 amounts allowed to be retained by each county and the percentage  
2 allowed to be retained by each county under the laws in effect  
3 on January 1, 1945. Nothing contained herein shall be construed  
4 as authorizing the pledging of the state's credit for any purpose.

5 (b) The legislature may allocate and dedicate the receipts  
6 from other state taxes not dedicated by this constitution to be  
7 used for the support of mass transportation, and may authorize  
8 the establishment of local mass transit authorities. Local tax  
9 sources and local general obligation bond issues for mass  
10 transportation purposes shall be subject to approval by voters  
11 in the affected jurisdiction.

12 (c) In addition to revenues dedicated elsewhere in this  
13 constitution, one-fourth of the revenue from state occupation  
14 taxes is dedicated to the Available School Fund.

15 Sec. 7. STATE DEBT. (a) No state debt shall be incurred  
16 unless authorized as provided in this constitution.

17 (b) State debt shall mean bonds or other evidences of  
18 indebtedness which are secured by the general credit of the state  
19 or are to be repaid from tax revenues, fees, tuition, or other  
20 charges of the state, a state senior college or university, or  
21 a state agency or institution having statewide jurisdiction.  
22 State debt shall not include bonds or other evidences of  
23 indebtedness authorized by law which are to be payable solely  
24 from the revenues to be generated by the charges of the project  
25 to be financed.

26 (c) State debt may be authorized by law if approved by  
27 two-thirds vote of the membership of each house of the legislature  
28 and submitted to and approved by a majority of the qualified  
29 electors voting on the question.

30 (d) State debt may be authorized by general law to refund  
31 outstanding state debt.

32 Sec. 8. APPROPRIATIONS. (a) No money shall be drawn from  
33 the state treasury except in accordance with specific appropriation  
34 made by law.

35 (b) No appropriation of money from the state treasury shall  
36 be made for a term longer than two years.

37 (c) No bill containing an appropriation may be considered  
38 as passed or be sent to the governor for consideration until and  
39 unless the Comptroller of Public Accounts certifies that the  
40 amount appropriated is within the estimated revenue for the  
41 applicable fiscal period.

42 (d) No appropriation in excess of the estimated revenue  
43 shall be valid unless it is made in response to imperative public  
44 necessity and approved by four-fifths vote of the membership of  
45 each house of the legislature.

46 (e) A report shall be prepared by the Comptroller of Public  
47 Accounts in advance of each regular session of the legislature  
48 and submitted to the governor and legislature upon its convening



1 which shows the condition of the state treasury at the close of  
2 the last fiscal period and an estimate of the probable receipts  
3 and disbursements for the then current fiscal year. The report  
4 shall contain an itemized estimate of the anticipated revenue  
5 based on the laws then in effect that will be received by the  
6 state from all sources, showing the fund accounts to be credited  
7 during the succeeding biennium, and said report shall contain  
8 such other information as may be required by law. Supplemental  
9 statements shall be submitted at any special session of the  
10 legislature and at such other times as may be necessary to show  
11 probable changes.

12 Sec. 9. PUBLIC FUNDS. Public money and public credit shall  
13 be used only for public purposes.

14 Sec. 10. PUBLIC PURPOSES. Public purposes, as that term  
15 is used in this constitution, include, but are not limited to,  
16 purposes for which taxes could be levied or public money or public  
17 credit could be used before the adoption of this constitution.

18 Sec. 11. REPORT OF DEDICATED FUNDS. The legislature shall  
19 provide by general law for an annual report of the receipts and  
20 expenditures of all constitutionally dedicated funds.

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2 the last fiscal period and an estimate of the probable receipts  
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19 provide by general law for an annual report of the receipts and  
20 expenditures of all constitutionally dedicated funds.



SECTION-BY-SECTION ANALYSIS  
OF COMMITTEE REPORT

A. Introduction

The committee began its deliberations on Constitutional Convention Proposal Number 1, Article VIII, which was identical to the Constitutional Revision Commission recommendations for Article VIII. The committee proceeded to hear witness testimony, staff discussion, and delegate testimony on each section and each proposal relating to the various sections. Upon completion of all testimony the committee began a straw vote procedure to develop a consensus on language to be contained in the various sections. Following this, the language developed was submitted to various persons with extensive knowledge of the subject matter under consideration for comment and review. The committee then voted section by section on the entire article.

The final committee proposal deleted proposed Section 4 of Constitutional Convention Proposal Number 1 relating to state taxes on income.

Four new sections were added to Constitutional Convention Proposal Number 1: Section 2 of the committee report provides for ad valorem taxation and methods for application of these taxes; Section 3 of the committee report provides for different methods of appraisal for certain types of land; Section 5 of the committee report provides for a method of taxpayer appeal from appraisal and assessment of ad valorem taxes; Section 11 of the committee report requires a report of constitutionally dedicated funds.

The remaining sections of the committee report are essentially those contained in Constitutional Convention Proposal Number 1. Section 1 requires that taxes be levied and collected by general law. Section 4 provides for exemptions from ad valorem taxation. Section 6 establishes allocations of certain dedicated revenues. Section 7 defines state debt and provides methods by which state debt may be created. Section 8 provides the method and term of appropriating funds of the state. Section 9 establishes the uses to be made of public funds. Section 10 defines public purposes.

The revised Article VIII was submitted to the committee for approval as a whole and was adopted by a majority of the membership of the committee.



## B. Section-by-section Analysis

Sec. 1. TAXATION. Taxes shall be levied and collected by general law.

### COMMENTS

Section 1 is unchanged from Section 1 of the recommendation of the Constitutional Revision Commission. A similar provision appears in Section 3 of Article VIII of the present Texas Constitution.

Section 1 is a requirement that all taxes be levied and collected only by general—as opposed to special—laws. Approximately 12 state constitutions contain a similar requirement.

Sec. 2. AD VALOREM TAXATION. (a) Taxation shall be equal and uniform on all real property and tangible personal property and all such property shall be taxed in proportion to market value.

(b) For all ad valorem tax purposes, the legislature by general law shall provide for the establishment and enforcement of appraisal standards and procedures which shall be applied uniformly throughout the state.

(c) Each county shall provide for an appraisal of all taxable property within its boundaries. All taxing authorities imposing a tax on property within the county shall tax in proportion to this appraisal. The costs and expenses of the appraisal shall be allocated among the taxing authorities as shall be provided by general law.

(d) The legislature may not release ad valorem taxes unless delinquent at least 10 years.

(e) The rolling stock of railroads 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.

### COMMENTS

Section 2 is a new section which was added to Constitutional Convention Proposal Number 1 to provide for the basic structure of ad valorem taxation in Texas. It contains some provisions which are similar to ones which appear in the present constitution, and some new provisions which are intended to establish the basis for a fairer and more administrable ad valorem tax in this state.

Subsection (a) requires that taxation be equal and uniform on real property and tangible personal property and that all such property be taxed in proportion to market value. The effect of this section is: (1) to prevent discrimination between property



owners; (2) to prevent the application of differing tax rates or ratios to market value for any real property or tangible personal property within a taxing jurisdiction; and (3) to prevent the exemption of real property or tangible personal property from ad valorem taxation except as specifically permitted by the constitution.

In discussing the meaning of "equal and uniform" as applied to ad valorem taxation, the Finance Committee determined that the requirement would not prevent the legislature from making reasonable classifications of property for purposes such as providing for: (1) differing methods of determining situs; (2) differing dates and procedures for the rendering of property; (3) discounts for the prepayment of taxes (despite the case holding of *Rowan Drilling Co. v. Sheppard*, 87 S.W.2d 706 (1935)); and (4) differing tax rates between taxing authorities.

Subsection (a) differs from Constitutional Convention Proposal Number 1 in that Section 1 of Proposal Number 1 would have permitted property to be classified in a manner such that differing tax rates, ratios to market value, and methods of determining value could be applied to different classes of real property and tangible personal property. The Finance Committee concluded that permitting a "classified property tax" in Texas was unwise.

Subsection (a) differs from the present constitution in that the "equal and uniform" requirement is not made applicable to intangible personal property (e.g., stocks, bonds, cash). It is important to note that this does not mean that intangibles will escape taxation. The legislature could choose from a variety of methods for taxing intangibles, including continuing an ad valorem tax or exempting some or all intangible property from the ad valorem tax and utilizing other, perhaps more successful, methods of taxation.

One more change in Subsection (a) from both Constitutional Convention Proposal Number 1 and the present constitution is the requirement that property be taxed in proportion to "market value" rather than "value." This is intended to make clear that the value of property is its market value and not an amount arbitrarily determined as a result of bargaining between a tax collector and a property owner. The change does not prevent a jurisdiction from taxing in "proportion to market value" (at some legally established ratio or percentage of the value) or the utilization, as provided by law, of commonly accepted methods for determining value, such as comparable sales, income capitalization, or replacement cost, where the particular method is the most appropriate.

Subsection (b) mandates the legislature to provide for the establishment and enforcement of appraisal standards and procedures. These standards and procedures must be applied



uniformly throughout the state. The subsection does not require that assessment ratios to value be the same in each jurisdiction, but does require that similar property be appraised in the same manner regardless of where it is located in the state.

Subsection (c) requires that all property must have only one value for purposes of taxation. This would eliminate the duplicative efforts of various overlapping taxing jurisdictions in determining the value of the same property. The subsection requires each county to "provide for" an appraisal of all taxable property within its boundaries. Every taxing authority must use the results of the appraisal and tax "in proportion to" the value established for the property.

Subsection (c) does not require that the county assessor-collector actually do the appraising. Instead, the provision is drafted in such a manner that the county could utilize one or more methods for providing for the appraisal, including creating a board of representatives from the various taxing authorities and contracting with other political entities or private firms for the appraisal. The subsection does not mean that the tax offices of political subdivisions other than the county would necessarily be eliminated. Instead the provision allows, subject to other limitations in this constitution and the law, the various taxing authorities to determine their own taxing policy, including the ratio to the appraised value at which each will tax.

Subsection (d) is a limitation on the ability of the legislature to release ad valorem taxes. A similar limitation may be found in Section 55 of Article III of the present constitution.

Subsection (e) is almost identical to a part of Article VIII, Section 8 of the present constitution. It is necessary to permit the legislature to provide for the assessment of railroad rolling stock in one county and the distribution of this assessed value among the counties through which the railroad runs.

Sec. 3. APPRAISAL FOR LAND PRESERVATION. (a) The legislature by general law shall prescribe separate formulas for the appraisal of land to promote the preservation of open space land devoted to farm or ranch purposes, and by general law may prescribe separate formulas for the appraisal of land to promote the preservation of forest land devoted to timber production.

(b) In passing laws pursuant to this section, the legislature by general law may provide for the appraisal of land on the basis of productive capacity and may prescribe all limitations and sanctions as may be appropriate.

#### COMMENTS

Section 3 is a new section. The present constitution



contains a similar provision (Article VIII, Section 1-d) and Constitutional Convention Proposal Number 1 continued the provision as statutory law in the transition schedule.

Section 3 is necessary because under the equal and uniform requirement of Section 2, constitutional authorization is needed for the legislature to provide formulas for the appraisals of land on the basis of productive capacity rather than comparable sales. This section mandates that the legislature provide such formulas for "open space land devoted to farm or ranch purposes" and allows the legislature to provide similar formulas for "forest land devoted to timber production." In both instances the appraisal is limited to "land," not including improvements, and requires that the land be "devoted" to the particular purpose or use mentioned.

Subsection (b) allows the legislature to "prescribe all limitations and sanctions as may be appropriate" for land preservation. This would permit tax roll-backs, restrictive contracts, or other approaches to prevent abuse of the separate formulas of appraisal provided under the section.

Sec. 4. AD VALOREM TAX EXEMPTIONS. (a) There shall be exempt from all ad valorem taxation:

(1) The property of the state except as provided by law and property of political subdivisions of the state used for public purposes;

(2) All household goods and personal effects not used for the production of income; and

(3) All farm products in the hands of the producer and family supplies for home and farm use.

(b) There shall be exempt from state ad valorem taxation at least \$3,000 as may be provided by general law of the appraised value of all residence homesteads.

(c) Subject to such limitations, classifications, and exclusions as it may prescribe, the legislature by general law may exempt from ad valorem taxation:

(1) Property used exclusively for educational or charitable purposes, nonresidential property owned and used exclusively by organizations chartered by the State of Texas and the United States whose membership is composed solely of former members of the armed services of the United States, or places of burial not held for profit;

(2) Property owned by a disabled veteran of the armed services of the United States, by the surviving spouse or minor children of a disabled veteran of the armed services of the United States, or by the surviving spouse or minor children of any member of the armed services of the United States whose life was lost while on active duty;



(3) Actual places of religious worship;

(4) 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 if the property yields no revenue to the church or religious society, but 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; and

(5) Property, not held for profit, owned by a nonprofit water supply corporation which is reasonably necessary for, and is used in the acquisition, storage, transportation and distribution of, water or is used in providing sewage or waste water treatment service.

(d) The governing body of any political subdivision may exempt from ad valorem taxation \$3,000, or any larger amount as authorized by the legislature, of the assessed value of a residence homestead owned and occupied by persons 65 years of age or older. The governing body, on a petition signed by qualified voters equal in number to at least five percent of the voters registered in the political subdivision, shall call an election to determine by majority vote whether to grant, repeal, increase, or reduce such exemption. After the first petition, no such petition shall be effective if submitted less than 12 months from the date of a preceding valid petition.

(e) The legislature by general law may provide relief, including tax moratoriums, from residential ad valorem taxes for persons determined to be in need of such relief because of age, disability, or economic circumstance. Any such law shall provide for reimbursement of political subdivisions for revenue losses caused by such relief or shall provide that no such relief shall apply to the ad valorem taxes of a political subdivision unless approved by the political subdivision.

(f) The legislature by general law may provide for the preservation of cultural, historical, or natural history resources by:

(1) Granting tax relief or exemption from state ad valorem taxes for appropriate property which shall be designated as provided by general law; and

(2) Authorizing political subdivisions of the state to grant tax relief or exemption from ad valorem taxes of the political subdivision for appropriate property which shall be designated by the political subdivision as provided by general law.

#### COMMENTS

Section 4 is necessary because under the equal and uniform requirement of Section 2, real property or tangible personal property may not be exempted from taxation unless such exemption is granted or authorized in the constitution.



Subsection (a) continues, with minor revisions, exemptions which were granted by the 1876 Constitution and were a part of Constitutional Convention Proposal Number 1. These exemptions apply automatically against all ad valorem taxes levied in the state. One change made from Constitutional Convention Proposal Number 1 was to modify Subsection (a) of Section 2 to read "property of political subdivisions of the state used for public purposes" rather than "public property used for public purposes." This change removes the argument that the exemption of "public property" could include property that is privately owned but used by the public. The term "personal effects" as used in Paragraph (2) of Subsection (a) is understood to be limited to "possessions having a close relationship to one's person" and not to include automobiles.

Subsection (b) carries forward the homestead exemption from state ad valorem taxes which is in Section 1-b of Article VIII of the present constitution and is part of Constitutional Convention Proposal Number 1. To make the exemption consistent with changes made in Section 2, the committee has changed the provision to read "at least \$3,000" of "appraised value." The legislature may increase the amount of the exemptions by law. The Finance Committee also has deleted the portion of Constitutional Convention Proposal Number 1 which would have exempted from state taxation the property of political subdivisions even if such property was not used for public purposes. Under Subsection (a), the property of political subdivisions would be exempt from all taxation if used for a public purpose.

Subsection (c) is a grant of authority to the legislature to exempt certain types of property. The first part of Subsection (c) ("subject to such limitations, classifications, and exclusions as it may prescribe") is intended to remove any question of the legislature's ability to narrow, graduate, or otherwise limit any exemption which it chooses to grant under the authority provided by Subsection (c).

Paragraph (1) of Subsection (c) is changed from that recommended by Constitutional Convention Proposal Number 1 by the addition of language allowing the legislature to exempt nonresidential property owned and used exclusively by organizations whose membership is composed solely of former members of the armed services of the United States. This will insure that the exemption currently authorized by statute will be continued if the legislature chooses to act in granting the exemption.

The remainder of the language allows the legislature to exempt "property used exclusively for educational or charitable purposes" without requiring, as does the present constitution, that the property be owned and used exclusively by an "institution of purely public charity." The change is intended to permit certain charitable and educational activities, such as garden



clubs and certain homes for the elderly, to qualify for exemption under this provision although they could not under the Constitution of 1876.

Paragraph (2) of Subsection (c) is a redrafted version of the authorization for exempting property belonging to certain veterans or their families which is in the present constitution and Constitutional Convention Proposal Number 1. In conjunction with the introductory provision to Subsection (c), the legislature could exclude the property of certain veterans and graduate the exemption of others according to disability or some other criteria.

Paragraphs (3) and (4) of Subsection (c) are unchanged from provisions in the present constitution and Constitutional Convention Proposal Number 1.

Paragraph (5) of Subsection (c) is new. It would permit the legislature to exempt property owned by a nonprofit water supply corporation.

Subsection (d) is changed from Constitutional Convention Proposal Number 1 and the present constitution, which allow political subdivisions to exempt "not less than" \$3,000 of the residence homestead of persons 65 years of age or older. Subsection (d) of this report would allow political subdivisions to exempt \$3,000 and would permit the legislature to authorize a larger amount by law. This change was made to allow greater legislative control over an exemption which, because it had no ceiling, posed a danger to the local tax base. Two other changes made in this provision by the Finance Committee were: (1) to change the percentage of voters necessary on a petition from 20 percent of those voting in the last preceding election to five percent of the voters registered in the subdivision; and (2) to allow for a petition to call an election to repeal, increase, or reduce an exemption in addition to granting one. Only one valid petition during each 12-month period would be permitted.

Subsection (e) is a provision which is not in the present Texas Constitution, but which was recommended by the Constitutional Revision Commission. It allows the legislature to grant relief from ad valorem taxes for those determined to be in need. The Finance Committee made the following changes from Section 2(e) in Constitutional Convention Proposal Number 1: (1) "including tax moratoriums" was added to indicate that such moratoriums were possible as one element of relief which could be granted under this subsection; and (2) the legislature was given a choice in granting such exemptions between providing for the reimbursement of political subdivisions for revenue losses or allowing the political subdivision to decide whether to grant the relief.

Subsection (f) is a new provision which authorizes the legislature to provide for relief from ad valorem taxes to preserve cultural, historical, or natural history resources. The legislature would exempt or provide other tax relief for historic



sites, historic buildings, garden clubs, and other eligible property.

Sec. 5. AD VALOREM TAX APPEALS. In addition to other remedies and appeals provided by law, every person owning property subject to ad valorem taxation is entitled, after the exhaustion of administrative remedies, to pay ad valorem taxes due on such property under protest and to appeal to a court of record of competent jurisdiction for rehearing in trial de novo of the appraisal of the property and the assessment of the tax. The court shall make all such orders as necessary to insure equal treatment under the law including refunds of taxes, equalization of property appraisals and assessments within the taxing authority, and such other orders as may be provided by law.

#### COMMENTS

Section 5 is a new section not contained either in the 1876 Constitution or Constitutional Convention Proposal Number 1. It creates a constitutional right of appeal for taxpayers and does not depend on legislative enactment.

At the present time the taxpayer who wishes to contest the appraisal and assessment of taxes imposed on property is at a severe disadvantage. The taxpayer does not have the right to pay taxes under protest and sue for the excess nor may the court fix the proper value or adjust the assessments and appraisals of property within the taxing authority. In addition to these disabilities, courts have imposed a heavy burden of proof on the individual taxpayer, who must show either proof of fraud, want of jurisdiction, illegality, or the adoption of an arbitrary and fundamentally erroneous plan or scheme of valuation.

In adopting the language of Section 5, the committee intended to create a right to relief by court action from the appraisal and assessment of ad valorem taxation in a manner that would not impede reliance by the taxing authority upon revenues being generated and would at the same time allow court review of the process through which the tax was determined. The court would be required to order tax refunds and equalization of appraisals and assessments if such orders are necessary to insure equal treatment for the taxpayer.

Sec. 6. ALLOCATIONS AND USES OF CERTAIN REVENUES. (a) 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 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.

(b) The legislature may allocate and dedicate the receipts from other state taxes not dedicated by this constitution to be used for the support of mass transportation, and may authorize the establishment of local mass transit authorities. Local tax sources and local general obligation bond issues for mass transportation purposes shall be subject to approval by voters in the affected jurisdiction.

(c) In addition to revenues dedicated elsewhere in this constitution, one-fourth of the revenue from state occupation taxes is dedicated to the Available School Fund.

#### COMMENTS

Subsection (a) continues the language of the 1876 Constitution which dedicates highway user revenues. The committee felt the use of this language to be a more desirable approach than the modified language used by the Constitutional Revision Commission in its suggested proposal. The present dedication of the net revenue of motor vehicle registration fees and three-fourths of motor fuel taxes for public roadways and the remaining one-fourth of the net revenues of motor fuel taxes to the Available School Fund is continued.

Subsection (b) provides that (1) the legislature may statutorily dedicate funds not otherwise dedicated by the constitution for the purpose of mass transit; (2) the legislature may create local mass transit authorities; and (3) local control be preserved over local indebtedness created for mass transit.

The committee felt this subsection necessary to prevent any possibility that courts in the future would hold that mass transit would not be considered a public purpose. In addition the committee felt that explicit language was necessary to insure that the state would not be prevented from making grants to local subdivisions if it chose to do so.

Subsection (c) continues the current constitutional



allocation and dedication to the Available School Fund of one-fourth of the revenue from state occupation taxes.

Sec. 7. STATE DEBT. (a) No state debt shall be incurred unless authorized as provided in this constitution.

(b) State debt shall mean bonds or other evidences of indebtedness which are secured by the general credit of the state or are to be repaid from tax revenues, fees, tuition, or other charges of the state, a state senior college or university, or a state agency or institution having statewide jurisdiction. State debt shall not include bonds or other evidences of indebtedness authorized by law which are to be payable solely from the revenues to be generated by the charges of the project to be financed.

(c) State debt may be authorized by law if approved by two-thirds vote of the membership of each house of the legislature and submitted to and approved by a majority of the qualified electors voting on the question.

(d) State debt may be authorized by general law to refund outstanding state debt.

#### COMMENTS

Section 7 requires that before the state may incur debt, a law authorizing the debt must be approved by two-thirds vote of the membership of each house of the legislature and be submitted to and approved at a statewide election.

Subsection (a) provides that no state debt may be incurred unless authorized as provided in this constitution. The term "constitution" is used to include sections in addition to Section 7 which provide for the creation of state debt, such as Sections 9 and 10 of Article VII (Education) of Constitutional Convention Proposal Number 1. This provision is essentially the same as that of Article VIII, Section 5(b) of Constitutional Convention Proposal Number 1.

Subsection (b) defines state debt. Article III, Section 49 of the present constitution prohibits the creation of any debt "by or on behalf of the State," but, generally, the courts have interpreted the provision only to apply when the credit of the state is obligated. As a result, much borrowing by state agencies has occurred in the past without constitutional authorization. The definition of state debt provided in Subsection (b) is much broader than under the present constitution, and includes all bonds or other evidences of indebtedness which are secured by the general credit of the state or to be repaid from any charge by the state, or a college or university, or a state institution or agency with statewide jurisdiction; but it would not include evidences of indebtedness to be repaid solely from the revenues to be generated by the projects to be financed.



Subsection (c) provides for the manner in which state debt may be authorized. It requires approval by two-thirds of each house of the legislature and a majority of the qualified electors voting on the question. This is the manner in which state debt may be authorized today by amending the constitution, except that under Subsection (c) the authorization would not become part of the constitution. This is essentially the same as Constitutional Convention Proposal Number 1, Article VIII, Section 5(d).

Subsection (d), which is the same as Subsection (c) of Section 5 of Article VIII of Constitutional Convention Proposal Number 1, would allow the legislature to provide by law for the refunding of state debt to take advantage of improved borrowing circumstances. It would not allow for an increase in the amount of debt outstanding or the refunding of state debt for debt which was not state debt under Subsection (b).

Sec. 8. APPROPRIATIONS. (a) No money shall be drawn from the state treasury except in accordance with specific appropriation made by law.

(b) No appropriation of money from the state treasury shall be made for a term longer than two years.

(c) No bill containing an appropriation may be considered as passed or be sent to the governor for consideration until and unless the Comptroller of Public Accounts certifies that the amount appropriated is within the estimated revenue for the applicable fiscal period.

(d) No appropriation in excess of the estimated revenue shall be 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.

(e) A report shall be prepared by the Comptroller of Public Accounts in advance of each regular session of the legislature and submitted to the governor and legislature upon its convening which shows the 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. The report shall contain an itemized estimate of the anticipated revenue based on the laws then in effect that will be received by the state from all sources, showing the fund accounts to be credited during the succeeding biennium, and said report 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.

#### COMMENTS

Section 8 is a substantially unchanged version of the requirement in the 1876 Constitution for a "pay-as-you-go" policy



for legislative appropriations. This policy has achieved the purpose of avoiding the need for state borrowing to meet deficiencies in revenue. The committee did not use the revised language contained in the Constitutional Revision Commission's proposal. This decision was based on the fact that the meaning of current constitutional language had been made sufficiently definite through a long series of court decisions and attorney general's opinions.

Subsection (a) continues the requirement that money not be drawn from the state treasury except in accordance with a specific appropriation.

Subsection (b) limits the term of the appropriation to two years. Committee discussion addressed the potential effect of annual sessions of the legislature on this language, but the viewpoint of the committee was that there would be no actual conflict.

Subsection (c) requires certification by the Comptroller of Public Accounts that appropriations are within estimated revenues.

Subsection (d) permits spending in excess of anticipated revenues only by a four-fifths vote of both houses of the legislature.

Subsection (e) is an addition to the Constitutional Revision Commission's proposal and continues the present requirement that the Comptroller submit a report to the legislature in advance of each regular session showing the revenue position of the state. The committee felt that this requirement was necessary to insure the orderly flow of information necessary to the budgeting and appropriation process.

Sec. 9. PUBLIC FUNDS. Public money and public credit shall be used only for public purposes.

#### COMMENTS

Section 9 continues the wording proposed by the Constitutional Revision Commission as an alternative to and a clarification of the confused and inconsistent wording relating to the use of public funds found throughout the 1876 Constitution.

The committee agreed that this section was necessary to impose a limitation on government's use of public funds and would provide the courts with a basis for review of governmental expenditures.

The committee considered restricting or defining the meaning of public purpose in this section, but felt the body of law defining the term provided sufficient guidelines while retaining flexibility to allow expansion.

Sec. 10. PUBLIC PURPOSES. Public purposes, as that term is used in this constitution, include, but are not limited to, purposes for which taxes could be levied or public money or public credit could be used before the adoption of this constitution.

COMMENTS

Section 10 provides for a public purpose test of a broader nature than that contained in the 1876 Constitution. Emphasis is placed on the purpose of the expenditure rather than on its form.

The wording of the section is further designed to insure that particular uses of public funds authorized by the 1876 Constitution are continued within the definition of public purpose but without the implication that these uses would provide the basis for determining future definition of public purposes.

Sec. 11. REPORT OF DEDICATED FUNDS. The legislature shall provide by general law for an annual report of the receipts and expenditures of all constitutionally dedicated funds.

COMMENTS

Section 11 requires the legislature to provide for an annual report of receipts and expenditures of constitutionally dedicated funds.

While this requirement is scattered throughout the 1876 Constitution and is also provided by statute, the committee determined that the public would be better served by a concise compilation detailing the allocation and uses of the revenues of the seven constitutionally dedicated funds whose revenues are in excess of one billion dollars per year.



FINANCE COMMITTEE  
Minority Report Number 1

BE IT PROPOSED,

That the following be inserted in Article VIII as a new  
Section 4 of the majority report and that the succeeding sections  
be renumbered:

1       Sec. 4. REFERENDUM ON INCOME TAXES. No law levying an  
2 income tax shall be valid unless ratified by a majority of the  
3 qualified electors of the state voting on the question at a general  
4 election.

5                                   EXPLANATION

6       The majority report has no provision dealing with an income  
7 tax. The effect of this silence would be to allow the imposition  
8 of this tax if a majority of the members of the legislature so  
9 voted.

10       The section proposed by the minority report would prevent  
11 the imposition of an income tax unless ratified by the voters.

12                                   COMMENTS

13       The members of the Finance Committee who have signed the  
14 minority report feel that the imposition of this particular tax  
15 would be of such significance that the people of Texas should  
16 have a direct opportunity to decide the issue.

FINANCE COMMITTEE

Minority Report Number 1

Respectfully submitted:

Heesterbach

Hollowell

Agnew

Lary

Kanis

Thurston

Calder

Calhoun



FINANCE COMMITTEE  
Minority Report Number 2

BE IT PROPOSED,

That Subsection (c) of Section 6 of Article VIII of the  
majority report be deleted.

EXPLANATION

The majority report in Section 6(c) authorizes the legislature to dedicate funds other than those dedicated by the constitution to mass transit and to authorize the establishment of local mass transit authorities. The effect of this minority proposal would be to delete this authorization.

COMMENTS

The language contained in the majority report was felt by some of the members signing the minority report to have no real significance and to authorize the legislature to act in an area where it already has the authority to act. Other members signing the minority report felt that the legislature currently has no authority to make grants to local subdivisions for specific purposes and that adoption of language included in the majority report would grant this authority to the legislature.

Respectfully submitted:

Hall or Horvath  
Hoestenbach

~~Hollander~~

Juan

Amie Kantor

Ron Waters

R. Biral



FINANCE COMMITTEE  
Minority Report Number 3

BE IT PROPOSED,

That the following be substituted for Section 7(b) of  
the majority proposal:

(b) State debt shall mean bonds or other evidences of indebtedness which are secured by the general credit of the state or are to be repaid from tax revenues or general student tuition. State debt shall not include bonds or other evidences of indebtedness authorized by law which are to be payable solely from the revenues to be generated by the charges of the project to be financed.

EXPLANATION

The majority proposal would define student building use fee bonds as state debt. This minority proposal would continue to define bonds secured by tuition as state debt but would remove the definition that bonds secured by student building use fees constitute state debt.

COMMENTS

It is appropriate that bonds paid for by general student tuition be classified as state debt. Defining student building use fee bonds as state debt could have serious consequences for our state colleges and universities.

The security for the student building use fee bonds is by its terms limited to the fees levied in accordance with Sections 55.16 and 55.17 of the Texas Education Code on the students having use of the facilities. In no way could this be construed as an additional call on tax revenues or general revenue.

It would be and is clearly within the powers of the legislature to repeal or modify the authority of the governing boards to issue any student building use fee bonds, and it is certainly within the power of the legislature now or in this proposal to place a dollar limit on the student building use fee that can be levied for any semester. New and rapidly growing state senior colleges and universities have not yet been able to take full advantage of the student building use fees for their increasing needs for facilities. Therefore, it would be somewhat shortsighted if the legislature--through an unnecessary

1 constitutional provision--forever prevented itself from meeting  
2 the needs of those deserving state institutions of higher  
3 education.



Respectfully submitted:

Gunnis

E. H. Uhlir

JONES - El Paso

Ron Waters

Walt Parker

J. J. S. S. S.  
[Signature]

FINANCE COMMITTEE  
Minority Report Number 4

BE IT PROPOSED,

That a new Subsection (b) be inserted in the majority proposal after Subsection (a) of Section 6 of Article VIII and that succeeding subsections be renumbered accordingly:

(b) That portion of the net revenues from all taxes on fuels and lubricants used to propel motor vehicles over public roadways, except gross production and ad valorem taxes, derived from any increase in the respective rates of these taxes over the rates in effect at the time of adoption of this constitution shall be deposited to the General Revenue Fund and may be allocated as provided by law.

EXPLANATION

Subsection (a) of Section 6 of the majority proposal dedicates three-fourths of the net revenues from motor fuel taxes to use on the public roadways of the state and one-fourth of such revenues to the Available School Fund. This proposal would provide that the revenues from any increase in the rates of these taxes would no longer be dedicated in the manner described above, but would go to the General Revenue Fund and be subject to legislative appropriation.

COMMENTS

This proposal is intended to provide for legislative flexibility for the future without disturbing the guarantee of funding for public roadways and the Available School Fund which is present under Subsection (a) of Section 6. Revenues resulting from any increase in the rate of the motor fuel tax would be available for the legislature to use to meet the needs of the state as they exist and change in the future.

This proposal does not direct these revenues away from use on state highways or public schools, but would allow the legislature to spend all of the revenues for these purposes if it so chose. In fact, it could be expected that these revenues would continue to be used for the purposes set out in Subsection (a) unless other, more serious needs existed. But, under this proposal, if such other needs were identified, the legislature



1 could use the revenues from any increase in the motor fuels tax  
2 for these other purposes. This flexibility is essential when the  
3 needs of the state are changing as rapidly as they are today in  
4 Texas.

FINANCE COMMITTEE

Minority Report Number 4

Respectfully submitted:

Bill Sullivan  
Little Johnny  
Ann Hinton  
Buddy Temple

Carlos F. Truan  
Be. Bird  
Terry Ross  
Walt Parker  
Chet Grohn



FINANCE COMMITTEE  
Minority Report Number 5

BE IT PROPOSED,

That the following be added to the majority proposal for  
Article VIII:

1       Sec. 12. ASSISTANCE PAYMENTS LIMITATIONS. (a) Total  
2 direct assistance payments, not including medical care payments,  
3 from state funds to or on behalf of needy individuals may not  
4 exceed 2.5 percent of the total state budget during any fiscal  
5 year.

6       (b) If the limitation prescribed in Subsection (a) is ever  
7 in conflict with federal law preventing the receipt of matching  
8 federal funds for assistance or aid to needy individuals, the  
9 legislature may prescribe other limitations to qualify for matching  
10 federal funds.

11                                   EXPLANATION

12       The majority proposal has removed the limit, imposed by  
13 Article III, Section 51a of our present constitution, on the  
14 amount of state funds which may be granted in assistance to  
15 individuals. This minority proposal would reinstate such a limit,  
16 but would make two substantive changes from the present  
17 constitution by (1) removing the requirement that state money be  
18 spent only in conjunction with federal money and (2) establishing  
19 the limit on state funds in terms of a percentage of the total  
20 state budget rather than a flat dollar amount.

21                                   COMMENTS

22       Using public money to assist particular individuals is a  
23 matter of sufficient public concern that the people of the state  
24 should have a right to decide the amount which is to be spent for  
25 this purpose. This proposal would place a realistic limit on  
26 direct assistance payments to individuals and would allow the  
27 figure to be increased if the people of the state assented by  
28 approving a future amendment.

Respectfully submitted:

Grant Jones

Lewis

Sam

Reese

Agnich

W. R. R. R.

Jim R. R. R.

\_\_\_\_\_



FINANCE COMMITTEE  
Minority Report Number 6

BE IT PROPOSED,

That the following be substituted for Article VIII, Section  
6(a) of the majority proposal:

(a) 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 of such net revenue from the motor fuel tax shall be allocated to the Available School Fund; provided further that these revenues may be appropriated in other ways or for other purposes by a two-thirds vote of each house of the legislature; 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.

EXPLANATION

Section 6(a) of the Finance Committee Report continues the current restriction on the allocation of highway-user revenues. It dedicates all of the motor vehicle registration fee and three-fourths of the motor fuel tax net revenues to the construction and maintenance of public roadways, and the remaining one-fourth of the net motor fuel tax revenues to the Available School Fund. The proposed wording of the substitute would continue this dedication, but would allow the legislature by vote of an

1 extraordinary majority to appropriate these revenues in different  
2 amounts or for different purposes as needs change.

3 COMMENTS

4 The wording of the committee report would necessitate the  
5 long and costly process of constitutional amendment if the  
6 legislature were to determine that priorities of the state had  
7 shifted. The proposed changes would require an equally strong  
8 determination of change, by virtue of the two-thirds vote  
9 requirement, but would avoid the time and expense of the amendment  
10 process.



Respectfully submitted,

Ronald E. Scid

Ken Wahr

Carlos F. Gruan

Jane Hinds

W. S. Hall

Nalt Parker

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FINANCE COMMITTEE  
Minority Report Number 7

BE IT PROPOSED,

That the following be substituted for Article VIII,  
Section 6(a) of the majority proposal:

(a) 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 not more than three-fourths of 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 any state road or highway debt which heretofore has been or may hereafter be incurred; provided, however, that not less than one-fourth of such net revenue from the motor fuel tax shall be appropriated for the purpose of maintaining a system of free public schools; 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 under the laws in effect on January 1, 1945.

EXPLANATION

Section 6(a) of the Finance Committee Report continues the current restriction on the allocation of highway-user revenues. It dedicates all of the motor vehicle registration fee and three-fourths of the motor fuel tax net revenues to the construction and maintenance of public roadways, and the remaining one-fourth of the net motor fuel tax revenues to the Available School Fund. The proposed wording of the substitute would continue to dedicate all of the motor vehicle registration fee net revenues to public roadways, but would return flexibility to the legislature in determining the amounts of motor fuel tax revenues allocated to either roadways or schools. A minimum of one-fourth of these revenues would be dedicated to support free public schools.



COMMENTS

With the continuing rapid change in technology and both the natural and human environment, the authors of the substitute to this section feel it is unwise to fix amounts of revenue allocations in the constitution, thus necessitating constitutional amendment after constitutional amendment as the needs of the state shift and change. By making the proposed changes, the principle of supporting both schools and roads is maintained in guaranteed minimum amounts (approximately \$180 million for roads, \$95 million for schools), but the legislature has the ability to apportion the remainder as the needs of the state dictate.

Respectfully submitted,

~~Bill Reid~~

~~Bill Reid~~

~~Bill Reid~~

~~Buddy Temp~~

~~Carlos J. Truan~~

~~Ron Waters~~

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To: Higgins, SO, Andersen, Clickman, Schmitt, Conner

From: Titus

Re: R O Section-Doggett version etc.

The Doggett version sounds like a big improvement and a TFA on it--sent out at the time it was being considered--is great. Do you think a section allowing citizen suits has a prayer of passing? I have my doubts, but I really think we should give it a gun-he try. Grace could probably give us some idea whether or not this S.P. section is likely to come before the convention before its spring(pre-election) break. If there is the slightest chance, the TFA should probably be immediate--if there is almost no chance of it being considered until after the recess and elections, I think it would be bad timing to get into all-out action so far ahead of time. We'll be much more effective with a shorter lead time to our LLs (though they will be lobbying for it locally with their delegates if you just send them a memo about the Doggett version). The full-blown TFA and letters to the delegates it seems to me should be sent out close to the time that section will be reconsidered.

If a memo is sent to LLs about the Doggett version I would like to add a P.S. to it that the final committee report on the Finance article includes a section identical to that article in the 1876 constitution. They did not accept the shortened version recommended by the CRC. They did add two paragraphs not in either former version:

(b) "The legislature may allocate and dedicate the receipts from other state taxes not dedicated by this constitution to be used for the support of mass transportation, and may authorize the establishment of local mass transit authorities. Local tax sources and local general obligation bond issues for mass transportation purposes shall be subject to approval by voters in the affected jurisdiction.

(c) "In addition to revenues dedicated elsewhere in this constitution, one-fourth of the revenue from state occupation taxes is dedicated to the Available School Fund."

In addition there were seven minority reports inasmuch as the passage by the committee with a 21-0 vote. Three of the seven related to the Highway Trust Fund. Minority report #2 asked that the authorization for the legislature to establish other dedicated fund and to authorize local mass transit authorities be deleted. MR #4 asked that all motor vehicle taxes and revenues be deposited in the General Fund. MR #6 would continue the Highway Trust Fund but would allow the legislature to appropriate revenues for different purposes. #7 deals with Section 6(a) also but simply asks that the legislature be given power to decide which portion of the fund would be used for highways and which for schools, so it not really related to our position on the Highway Trust Fund. (Six members signed #2, nine signed #4, and six signed #6.)

It really sounds as if there is going to be extensive floor debate when this Article is up for consideration. At this point in time it is difficult to guess when that might be. I would like to have two letters in Francis' hands for distribution to the delegates on the basis of each one's position. One letter for those who have seemed to favor keeping the Highway Trust Fund in the constitution and another letter for those who have supported its removal. I will draft these letters within the next few days so that convention office can duplicate them and put them in the appropriate mailboxes at the appropriate time. This letter would indicate that we support #4 MR, if the Fund must remain in the constitution. We could support #2 and #6 less enthusiastically but any one of these three would be better than leaving it as the committee reported in to the convention.

When the Doggett amendment memo is sent out to the LLs, I'd like to include the info about the Highway Trust Fund section being left as it was in the 1876 version, plus asking them to support minority report #4 when talking to or writing to their delegates. This would not take either extra time or extra postage to include, but it would give all LLs another action option without putting this one in a high priority position.

In the meantime, if we can think of other easy inexpensive ways to lobby for this let me know. I may or may not get to Austin for the debate, depending on the timing.



League of Women Voters of Texas  
OBSERVER FORM

COMMITTEE

March 26, 1974 (P.M.)

DATE

Theresa Williams  
OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

Debate - arguments on Art 8 - Sec 6 still in progress.  
fighting over removal of the welfare ceiling  
Hollwell ~~amendment~~ <sup>amendment</sup> - to set \$50,000,000 limit on  
welfare: motion to table: fails  
Sage ~~amendment~~ <sup>amendment</sup>: prohibits a state personal income tax  
motion to table: fails  
Darne ~~amendment~~ <sup>amendment</sup>: placing a limitation on the legislative ability  
to increase taxes in the future  
motion to table: motion fail  
Reynolds amendment: requiring a 2/3 majority of both  
houses to propose a personal income tax  
motion to table - fails

OBSERVER COMMENTS



League of Women Voters of Texas  
OBSERVER FORM

COMMITTEE

March 25

DATE

B. Vackar

OBSERVER

Presiding Officer

Committee number present

Committee activity (public hearing, etc.)

RECORD OF ACTIVITY (record all votes, resolutions, who testified, major points made, etc. continue on back and additional sheets when necessary)

*Finance Act.*

*Sec. 7 - State Debt*

*Vote to table the minority report - 96-64*

*Left as is*

*Started on Sec. 8 & I left*

OBSERVER COMMENTS



March 26, 9:30 a.m.

General Convention

Dusan Reid

### Finance Article

Minority rept. 5- Grant Jones explaining his limit on welfare.  
2.5% of

speaking for rept: Jones, Creighton,  
"no vote to table" <sup>against</sup> : Caldwell, Truman, Longoria  
For: 74 Against: 82

Welfare ceiling fails Yea!

Reveto: has amendment to section 2(b) which would allow  
Legislature to set requirements for appraisers as well as  
"standards & procedures."

Doyle spoke against Reveto amendment saying the Legis.  
will have great power & can speak to appraisers through  
standards & won't have to speak to requirements in  
Constitution & upset the rural appraisers.

Tabled by division of the House

Maloney amendment to Sec. 2c which would allow any  
taxpayers taking authority to see his tax base isn't eroded.

Didn't hear language. - No Finance Committee opposition  
Amendment passed without opposition on a voice vote

Vick amendment to Sec. 3 on open space & green belt  
areas in urban areas - tax ~~as on~~ on basis of  
open space basis in Sec. 3.

Sullivan speaking against - called it the land developers law -  
would allow developers to hold land & get tax breaks & then  
develop, paying only low penalties.

Vote to Table Vick amendment

For: 121 Against: 33

Amendment - Jones of Harris - Sec. 3a - Another tax break -  
open spaces in urban areas -

Vote to table: For 107 Against 46 -

Hutchison amendment: a new subsection to the mandatory  
<sup>for those over 65</sup> section on ad valorem taxes. - This would give political  
vision the option of granting the exemption to those



with incomes of \$9500 or less. Hatchison's amendment would go into effect immediately since it doesn't have current indebtedness clause. Herrington spoke against

Vote to table

Yes: 91

No: 73

Wyatt amendment - allows political subdivisions to tax or not to tax, as they choose, automobiles of less than 6000 lbs.

Observations: Arguments pro + con on welfare ceiling were very low-key -- no steam was raised. I don't think the issue will be raised again.

Grace: I couldn't see a League person, so I took notes.



To: Conner, SO, Higgins, Andersen, Weber, Schmitt  
From: Titus  
Re: Master Plan for the TCR campaign (memo from Conner)

If the delegates are seriously considering adjourning within the next two to three weeks, it will provide a breathing time to work out a detailed master plan. I liked nearly all of the ideas--the only problem I see is the vast number of woman-hours involved in implementing all of them. It may be necessary to arrange them according to priorities to make the best use of the available time and talent.

Points 1 and 2 are musts; add Dallas to the list of cities in point 3; point 5 should have a higher priority than 4; point 6 is essential, but I have qualms about point 7, especially after just getting a resounding "NO" from Mr. R.L. Thornton of the Mercantile Bank during the Dallas finance drive because he thinks the Dallas League has behaved in a non-partisan manner. It's potentially dangerous to LW-T future finance drives unless it is handled with great finesse; point 8 is good; point 9 sounds exhausting. I'd like to suggest that Veta and members of the state board be utilized or Betty, you're going to be worked to a frazzle. I see your board role as coordinator of the whole ball of wax. I do agree that those who have had experience lobbying and observing the Con Con will give added prestige, but you need to spread the work over the entire board for your sake, Betty, and really for the fullest coverage of TCR throughout the state.

All the points under the "summer" schedule sound great, except that I would not like to see us use LW-T funds under point 2 to get billboard space--but right on if you can get some corporations to donate space as a public service. The points under September and October are all good. I assume just as you do that there won't be a vote until November, but, in case there happens to be one in the fall, I can visualize that much of the master plan could be condensed, though I do think a list of the items according to their priority might make it easier for us to be flexible enough to manage best with the available time if there is an early vote than November.

*Did like your suggestion Grace*  
Re: the General Provisions memo in which you suggest preparing a letter for Grace to put in the delegates mailboxes--great idea. The matter of timing is critical, though. Grace, is there a chance that the Highway Trust Fund vote on the floor would come before the adjournment? (Spring, that is) I am going to be out of town from March 25th until April 7 or 8, but I'll draft a letter that could be used at your discretion if it is needed. It sort of seems to me that we might need two letters--one praising those who support our position and one attempting to persuade the wrong voters to get right with it. If we draft one letter for all delegates for any of the matters we support, we're likely to come off sounding as if we aren't aware of what is going on down there. We could leave it to the corps and Grace to decide who gets which letter.

Re: your suggested Time for Action--again I feel timing is the great problem. I don't feel that I can draft a meaningful TFA before leaving because the whole trust fund thing has been changing so. I could, though, do a brief one suggesting that all ILs talk with their delegates during the recess and do a brief resume of the points made in the statement and amplification, if that is definite enough for a TFA. Certainly, though, I will plan one when I return for use after the recess.

I think the idea of a joint press release (if you mean Common Cause, Texas Environmental Coalition, et al) would be less effective than separate ones. There are those who hate CC and love LW, and we could alienate some supporters. Think we should surely stay in touch with them, though--a sort of informal coalition, but I would not favor any joint statements as I fear it would sound as though we were letting Buck Wood and Ned Fritz do our thinking for us.

*The corps reporting has been great--back for the "Comments" & the detailed info I get from Susan Reis--It's almost as good as being there!*



March 18, 1974

To: Schmitt, SO, Higgins, Anderson, Glickman, Conner, Wincorn, Ariziga

From: Titus

Re: Proposed letter to all ConCon delegates to be sent by Grace and committee at the appropriate time to the delegates' mailboxes. (As the finance article is up next for consideration, according to this morning's news, please contact Grace immediately if any of you have any changes you would like to propose.)

To: Delegates to the Texas Constitutional Convention

From: League of Women Voters of Texas

Re: Article VIII (Finance), Section 6 (Allocation and Uses of Certain Revenues)

The official committee report on Article VIII has been presented to the Constitutional Convention, and includes for your consideration Section 6 which allocates highway-user fund "...for the sole purpose of acquiring rights-of-way, constructing, maintaining, and policing..." of our public roadways.

The League of Women Voters of Texas has consistently supported revision of our constitution, but we feel that this article has not yet been really revised. The wording of the proposed Section 6 is nearly identical to the equivalent article in the 1876 Texas Constitution, as you have no doubt noted.

The League of Women Voters urges you to revise our constitution to best serve all citizens of Texas, and not just current special interest groups. We urge you to support (to continue to support) a coordinated financial structure capable of flexibility so that our revised constitution will not be hopelessly outdated in a few years. We are aware that there are strong forces opposing this position, but we urge you to (continue to) support rejeval of the allocation of funds from the dedicated gasoline tax from the new constitution. Such a fund should be statutory rather than constitutional, and to allow this fund to remain in what we hope will be a basic and simplified document would show a great distrust of future legislatures.

The League urges you to vote for a brief concise document stating rights and freedoms of our citizens, and establishing a basic form of state government. If the convention majority does not follow this concept and does not delete Section 6 entirely from Article VIII, the committee minority reports will then no doubt be considered. The League could not support Minority Report #2 authorizing other dedicated funds, as this would not provide adequate flexibility. Committee Minority Report #6 allowing the legislature some flexibility in allocating the highway-user funds does not offer as much improvement, in our judgement, as would Committee Minority Report #4, which would place all receipts from highway-user revenues in the General Revenue Fund for allocation provided by law.

Though the League of Women Voters of Texas could support Minority Report #4, we would urge the convention instead to offer Texas voters the alternative at the polls when this section is being voted upon, the option of retaining or deleting this dedicated fund by offering this controversial provision separately on the ballot.

Note: The words in parenthesis could be included in the letters to these delegates who have supported removal of the fund. If in doubt about their position I would suggest the letter be sent as it reads without the (). These letters could be sent either on LWV-T letterheads, if you think that would be more impressive, or on whatever forms you are currently using to communicate with them. If there are tents available for their desks the day of the crucial vote I would like to suggest:

"MAKE THE NEW CONSTITUTION FOR FUTURE GENERATIONS OF TEXANS....DELETE THE HIGHWAY TRUST FUND"  
(OR WORDS TO THIS EFFECT)

If this Article VIII comes up for consideration while I am out of town (March 25 to Apr. 8) I will concur with whatever decision Bobette makes on any pending problem. Of all the dumb times to leave, this is it. I can hardly stand to think of not being around for it all!!!! (Sorry about the "grade D" typing, but I really had to hurry to get this in the morning mail.



**remove the welfare ceiling  
from the constitution !**



**League of Women Voters of Texas**



Support Article VIII, sec 9  
Public funds for public  
purposes.

Thank you

March 21, 1974

To Delegates of the Constitutional Convention

The official committee report on Article VIII presently under your consideration includes section 6,a, which allocates Highway User Funds "...for the sole purpose of acquiring rights-of-way, constructing, maintaining, and policing..." of our public roadways.

The League of Women Voters of Texas has consistently supported revision of our constitution, but we feel that this article has not yet been really revised. The wording of the proposed section 6,a is nearly identical to the equivocal section in the 1876 constitution. We urge you to remove the Highway Fund from the new constitution, and to revise our constitution to best serve all citizens of Texas and not just current special interest groups.

We ask you to give us a basic and simplified document. Please support a coordinated financial structure capable of flexibility so that our revised constitution will not be hopelessly outdated in a few years.

Very cordially,

Mrs. Darvin Winick, President  
Lea

cc: Anderson, Conner, Titus, Higgins, SO, Con O



SUGGESTED RESPONSE TO FINANCE ARTICLE

AS SUBMITTED BY COMMITTEE

The majority proposal of the Finance Committee has removed the limit, imposed by Article III, Section 51-a, of the present Constitution, on the amount of state funds which may be granted for assistance to needy individuals. We applaud this decision of the Finance Committee and wholeheartedly oppose Minority Report Number 5 which would reinstate a ceiling on assistance payments, substituting the present dollar amount with a percentage ceiling.

Placing a constitutional limitation on assistance payments is not sound Constitution-writing. We call your attention to the fact that Texas is the only state with such a provision in its Constitution and that assistance payments, along with legislative salaries, are the only significant areas of state finance ~~which~~ which must be submitted to the costly process of Constitutional amendment for needed changes.

The ceiling has not well served the people of Texas. When compared with other states, Texas has often been the loser in federal matching programs. Other states who have expended more in caring for their needy have been rewarded with more federal money. Texas, restricted by its constitutional ceiling, has found itself unable to take full advantage of the federal matching funds available to it. The indirect effect of this is that Texas economy is deprived of the extra spending power generated in other states. Texas' low-income citizens are spending less and therefore returning less money to the State in the form of sales and excise taxes.

The Legue is also concerned with another provision found in Minority Report Number Five. According to the explanation accompanying the report, the requirement that state money be spent only in conjunction with federal money is removed. Yet, Subsection 12-b of the minority report directly contradicts



this stated explanation by providing that the legislature may "prescribe limitation [other than Subsection 12-a] to qualify for matching funds. Subsection 12-b, then, ~~/~~ seems to provide that changes in the percentage limitation could only be made in order to receive matching funds. The federal government is moving away from matching categorical grants as a means of caring for the needy. We believe it particularly dangerous to write provisions into the Constitution that would make assistance grant changes dependent on federal matching funds.

Provisions within the present constitution providing that funds only be appropriated as matching monies have already caused problems. ~~xxxx~~ Under the Supplemental Security Income (SSI) program, Monies for the adult categories now come directly to individuals rather than as matching grants to the states. Texas is presently constitutionally prohibited from making direct assistance grants to individuals in the adult categories, since no federal matching funds are available. Some aged, blind and disabled individuals, whose Social Security payments or other outside income place them above the federal cut-off levels can no longer receive supplemental state assistance. They are losing money and other benefits as a result.

It is difficult to predict what further changes will be made ~~xx~~ as federal income assistance plans develop. We firmly believe that Texas will be ready to respond more quickly and ~~xxx~~ to the best state interest if these provisions are ~~t~~totally removed from the Constitution. We believe the Legislature is well-qualified to develop statutory limitations on assistance spending.

We further believe that removal of the welfare ceiling should not be submitted as a separate provision to be approved or rejected by the voters.

Many of the legislators have indicated their personal belief that the ceiling should be removed. We fervently urge them to act the courage of their convictions by removing this onerous provision from the ~~/~~ Constitution.



TO: Grace Schmidt and Veta Winnick  
FROM: Linda Avena  
RE: Finance Article and Education Article

MY CASE RESTS!!! After spending 5 hours on this today, I am sending these two drafts on to you. Refine them as you wish.

Grace, I called earlier and talked to Jean about my concern over the actual dollar figure that is reflected by a 2.5% limitation on the amount of the state budget that can go to assistance grants. By my calculations (based on information found in Fiscal Size-Up, 74-75, a publication of the Legislative Budget Board), 2.5% represents an actual reduction in the dollar amount spent on assistance grants. I hope you have been able to check this out. If you have and if your figures agree with mine, then I wish you would add one more paragraph to reflect this fact. According to Fiscal Size-Up, we ~~are spending~~ \$441.0 million for categorical assistance programs (see p. 41). Yet, 2.5% of \$9.7 billion (the total state appropriation for 74-75) amounts to only 242.5 million. That's a reduction of 198.5 million.

I am very skeptical of the 2.5% figure. This is a Billy Williams proposal and you know what that means!!!!!!!!!!

I also wanted to note that it might be wise for us to send special "letters of commendation" or whatever to those members of the Finance Committee who didn't vote for the minority report #5. We did change some of their minds. Maybe we should tell them how great they are. Finally, if Betty Connor thinks it advisable you might send a copy of this draft to Terry Doyle, who voted with the minority, even though he says he knows the ceiling doesn't belong in the Constitution. Says the voters won't accept its removal. (Rumor is that he isn't running for reelection. Maybe someone should point that out to him. He shouldn't have to worry about the voters!!)

Final draft to be  
voted on March 4 - 7:30

Susan Reid

2 copies

## Finance

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BE IT PROPOSED BY THE COMMITTEE ON FINANCE,

That there be a new article on finance to read as follows:

## ARTICLE VIII

### FINANCE

1       Sec. 1. TAXATION. Taxes shall be levied and collected by  
2 general law.

3       Sec. 2. AD VALOREM TAXATION. (a) Taxation shall be equal  
4 and uniform on all real property and tangible personal property  
5 and all such property shall be taxed in proportion to market  
6 value. *Transition schedule makes this take effect in 1978*

7       (b) For all ad valorem tax purposes, the legislature by  
8 general law shall provide for the establishment and enforcement  
9 of appraisal standards and procedures which shall be applied  
10 uniformly throughout the state.

11       (c) Each county shall provide for an appraisal of all  
12 taxable property within its boundaries. All taxing authorities  
13 imposing a tax on property within the county shall tax in  
14 proportion to this appraisal. The costs and expenses of the  
15 appraisal shall be allocated among the taxing authorities as shall  
16 be provided by general law.

17       (d) The legislature may not release ad valorem taxes unless  
18 delinquent at least 10 years.

19       (e) The rolling stock of railroads may be assessed in gross

1 in the county where the principal office of the company is located,  
2 and the county tax paid upon it shall be apportioned by the  
3 Comptroller, in proportion to the distance such road may run  
4 through any such county, among the several counties through which  
5 the road passes, as a part of their tax assets.

6       Sec. 3. ~~ASSESSMENT OF OPEN SPACE LANDS~~ *ASSESSMENT FOR LAND PRESERVATION*, (a) The

7 legislature by general law shall prescribe separate formulas for  
8 the appraisal of land to promote the preservation of open space  
9 land devoted to farm or ranch purposes, and by general law may  
10 prescribe separate formulas for the appraisal of land to promote  
11 the preservation of forest land devoted to timber production.

12       (b) In passing laws pursuant to this section, the  
13 legislature by general law may provide for the appraisal of land  
14 on the basis of productive capacity and may prescribe all  
15 limitations and sanctions as may be appropriate.

16       Sec. 4. AD VALOREM TAX EXEMPTIONS. (a) There shall be  
17 exempt from all ad valorem taxation:

18               (1) The property of the state except as provided by  
19 law and property of political subdivisions of the state used for  
20 public purposes;

21               (2) All household goods and personal effects not  
22 used for the production of income; and

23               (3) All farm products in the hands of the producer  
24 and family supplies for home and farm use.



1 (b) There shall be exempt from state ad valorem taxation  
2 at least \$3,000 as may be provided by general law of the appraised  
3 value of all residence homesteads.

4 (c) Subject to such limitations, classifications, and  
5 exclusions as it may prescribe, the legislature by general law  
6 may exempt from ad valorem taxation:

7 (1) Property used exclusively for educational or  
8 charitable purposes, <sup>*veterans organizations property*</sup> or places of burial not held for profit;

9 (2) Property owned by a disabled veteran of the armed  
10 services of the United States, by the surviving spouse or minor  
11 children of a disabled veteran of the armed services of the United  
12 States, or by the surviving spouse or minor children of any member  
13 of the armed services of the United States whose life was lost  
14 while on active duty;

15 (3) Actual places of religious worship;

16 (4) Any property owned by a church or by a strictly  
17 religious society for the exclusive use as a dwelling place for  
18 the ministry of such church or religious society if the property  
19 yields no revenue to the church or religious society, but such  
20 exemption shall not extend to more property than is reasonably  
21 necessary for a dwelling place and in no event more than one acre  
22 of land; and

23 (5) Property, not held for profit, owned by a  
24 nonprofit water supply corporation which is reasonably necessary

1 for, and is used in the acquisition, storage, transportation and  
2 distribution of water or is used in providing sewage or waste  
3 water treatment service.

4 (d) The governing body of any political subdivision may  
5 exempt from ad valorem taxation \$3,000, or any larger amount as  
6 authorized by the legislature, of the assessed value of a residence  
7 homestead owned and occupied by persons 65 years of age or older.  
8 The governing body, on a petition signed by qualified voters equal  
9 in number to at least five percent of the voters registered in  
10 the political subdivision, shall call an election to determine  
11 by majority vote whether to grant, repeal, increase or reduce  
12 such exemption. No such petition shall be effective unless  
13 submitted at least 12 months from the date of the last preceding  
14 valid petition.

15 (e) The legislature by general law may provide relief,  
16 including tax moratoriums, from residential ad valorem taxes for  
17 persons determined to be in need of such relief because of age,  
18 disability, or economic circumstance. Any such law shall provide  
19 for reimbursement of political subdivisions for revenue losses  
20 caused by such relief or shall provide that no such relief shall  
21 apply to the ad valorem taxes of a political subdivision unless  
22 approved by the political subdivision.

23 (f) The legislature by general law may provide for the  
24 preservation of cultural, historical, or natural history resources



1 by:

2 (1) Granting tax relief or exemption from state ad  
3 valorem taxes for appropriate property which shall be designated  
4 as provided by general law; and

5 (2) Authorizing political subdivisions of the state  
6 to grant tax relief or exemption from ad valorem taxes of the  
7 political subdivision for appropriate property which shall be  
8 designated by the political subdivision as provided by general  
9 law.

10 Sec. 5. AD VALOREM TAX APPEALS. In addition to other  
11 remedies and appeals provided by law, every person owning property  
12 subject to ad valorem taxation is entitled, after the exhaustion  
13 of administrative remedies, to pay ad valorem taxes due on such  
14 property under protest and to appeal to a court of record of  
15 competent jurisdiction for rehearing in trial de novo of the  
16 appraisal of the property and the assessment of the tax. The  
17 court may order refunds of taxes and may make such other orders  
18 as provided by law or necessary to insure equal treatment under  
19 the law.

20 Sec. 6. ALLOCATIONS AND USES OF CERTAIN REVENUES. (a)  
21 Subject to legislative appropriation, allocation and direction,  
22 all net revenues remaining after payment of all refunds allowed  
23 by law and expenses of collection derived from motor vehicle  
24 registration fees, and all taxes, except gross production and ad

(9) back in

1. Court  
with  
authority  
2. Dispute  
than

1 valorem taxes, on motor fuels and lubricants used to propel motor  
2 vehicles over public roadways, shall be used for the sole purpose  
3 of acquiring rights-of-way, constructing, maintaining, and policing  
4 such public roadways, and for the administration of such laws as  
5 may be prescribed by the legislature pertaining to the supervision  
6 of traffic and safety on such roads; and for the payment of the  
7 principal and interest on county and road district bonds or  
8 warrants voted or issued prior to January 2, 1939, and declared  
9 eligible prior to January 2, 1945, for payment out of the County  
10 and Road District Highway Fund under existing law; provided,  
11 however, that one-fourth of such net revenue from the motor fuel  
12 tax shall be allocated to the Available School Fund; and provided,  
13 however, that the net revenue derived by counties from motor  
14 vehicle registration fees shall never be less than the maximum  
15 amounts allowed to be retained by each county and the percentage  
16 allowed to be retained by each county under the laws in effect  
17 on January 1, 1945. Nothing contained herein shall be construed  
18 as authorizing the pledging of the state's credit for any purpose.

19 (b) That portion of the net revenues from all taxes on  
20 fuels and lubricants used to propel motor vehicles over public  
21 roadways, except gross production and ad valorem taxes, derived  
22 from any increase in the respective rates of these taxes over the  
23 rates in effect at the time of adoption of this constitution shall  
24 be deposited to the General Revenue Fund and may be allocated as



1 provided by law.

2 (c) The legislature may allocate and dedicate the receipts  
3 from other state taxes not dedicated by this constitution to be  
4 used for the support of mass transportation, and may authorize  
5 the establishment of local mass transit authorities. Local tax  
6 sources and local bond issues shall be subject to approval by  
7 voters in the affected jurisdiction.

8 (d) In addition to revenues dedicated elsewhere in this  
9 constitution, one-fourth of the revenue from state occupation  
10 taxes is dedicated to the Available School Fund.

11 Sec. 7. STATE DEBT. (a) No state debt shall be incurred  
12 unless authorized as provided in this constitution.

13 (b) State debt shall mean bonds or other evidences of  
14 indebtedness which are secured by the general credit of the state  
15 or are to be repaid from tax revenue, fees, tuition, or other  
16 charges of the state, an agency, institution, college, or  
17 university of the state. State debt shall not include bonds or  
18 other evidences of indebtedness authorized by general law which  
19 are to be payable solely from the revenues to be generated by a  
20 project, (if such bonds or other evidences of indebtedness are not  
21 secured by the general credit of the state.)

22 (c) State debt may be authorized <sup>by law</sup> if approved by two-thirds  
23 vote of the membership of each house of the legislature and  
24 submitted to and approved by a majority of the qualified electors

1 voting on the question.

2 (d) State debt may be authorized by general law to refund  
3 outstanding state debt.

4 Sec. 8. APPROPRIATIONS. (a) No money shall be drawn from  
5 the state treasury except in accordance with specific appropriation  
6 made by law.

7 (b) No appropriation of money from the state treasury shall  
8 be made for a term longer than two years.

9 (c) No bill containing an appropriation may be considered  
10 as passed or be sent to the governor for consideration until and  
11 unless the comptroller of public accounts certifies that the  
12 amount appropriated is within the estimated revenue for the  
13 applicable fiscal period.

14 (d) No appropriation in excess of the estimated revenue  
15 shall be valid unless it is made in response to imperative public  
16 necessity and approved by four-fifths vote of the membership of  
17 each house of the legislature.

18 (e) A report shall be prepared by the comptroller of public  
19 accounts in advance of each regular session of the legislature  
20 and submitted to the governor and legislature upon its convening  
21 which shows the condition of the state treasury at the close of  
22 the last fiscal period and an estimate of the probable receipts  
23 and disbursements for the then current fiscal year. The report  
24 shall contain an itemized estimate of the anticipated revenue



1 based on the laws then in effect that will be received by the  
2 state from all sources, showing the fund accounts to be credited  
3 during the succeeding biennium, and said report shall contain  
4 such other information as may be required by law. Supplemental  
5 statements shall be submitted at any special session of the  
6 legislature and at such other times as may be necessary to show  
7 probable changes.

8       Sec. 9. PUBLIC FUNDS. Public money and public credit shall  
9 be used only for public purposes.

10       Sec. 10. PUBLIC PURPOSES. Public purposes, as that term  
11 is used in this constitution, include, but are not limited to,  
12 purposes for which taxes could be levied or public money or public  
13 credit could be used before the adoption of this constitution.

14       Sec. 11. REPORT OF DEDICATED FUNDS. The legislature shall  
15 provide by general law for an annual report of the receipts and  
16 expenditures of all constitutionally dedicated funds.

Terry Doyle

wrote he was  
going to vote for  
Welfare in Constitution

Linda Arena  
will talk to him.



MEMORANDUM FROM:

*League of Women Voters of Texas*

DICKINSON PLAZA CENTER • DICKINSON, TEXAS 77539

TO: AVENA CC: SCMITT  
FROM: CONNER  
RE: WELFARE CEILING

Received the enclosed letter from Delegate Terry Doyle. I would appreciate it if the next time you are in Austin you would take a few moments to talk with Doyle. Perhaps you knew some other people in Austin beside the League who are concerned about the welfare ceiling and would make an effort to contact him.

2/28/

Conversation with  
Steve Beckinstoff  
on Sullivant  
proposal

Present tax rate is 5¢ on  
fuel (gal.?)

If legislature wishes to  
raise the rate the  
increase cannot go to the  
Highway fund must go  
to general revenue where  
it can be spent on anything



January 19th

To: Higgins, Wincik, Andersen, Glickman, *Conner*

From: Titus

Re: Statement to the Can Cen

*Sorry to have you  
with all the problems  
but this seemed fastest.*

I have prepared the enclosed first draft of my statement to the finance committee and urge you to comment--I let my husband glance through it and he finds it a bit confusing--I'll rework the wording a bit in the final draft if you-all concur that it should be more specific. However, I purposely left the door open for their rewording the existing CRC version because I talked with the Dallas city attorney, Alex Ekeley, and Mayor Wes Wise is going to be speaking to the committee on the 22nd proposing the addition of the following wording to be inserted in Section 3 following "roadways," and before "one-fourth". (He will be speaking for both the city of Dallas and for the Texas Municipal League when he presents his statement and recommendation.)

"...provided that the Legislature may allocate a portion of such revenues to be expended in any area of the state for transportation purposes other than highway construction and maintenance, policing roadways, and administration of traffic and safety laws."

In a phone conversation with Ned Fritz Friday after he returned from Austin, I learned that Common Cause has made the "trust-busting" their #2 priority (immediately after broadening the affirmative command, Bebette), and the TEC and CC were both delighted that LWV was going to join them in somehow building in the possibility of funding for mass transit. I told Ned of Mayor Wise's statement and he felt sure both CC and TEC will back it. In view of this shall I change my statement to out-and-out support of the TML position, or shall I leave it as a flexible statement of our general positions so that we can avoid sounding like "peat and repeat"?

I'll also want to send the memo to the off-board committee inviting them to go with us till I have verified the date. I think there is a possibility that Walker or someone from Houston may be making a statement. I talked with her this morning about another matter which I'll discuss later, and told her of TML and Dallas' position. She was going to phone Lavers and the mayor, etc. to see if they wouldn't say the same sort of thing. CC and TEC apparently think the Finance Committee is quite likely to incorporate this wording or a variation on that theme so that mass transportation funding can be done by the legislatures.

Back to Walker--Governor Briscoe has appointed a Joe Bridgefarmer from Dallas to the TACB. A Houston coalition is planning to ask Atty. Gen. Hill for a ruling as to whether or not he is qualified for the appointment, but did not want to have LWV-H's name used without asking the Dallas LWV their position. I called Pearl and she had never heard of him but is going to check and let the Houston LL know through a letter from Diana. Walker says she had learned that he has a consultant firm which has been used by the Trinity River Authority and the Corps of Engineers. All evidence is that his expertise is in water, not air.

Bebette, I'm delighted with the outcome of your talk with Bill Glaze. If we can prepare a LWV statement on the Glen Rose nuclear plant as it related to our water positions for the TWQB hearing in Waco on January 31st, I'll certainly be asking for his help. I have asked David Waterhouse at EPA for background material on this and I don't think he's going to be of much help as they don't get into it until the IES is prepared, but he is going to send me whatever he has. If I don't get anything relevant from him I'll call the TWQB and ask for stuff on it. Betty and Veta, do you think we can ask some questions from our water quality positions? This would seem to me to be a better time for the LWV to speak than at the Dallas city council meeting, because this hearing will deal only with



I should account for the cut-and-paste operation on the previous page.....I was taking this to the mailbox and found a note from Betty saying the testimony for the finance committee would end on the 29th and the part I deleted was suggesting the 30th or 30st. What to do? Without my knowledge our company board meeting (the annual meeting) was changed to Thursday, the 24th at 11AM--notices already sent to everyone by the time I returned from Austin. There is no way I can change this and I must be present--so Don thinks, as this is a most important meeting. Therefore I have the following options from which all of you can choose: I can go down the 28th if Grace can schedule me then--Bebette, you could proceed on the 24th if you wish, or go on the day I go, or any other date that would be best for you. If all of you think it OK we could ask someone from the Convention Corps to present my statement on the 24th if that is the best date for it. I'll be at my phone Monday till three when I must leave to meet all the relatives who are coming in from Iowa for the annual meeting. If you want you could leave a message on the phone recorder after that time, or just drop a quick note if you think waiting till the 28th would be the best option. Complications, complications.

Bebette, a call from Jo Faye Godbey today was gratifying. We will be able to use the SMU tape recording equipment for taping the Trinity River Conference plenary sessions--I don't think it would be necessary to tape the workshop sessions as most of the comments from these will come out in the sessions following. All we have to provide is someone to run the machinery--any suggestions?--and possibly the tapes (if she can't find someone at the media center to borrow from). We can edit them at some later date to use to send to interested local leagues and hope it will spark a beginning for our inter-League Trinity River study committee. They also might be great if we get a water conference together in the fall with Bill Glaze as you mentioned, Bebette.

Betty, and Schmitt: I didn't see anyone testifying to our position on special districts. Will this be covered in any other scheduled statements? If not perhaps it might be arranged in view of their lack of people to appear. Or is it too late to prepare an adequate statement?

Betty, the "paperwelder" thing I use for putting all these pages together is called PAPER WELDER and is made in Medina, N.Y. I've had it for ages and can't remember which catalogue I found it in..Helen Gallagher Foster perhaps Miles Kimbell...at any rate I'll try to find it in any forthcoming ones I get and forward the page to you.

One more question than I'm through for today. When were we to get the amplification prepared? Will it be sufficient to take a number of copies when we appear in Austin with copies mailed to appropriate people. I didn't make adequate notes at board meeting and I can't tell when we were supposed to have this sent nor to whom other than having it available to LL's for informational purposes.



# League of Women Voters of Texas

DICKINSON PLAZA SHOPPING CENTER • DICKINSON, TEXAS 77539 • PH. 713-337-1722



MRS. DARVIN M. WINICK, PRESIDENT

February 14, 1974

TIME FOR ACTION

TIME FOR ACTION

TIME FOR ACTION

To: Local League Presidents  
From: Convention Office  
Re: Welfare ceiling

The Finance Committee in a straw vote on February 13 voted to remove the welfare ceiling from the Constitution. The vote was 12-11, so the issue is far from safe.

It is important that LLP's make official contact, and that all league members as constitutents, write, call, visit their delegates on the committee this weekend while they are at home. Remind them that the welfare ceiling has been a constant source of trouble, makes it difficult to respond to changes in federal legislation, and will continue to be a headache for legislators as long as it remains in the constitution.

This memo is going to Leagues who have members on the Finance Committee. A Time for Action will go out to all LLP's tomorrow. The goal is to mobilize all segments of the local communities, churches, civic groups, etc., to bring pressure to bear on the delegates when it come before them in general session.

Get busy, numbers count now.



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# League of Women Voters of Texas



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MRS. DARVIN M. WINICK, PRESIDENT

## AMPLIFICATION OF LWVT POSITIONS PRESENTED TO THE FINANCE COMMITTEE OF THE CONSTITUTIONAL CONVENTION REGARDING ARTICLE VIII, SECTION 3 OF THE CRC REVISION

January 23rd, 1974

Meg Titus, Director, Air and Water, LWVT

In the text of the statement to the Finance Committee of Con Con, which all of you probably have received by now, I attempted to take them through the steps of our study process to explain how we arrived at a position supporting either, 1, removal of Section 3 of Article VIII (which is probably not possible, in view of the political realities of the day, but would be the "ideal" option for us to support), or, 2, the rewording of Section 3 to allow for allocation of a portion of the dedicated gasoline revenues for mass transit funding.

And Now Action (p. 2) which lists our principles for a good constitution, states that we will use these eleven principles in the evaluation of any proposed constitution. Principle #6, "a coordinated finance structure capable of flexibility" seems to speak to this matter of the Highway Trust Fund. It seems in review of our principles and positions that we would consider it a matter for statutory not constitutional concern. We think, therefore, that League can support either removal or rewording (depending, of course, on our evaluation of the final and actual wording which emerges from these committee hearings and is presented to the convention).

This stated position does not, we think, preempt the consensus now being taken on financing state government as neither the formal statement, nor the answers to any questions the committee may ask, will say what we do or do not support relative to state financing. I will merely state that our positions are not yet in from our study, but we can support either removal or revamping of Section 3 on the basis of our principle of flexibility.

Our position can also be supported on the basis of the LWVUS positions on Human Resources and Environmental Quality as developed in the December 13, 1972 memorandum "Guidelines for action on transportation under national HR and EQ positions". This presents a six-point position which has been used frequently by LWVT and was used by LWVUS in testimony before the Senate Public Works Subcommittee on Roads in June, 1972 (and several times since) in an attempt to amend the Federal-Aid Highway Act of 1972 which would have permitted Highway Trust Funds to be used for public transportation if localities so desired.

These guidelines state (page 3) under "Action at state, regional, or local level" that "Leagues can now take action with appropriate governing bodies, legislative or executive, below the national level in line with the six-point position listed above." This same guideline paragraph also states, "If a local League or an ILO wishes to act at the state level, such action should be cleared with the state board." Both the Houston and Dallas Leagues have local positions on mass transportation and are speaking to this committee on the same issue after having cleared their statements with state board.

Still another mandate for action in this instance seems to come from our air quality positions which have been developed under the umbrella of our EQ position



as stated in And New Action, p. 7,..."Evaluation of measures to achieve and maintain a physical environment beneficial to life."

Additionally, I have found in reading some of the local League Voters some committee background material which has been used in preparing for the "Financing State Government" study some comments, (Example: Fort Worth Voter, January, 1974) in which these alternatives in the handling of the highway-user revenues have been mentioned for consideration during the study. This indicates to me that there is membership concern about the Highway Trust Fund and its present financial structure.

And finally, our brand new state consensus which was adopted at the January state board meeting begins with, "The League of Women Voters of Texas supports a comprehensive state land use policy which would provide for the orderly development of the state in a manner which assures adequate protection of the environment, improvement of the quality of life, and wise use of our natural resources." This too seems supportive of our action in this matter, and may be the first opportunity for action under our new land-use consensus positions.

One more non-League point should be made in connection with Section 3 of Article VIII. Separate Statements of Commission Members published in December following the CRC drafting of the proposed constitution, contains a number of comments about the finance article. Statement 3 proposes a specific substitution for the Section 3 adopted. See page 33 and 34 to read the full text of this alternative statement. This was submitted by Ralph Yarborough and signed by eleven other commission members which include Mary Beth Brient and Janice May. In listing their reasons for suggesting a substitute section which would seem to allow for the kind of flexibility we are asking for, they give the following reasons:

"The Commission proposal to dedicate three-fourths of the motor fuels tax revenues to state highways and one-fourth to education was passed by a vote of seventeen to fifteen, with four of the five remaining members who were absent for that vote, having previously opposed the motion. Thus, only by a fortuity of circumstances was this proposal, favored by only a minority of the Commission, adopted."

If any of you have comments or questions, or additional points to make relevant to the position we have adopted, please write me.

Meg Titus  
Box 116C, Route 2  
Parker Road  
Plano, Texas 75074

P.S. The specific groups which I mentioned above as having presented proposals for rewardings which would permit the Legislature to fund mass transit are: Texas Municipal League, City of Dallas, Common Cause, Texas Environmental Coalition, and possibly other groups we have not yet learned about.



1/25/74

# Houston Mayor Hofheinz Asks 'Clean' Constitution

By DAVID FRINK  
Staff Writer

Labeling some language in the Constitutional Revision Commission's proposed constitution "sloppy," Houston Mayor Fred Hofheinz Thursday called on the Finance Committee to "purify" the document.

The 34-year-old mayor of Texas' largest city said, "We need a Constitution clean so we will be able to deal effectively with it." He said he believes lawmaking should be done by legislators and not the constitution.

Hofheinz spoke specifically of the property tax exemptions section of the finance article. He urged the committee to delete the provision saying "any other property validly exempt at the time of the adoption of this 'constitution' or 'enumerate each exemption it calls for.'"

"As it stands now it is a sloppy drafting job," said Hofheinz.

He said he is also concerned about the CRC-proposed deletion of the equal and uniform provision of taxation, saying it would "erode Houston's tax base and possibly open a Pandora's box."

"The deletion opens the door to tax exemptions on a special interest basis," he said. In place of the proposed deletion, Hofheinz suggested the convention write in a "classification system which would assure equal taxation in various classes of property, particularly real estate taxes."

"I would recommend language in the constitution that says market value is the



Staff Photo  
**FRED HOFHEINZ**

Houston mayor testifies

test of all ad valorem

taxation," said Hofheinz.

Directing comments at the controversial Highway-User tax, Hofheinz said, "I think it is inappropriate that the convention write into the constitution a use for any designated tax. These are matters of equity which should be written by the legislature," he said.

Hofheinz urged the section be deleted entirely providing "flexibility" for the document.

He suggested that some of the money could be used for a mass transportation system of some kind.

"It is apparent to citizens of my area and all citizens that the larger metropolitan areas require multiple

transportation systems rather than just automobiles and we object to the expenditure of this money solely for one purpose," Hofheinz told the committee.

"What is sacred about the gasoline tax?" Hofheinz asked committee members.

After testifying before the Finance Committee, Hofheinz moved upstairs to address the Local Government Committee.

The Houston mayor said he approved of most of the articles in the proposed constitution concerning local government. Two exceptions, he said, are the sections dealing with the controversial home-rule and the funding for local governments.

## Pompidou Protests Criticism

POITIERS, France (AP) — French President Georges Pompidou protested on Thursday that his country is being picked on unfairly because France allowed her currency to float on the foreign exchange markets.

Saying France is firmly committed to the Common Market despite the fact it has been "temporarily put to sleep," Pompidou had this to say to criticism from other European countries:

"I do not see why the attitude of France provokes criticism which was not heard when it was a question of Great Britain or Italy, which have been floating their moneys for a long time."



# Delegates Due Pro, Con Polls on Highway Fund <sup>1/23</sup>

Constitutional Convention delegates will have a choice between polls indicating that Texans favor and-or oppose tapping the constitutional State Highway Fund.

Common Cause, the so-called "People's Lobby," Tuesday reported its opinion survey showed 58 per cent of 370 people questioned over the state want to divert some of the \$700 million annual expenditures for road-building to public transportation.

"We will have something later on what we consider a more legitimate poll," said Weldon Hart, public relations director of Texas Good Roads Association. "It's

certainly different from the Common Cause poll. The delegates will have a choice."

Milton Tobian, Texas Common Cause Coordinator, said John Henson Associates of Austin did the organization's survey through 650 telephone calls January 14-15.

Hart identified Alex Louis of Dallas as the T.G.R.A. pollster.

T.G.R.A. is lobbying for retention of a constitutionally dedicated tax for highway building. Three-fourths of the state motor vehicle tax now is earmarked for highways, a fourth for public schools.

Common Cause wants to divert some of the highway money to public transportation or education.

# Banking 1/26/74 Testimony Set Today

## Capitol Staff

Bankers from all over the state are expected to crowd into a capitol hearing room Saturday as the General Provisions Committee takes up testimony on one of the hottest issues of the convention — branch banking.

The present Constitution forbids banks from doing business in more than one location, but the Constitutional Revision Commission recommended removal of that constitutional prohibition — leaving such regulation to the legislature.

A spokesman for the committee said he expects more than 200 bankers to attend the hearing, although only six have signed up to testify.

They include Sam O. Kimberlin Jr., of the Texas Bankers Association and Marion Sanford of Texas Commerce Bancshares, Inc.

The meeting gets underway at 10 a.m. in the Capitol basement meeting room, G-13.

The only other committee planning to meet over the weekend is the Local Government Committee which will convene at 10 a.m. in Room 300.



# 'Flexible' Pension Proposed

## Capitol Staff

A Fort Worth lawmaker has placed before the convention a proposal that he says would make retirement and pension systems for public employes and teachers more "flexible."

Rep. Dave Finney said his proposal would simplify provisions of the 1876 Constitution by deleting detailed restrictions on administration and investment of the funds.

Finney said although he would like to see some of the strictures of the present Constitution removed so the funds can change with economic conditions, he believes some restraint on the legislature should be kept in the Constitution.

One such limitation would be that no more than six per cent of an employee's salary could be contributed annually to any state-supported retirement system, and another that money from the funds cannot be diverted to other uses.

1/26/74

BY Bailey & Knepper

PROPOSAL NO. 13

1 A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

2 Relating to highway-user revenues.

3 BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

4 That Article VIII, Section 3, read as follows:

5 Section 3. HIGHWAY-USER REVENUES. Subject to legislative  
6 appropriation, allocation, and direction, all net revenues from  
7 motor vehicle registration fees and three-fourths of net revenues  
8 from all taxes on fuels and lubricants used to propel motor  
9 vehicles over public roadways, except gross production and ad  
10 valorem taxes, shall be deposited in the State Highway Fund.  
11 Such revenues shall be used solely for acquiring rights-of-way,  
12 constructing and maintaining a State highway system and mass  
13 transit systems necessary for the public convenience; for policing  
14 public roadways; and for administering laws pertaining to the  
15 supervision of traffic and safety on public roadways. Not more  
16 than one-fourth of the State Highway Fund may be expended on mass  
17 transit systems. One-fourth of net revenues from these taxes  
18 shall be allocated to the Available School Fund. The net revenue  
19 derived by counties from motor vehicle registration fees shall  
20 never be less than the maximum amounts allowed to be retained by  
21 each county, or less than the percentage allowed to be retained,  
22 under the laws in effect at the time of adoption of this  
23 Constitution.



# Introductory

BY JONES-El Paso

PROPOSAL NO. 24

1 A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS

2 Relating to the state auditor.

3 BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

4 That the following section be included in Article III:

5 Section \_\_\_\_\_. (a) The Legislature by a majority vote of  
6 the members elected to and serving in each house, shall appoint  
7 an Auditor, who shall be a certified public accountant licensed  
8 to practice in this State, to serve a term of eight years. He  
9 shall be ineligible for appointment or election to any other  
10 public office in this State from which compensation is derived  
11 while serving as Auditor and for two years following the  
12 termination of his service. He may be removed for cause at any  
13 time by a two-thirds vote of the members elected and serving in  
14 each house.

15 (b) The Auditor shall conduct post audits of financial  
16 transactions and accounts of the State and of all State  
17 governmental agencies established by this Constitution or by law,  
18 shall conduct performance post audits thereof as provided by law,  
19 and shall perform such other duties as may be provided by law.

20 (c) The Auditor shall report annually to the Legislature  
21 and to the Governor and at such other times as he deems necessary  
22 or as required by the Legislature.



# League of Women Voters of Texas

DICKINSON PLAZA SHOPPING CENTER • DICKINSON, TEXAS 77539 • PH. 713-337-1722



MRS. DARVIN M. WINICK, PRESIDENT

## STATEMENT BEFORE THE FINANCE COMMITTEE OF THE CONSTITUTIONAL CONVENTION

January 24, 1974

Chairman Caldwell, members of the finance committee and members of the audience:

I am Meg Titus, a director of the League of Women Voters of Texas, speaking as state environmental quality chairman for air and water. I represent approximately 4500 members in 43 local Leagues across the state of Texas. I would like to thank you on behalf of the state board and the entire membership for the opportunity to speak before this finance committee of the Constitutional Convention. League members across the state hope fervently that 1974 will go down in Texas history as the year the delegates, with the help of the people, wrote a new constitution--a framework of basic law that will compare favorably with our United States Constitution.

The League of Women Voters of Texas, as you probably all know, was among the first citizen's groups to conduct a section-by-section examination of our state constitution. Our study began in 1948 and has continued during the ensuing years as an area of major concern. During these intervening years since our first look at our constitution the membership has developed a list of eleven principles for a good constitution. I believe our League Convention Corps, some thirty strong, has seen to it that each delegate has a copy of these principles. If you do not have one, I'll be happy to see that you get one, along with the list of our priority concerns during this convention.

A series of position papers has evolved during this period of study, research, and review which will be the basis for my remarks today.

First, we support a framework of basic law--a shortened and simplified document--which will reduce the detail which we think is more appropriately statutory than constitutional. Additionally, we support increased flexibility in general in the entire new constitution and in particular we urge flexibility in Article VIII, Section 3, which addresses highway-user revenues. For ideal and complete flexibility the League supports the deletion of Section 3 on the principle that a dedicated gasoline tax specifically allocated to a Highway Trust Fund "for acquiring rights-of-way, constructing and maintaining a State highway system, for policing public roadways, and for administering laws pertaining to the supervision of traffic and safety on public roadways" cannot be considered adequately flexible to meet our criteria or the needs of the people of Texas at this time. Nor is it likely to meet the needs of our citizens in the future in view of the long-range fuel situation, in view of the population increase, and in view of increasing air pollution from automobiles in our urban areas during the past few years.

Further, we request this committee keep this Section 3 flexible on the basis of another long-term study done by the League of Women Voters dealing with environmental quality. Our position, as found in And Now Action, which most of you have received from someone in your local League, was developed from both state and national studies and supports, "Evaluation of measures to achieve and maintain a physical environment beneficial to life."

Just over one year ago we developed a position on transportation which has been accepted by Leaguers across the country, and it is very relevant to Section 3 of the finance article. Point one of this position: "Before any more mileage of urban interstate highways is built, cities must have the opportunity to plan and adequately finance integrated transportation systems of their own choice."

Point two of this position: "The Highway Trust Fund should be restructured so that



cities and states may use the fund to build whatever form of ground transit they find necessary."

This position paper has been presented to the Senate Public Works Committee on Roads, and enabled the League to take action on the amending of the Federal-Aid Highway Act of 1972 which would have permitted Highway Trust Funds to be used for public transportation if localities so desired. The League of Women Voters can foresee the time when localities will so desire, and we support structuring our constitution so that other options to highway building are possible.

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23 Januaryv 1974

Geraldine E. Cook    Testimony befor the Finance Committee for the  
Delegates to Constitutional Revision Cånvention

ARTICLE VIII--Finance,    SECTION 3.

I am here to strengthen the legislator. To allow him the  
privilige of legislating. The legislator represents the people  
and it is only through him we can express our desires for change.

I am opposed to the inclusion of this section in the new  
state constitution and urge that protection of such funds not  
be included in the new constitution/


It defeats the need for flexibility as required by a consti  
tution and provides restrictions that may not be applicable to the  
future development of this state.

In 1876 we were dependent on the horse and train. Can we  
say that even fifty years from now that we shall be dependent on  
the automobile and highway as we know them today?

I am not opposed to Highway User Funds. However, I believe  
the legislators are well aware of the advantages of an excellent  
highway system and that there is no need to provide constitutional  
protection.

You are urged to write the constitution in general terms,  
keep it simple, and avoid restrãttive detail.

Respectfully Submitted







## LEAGUE OF WOMEN VOTERS OF HOUSTON

Statement of  
Lavora Spradlin Arizaga  
before the Finance Committee  
of the  
Constitutional Convention  
January 24, 1974

I am Lavora Spradlin Arizaga, vice president of the League of Women Voters of Houston, coming to speak to you today about certain aspects of financial provisions for the public transportation needs of Texas. Ideally, there would be no need to come to a constitutional convention for financial needs of a specific area of the responsibilities of state government. A constitution, ideally, deals only with fundamental law, establishing the permanent governmental institutions--legislative, executive, and judicial. Statutory law, meaning that which deals with specific social, economic, and political problems, has no place in the constitution.

The members of the League of Women Voters of Houston join the members of other Leagues throughout the state in reaffirming the principle that a good constitution will be a framework of basic law, and will have a coordinated finance structure capable of flexibility. This latter principle expresses the undesirability of dedicated funds (often called "earmarked" funds). However, if, on account of a long tradition in Texas of motor vehicles taxes and registration fees being dedicated to public roadways, and the fact that the Texas Constitutional Revision Commission kept such dedicated funds in their proposed constitution, you find it impossible to delete these dedicated monies from the constitution, then I must point out to you certain pressing transportation needs of the citizens of Texas.



League of Women Voters of Houston  
January 24, 1974  
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page 2

Texas is now the fourth largest state in the Union. According to the 1970 census it is 79.7% urban. It now has 24 Standard Metropolitan Statistical Areas. Just under one-half of the population of Texas lives in the five largest SMSA's, and almost 60% live in the 10 largest. The four most populous SMSA's in Texas (Houston, Dallas, San Antonio, and Fort Worth) accounted for the equivalent of 83% of the state's population growth.

Movement of people and goods efficiently, economically, and safely is a governmental responsibility to which this state has given priority throughout its history. The excellent Texas highway system is a testimonial to this sense of responsibility. We have a highway system second to none. This is due in large part to the dedication, good organization, creativity, and ingenuity of those people who set up, and who run the Texas Highway Department. It is also due to the availability of lots of money. We need, desperately, to have this dedication, good organization, creativity, ingenuity, and money put to work on behalf of urban mass transit!!

The League of Women Voters of Houston has been studying possible solutions for transporting people, and goods in the Houston area since early 1970. By 1972 we had reached our position of support of a well-balanced, multi-mode, publicly-owned, non-polluting mass transit system with low fares. The need for such a system is becoming increasingly pressing as the days go by. Transportation in the urban areas in Texas at this time consists principally of privately-owned motor vehicles which usually carry only one person. Pollution from motor vehicles is contributing to the destruction of our environment, and our health. The shortage of motor fuels will further increase our need of other means of transportation. A system to transport people which requires less power, less space, and which will save cities from choking on pollution, strangling in vehicle tie-ups, and which



League of Women Voters of Houston  
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page 3

will guarantee to each citizen the basic right of mobility is urgently needed.

Article VIII, Sec. 3 of the proposed constitution provides for the depositing of certain revenues in the State Highway Fund. It also provides that these revenues "shall be used solely for the acquiring rights-of-way, constructing, and maintaining a State highway system; for policing public roadways; and for administering laws pertaining to the supervision of traffic and safety on public roadways."

On behalf of the League of Women Voters of Houston, and for the benefit of the almost 80% of the citizens of Texas who live in urban areas, I beg that you make provision here that some of this money may be used for public mass transit purposes. There are various ways that this provision could be achieved. One way that it might be achieved would be to substitute for the word, "highway." the word, "transportation," and to include after the words, "State transportation system" (which would formerly have read "state highway system") the words, "including public mass transit systems."

If you prefer other wording that would achieve our goal, we would be happy to support it. Please keep in mind that the goal we seek is to improve transportation services for all citizens of Texas, and this necessarily means the inclusion of urban mass transit systems.

Thank you for this opportunity to speak to you.



# League of Women Voters of Texas

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DICKINSON PLAZA SHOPPING CENTER • DICKINSON, TEXAS 77539 • PH. 713-337-1722



MRS. DARVIN M. WINICK, PRESIDENT

## STATEMENT BEFORE THE FINANCE COMMITTEE OF THE CONSTITUTIONAL CONVENTION

January 24, 1974

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Jan. 10, 1974

## CONSTITUTIONAL PRIORITIES

Determined by the State Board of Directors of the League of Women Voters of Texas meeting in Austin, Jan. 7-10, 1974.

### High

### Low

#### I. Modernizing State & Local Government

##### A. Executive

1. Reorganization of the state boards and commissions along functional lines
2. Cabinet

1. Budget originator
2. Limit of two terms
3. Governor and Lt. Governor run as a team.

##### B. Legislative

1. Annual Sessions
2. Eliminate salaries from the constitution

1. Single member districts
2. Procedures that facilitate public knowledge

##### C. Judicial

1. A unified court system of centrally administered statewide courts

1. Merit selection
2. Integration of the JP courts into courts of record
3. Full-time judiciary whose members qualify to practice law

##### D. Mode of amending the constitution

1. Amendments may be proposed through direct initiative

1. The question of calling a constitutional convention submitted to the voters every 20 years

##### E. Local government

1. Adequate, realistic powers for local governments to perform needed services
2. A flexible structure for local government together with legislative and financial powers adequate to provide local services

1. Comprehensive regional and state planning; inter-governmental cooperation
2. Regulation of single-purpose special districts

#### II. Other Areas of Concern

##### A. Equal educational opportunity and equitable support for education

##### B. An affirmative command to protect the environment

##### C. Protection of right to vote of every citizen

##### D. Removal of the welfare ceiling from the constitution

Removal of the highway trust fund from the constitution

*These are the best priorities for our government. I hope they will be adopted.*



January 24, 1974

Statement to: FINANCE COMMITTEE, TEXAS CONSTITUTIONAL CONVENTION

From: League of Women Voters of Dallas

By: Mrs. Pearl L. Wincorn, Chairman, Environmental Quality  
Committee.

It was the hope of the League of Women Voters of Dallas that a new constitution for Texas would be a document of constitutional law without any statutory provisions. We believe that a constitution more like our federal Constitution would better serve the long-term interests of Texas.

We are living in a period of rapid change. Only the most basic principles of life and liberty are likely to continue unaltered. The many specific stipulations in the proposed document assure that the article prescribing methods for amending the new constitution may be among the most important you will write.

We have two points to make.

1. The League of Women Voters of Dallas calls your attention to two sections that are already in direct conflict. These are Art. VIII, Sec. 3, on "Highway User Revenues", and Art. X, Sec. 10, on "Environment".

There is no way that "The State and each person shall maintain and improve a clean and healthful environment in Texas for present and future generations..." while the State, at the same time, encourages the building of more and better highways for motorized travel. Obviously, these fine public roadways are intended to accommodate and attract motor vehicle drivers to use them and to pay the fees and fuel taxes that will, in turn, pour funds into the State Highway Fund.

The basic inconsistency here is that motor vehicles, as a class, are the greatest single cause of environmental damage in the United States. In Dallas they are responsible for about 76 percent of our air pollution - a big improvement from the 85 percent of two years ago. Air quality will probably continue to improve -- not because of pollution control devices but because shortages of and higher prices for petroleum-derived fuels, lubricants, and plastics will cut down the numbers of motor vehicles in use.

Those vehicles still travelling will be in violation of Art. X, Sec. 10, but more important, the private motor vehicle will increasingly give way to the use of mass transportation modes of travel. The value of Art. VIII, Sec. 3, may diminish to a point where it becomes a ridiculous appendage in a State Constitution.

2. If political pressures are so great that Sec. 3 of Art. VIII, "Highway User Revenues", must be left in the final version of the



proposed Constitution, we urge that voters be given a choice. One wording would be as at present, limiting all revenues to State highway purposes, the Available School Fund, etc. The alternate proposal would give the legislature power to allocate a portion of such tax revenues for mass transportation purposes, either bus systems or rapid transit systems in any area of the State.

We suspect that by November 1974 the citizens of Texas may welcome the opportunity to choose.

The League of Women Voters of Dallas has been deeply involved for the past two years in a study of the transportation situation in our own area. We know that planning for highways is based on long-range projections and that huge amounts of money are involved. We submit, however, that the times are changing fast and that many of these projections are already drastically in need of revision. In a State the size of Texas we will require more than Amtrak, a few interstate buslines and airlines to carry us between cities. We are also quite aware that cities like Dallas are in need of help if they are to provide adequate mass transportation for their residents.

In conclusion, the League of Women Voters of Dallas urges the Constitutional Convention

1. to omit Art. VIII, Sec. 3, from the State Constitution, leaving such action to the State legislature;

2. but if this is not the will of the Convention, then to modify this Section to provide a method for funding of mass transportation systems; or

3. to provide a choice for the electorate at the polls in November 1974 between the present wording and an alternate wording that includes funding for mass transportation systems.





January 24, 1974

Statement to: FINANCE COMMITTEE, TEXAS CONSTITUTIONAL CONVENTION

From: League of Women Voters of Dallas

By: Mrs. Pearl L. Wincorn, Chairman, Environmental Quality  
Committee.

It was the hope of the League of Women Voters of Dallas that a new constitution for Texas would be a document of constitutional law without any statutory provisions. We believe that a constitution more like our federal Constitution would better serve the long-term interests of Texas.

We are living in a period of rapid change. Only the most basic principles of life and liberty are likely to continue unaltered. The many specific stipulations in the proposed document assure that the article prescribing methods for amending the new constitution may be among the most important you will write.

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3. to provide a choice for the electorate at the polls in November 1974 between the present wording and an alternate wording that includes funding for mass transportation systems.



1 A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS  
2 Relating to highway-user revenues.

3 BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

4 That Article VIII, Section 3, read as follows:

5 Section 3. HIGHWAY-USER REVENUES. Subject to legislative  
6 appropriation, allocation, and direction, all net revenues from  
7 motor vehicle registration fees and three-fourths of net revenues  
8 from all taxes on fuels and lubricants used to propel motor  
9 vehicles over public roadways, except gross production and ad  
10 valorem taxes, shall be deposited in the State Transportation  
11 Fund. Such revenues shall be used solely for acquiring  
12 rights-of-way, constructing and maintaining a State highway system;  
13 for acquiring rights-of-way, constructing and maintaining mass  
14 transit systems for the public convenience by the State or by  
15 political subdivisions of the State through the use of grants  
16 from the State Transportation Fund; for policing public roadways;  
17 and for administering laws pertaining to the supervision of traffic  
18 and safety on public roadways. One-fourth of net revenues from  
19 these taxes shall be allocated to the Available School Fund. The  
20 net revenue derived by counties from motor vehicle registration  
21 fees shall never be less than the maximum amounts allowed to be  
22 retained by each county, or less than the percentage allowed to  
23 be retained, under the laws in effect at the time of adoption of  
24 this Constitution.

Walter H. Richter, Chairman  
Government Relations Advisory Committee  
TEXAS UNITED COMMUNITY SERVICES

For the Committee on Finance  
Constitutional Convention  
February 1, 1974

The purpose of my appearance here before you today is to urge the omission of references to welfare spending limitations in our new constitution. As you know, such omission has already been recommended by the Texas Constitutional Revision Commission.

For reference purposes, it is Article III, Section 51, of the present constitution which allows welfare payments under an \$80 million ceiling from State tax funds. The proposed new constitution eliminates this section. Under Finance, Article VIII, Sections 7 and 8, provision is made for "public money" to be used for "public purposes"--which includes financial assistance to nearby Texans.

My presentation will not address itself to the merits of welfarism as a program concept nor to the pros and cons of welfare programs currently operative in Texas. Those are important but they are not germane here. The issue before this Committee and this Convention is simply whether or not the new constitution should speak specifically to the matter of a spending ceiling.

As I have indicated, my conviction is that it should not--and I offer the following points in support of that position.

1. Establishing state budgets, for whatever purpose, is clearly a statutory and not a constitutional matter. Considering the thousands of items that make up our state budget, the merit of making this one exception and only this one is questionable, not only because it is the only one but because not one single other state has seen fit to do likewise.



2. The clear implication of insisting that this matter be written into the constitution is that the members of the state legislature are untrustworthy and incapable of making responsible judgements regarding this issue. I submit that there is clearly no justification for making this assumption--for these reasons:

a. It is inconsistent, since we do entrust them with the responsibility for other fiscal decisions involving far greater amounts in categories which are clearly as vital or as sensitive.

b. There is absolutely no evidence in the long history of welfare appropriations in Texas that our legislators have been extravagant in voting welfare funds. Moreover, since constituent attitudes greatly influence legislative voting, especially regarding matters that are controversial, one cannot conceive the members ever voting in any large degree contrary to the wishes of the public on this particular matter.

c. A quick look at the 1974 welfare grants budget reveals that the Legislature approved Department of Public Welfare spending for direct grants to needy Texans that is almost \$19 million below the \$80 million ceiling.

The 1975 welfare budget which reflects the assumption by the federal government of Old Age Assistance, aid for the needy blind, and the severely disabled, comes to roughly \$31 million under the constitutional ceiling. In this instance, the Legislature certainly wasn't inclined to spend funds extravagantly on welfare just because such funds were legally available.

I am personally convinced that should the ceiling be removed, neither the fears of those who expect reckless welfare spending to occur nor the hopes of those recipients who believe substantial increases will come their way will be realized.

d. The fact that the federal government has now assumed the responsibility for Old Age Assistance payments, aid for the needy blind and the severely disabled limits the welfare burden only to AFDC. This reduces appreciably the magnitude of the welfare matter insofar as the state is concerned and would seem to make it relatively simple to budget and manage responsibly and efficiently.

An interesting sidelight, which may or may not have significance, comes from DPW's Division of Reports and Statistics. A report issued January 28, 1974, just a few days ago, reveals that the number of AFDC recipients in December, 1973, was 6,652 less than in December, 1972 (437, 642 down from 444, 294). The monthly breakdown shows that there was a decrease in 11 of the last 18 months. This seems to suggest little likelihood for a rapidly accelerating problem with budget increases to match.

3. Assuming that the Legislature in its wisdom should ever see the need to increase welfare spending (for example, to adjust for excessive inflation or more likely to accommodate changing federal guidelines), it could, without the constitutional ceiling, move quickly and expeditiously. On the other hand, with the ceiling, we would be faced with the necessity of expensive elections, the probability of several years delays in implementation, and the likelihood of subsequent losses of considerable matching federal revenue. In addition, there is always the trauma for those citizens being served by the programs.

In closing I wish to quote from one Texas expert on welfare matters. He said: "The constitutional limit on public assistance should be eliminated because it's demeaning and because it is an inflexible constraint on the modern management requirements of State government."

I think that says it all and says it exceedingly well.



MEDIA RELEASE

FOR RELEASE UPON RECEIPT: January 25, 1974

Representative Larry Bales today submitted to the Constitutional Convention a proposal for a State Board of Equalization designed to remedy what he called "gross inequities in Texas' present ad valorem taxation scheme." Bales' proposal would also place equitable limitations on the legislature's power to tax property.

Bales said that this proposal is designed to end abuses which have resulted in "tremendous tax breaks for East Texas timber barons and gigantic corporations with connections in high places - while the bulk of the ad-valorem burden falls on the small businessman and the homeowner."

In addition, the proposal establishes a State Board of Equalization. It would have the power to stop irregular tax practices. This board would help solve the crisis in school financing, by giving the state a way to determine the real needs of local school districts. Presently, Texas gives different amounts of aid to local districts. In order to figure out how much aid to give each district, it is

-more-

necessary to have a way to measure the true property wealth of each district. This is impossible under the present system of unchecked and illegal localized procedures.

"The Board of Equalization," said Bales, "would put an end to such abuses which account for tremendous inequities. It would also enable the state to realistically distribute financial aid to needy taxpaying districts."

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Contact: Mark Perlmutter - [REDACTED]



BY \_\_\_\_\_

PROPOSAL NO. \_\_\_\_\_

1 A PROPOSAL FOR INCORPORATION IN THE CONSTITUTION OF TEXAS  
2 Relating to the valuation and assessment of property  
3 taxes, and providing for the creation of a state board  
4 of equalization.

5 BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF TEXAS:

6 That Article VIII on finance include the following  
7 provisions:

8 Section \_\_\_\_\_. VALUATION AND ASSESSMENT OF PROPERTY. (a)  
9 Except as provided by Subsection (b), all property taxes shall  
10 be equal and uniform.

11 (b) The Legislature may prescribe the method of valuation  
12 for any reasonable class of property on approval by a two-thirds  
13 vote of the membership of each house and by submission to and  
14 approval of a majority of the qualified electors voting on the  
15 question. A method of valuation for any class of property adopted  
16 under this subsection applies to all taxing authorities in the  
17 State.

18 (c) A method of valuation of a class of property adopted  
19 under Subsection (b) shall treat taxpayers similarly situated in  
20 an equal and uniform manner.

21 (d) Subject to Subsection (b), the Legislature by general  
22 law shall prescribe uniform procedures for the valuation and  
23 assessment of all property.

24 (e) State tax burdens and benefits which are allocated on  
25 the basis of the assessment of property must be calculated in

1 accordance with the full amount of the proper valuation.

2       Section \_\_\_\_\_. STATE TAX EQUALIZATION BOARD. The Legislature  
3 shall establish a State tax equalization board to enforce the  
4 provisions of this Article concerning valuations and assessments  
5 of property for ad valorem tax purposes and to perform other  
6 duties as required by law.



## COMMENT

This section is intended to give the legislature a mandate to correct present inequities in the property tax area; to prescribe a sufficiently flexible program to that end; and to place equitable limitations on the legislature's power to tax property.

The first problem that the section is intended to remedy is that of arbitrary treatment of individual taxpayers. This treatment results in part from unchecked, and ultra vires classification of property by local assessors. Statewide, residential property is taxed at a rate almost 30% higher than commercial and industrial real property. C. Bartlett, Property Taxes in Texas School Districts: A Study for the Governor's Committee on Public School Education (1969). Another cause of the problem is that some assessors are "poorly trained for their jobs and lack the basic tools necessary for competent and efficient assessments." Yudof, The Property Tax in Texas: A Legal Analysis, at 14.

Under Subsection (d) of the first section, the legislature would have the power to prescribe formulas for valuation and assessment of property. The second section provides for a board of equalization to ensure that the legislature's directives are carried out. If it chose, the legislature could also allow the board itself to perform the assessment function.

A second major problem concerns the allocation of state money to political subdivisions where the object is to give greater assistance to poorer districts. For example, Texas varies the amount of aid to local school districts in an attempt to compensate poorer districts. To determine the correct amount of aid to give to each district, it is all too obviously necessary to have a valid measure of each district's wealth. Such a measure is impossible under the present system of unchecked localized assessment practices. Valuation and assessment practices vary widely from district to district. Not only do local officials assess at different fractions of total value, but their methods of arriving at total value vary considerably. The result is that it is impossible to know the real wealth of each district, so that some districts receive less than their fair share of aid.

A third problem is that taxpayers in some counties pay proportionately higher ad valorem taxes to the state than other counties. This results from the same unprofessional valuation procedures and fractional assessment practices that are responsible for the inequities in school finance.

To remedy both problems, it is necessary to establish a uniform standard for evaluation, to require that state aid and taxation decisions are based on it, and to provide a means to see to it that that standard is adhered to. Subsection (e) of the first section sets the standard as the full amount of the proper valuation and requires that aid and taxation decisions be based on that amount. Subsection (d) guarantees that the legislature has the power to implement such control, and once again, the second section provides the means to assure compliance throughout the state.

Subsections (a), (b), and (c), are additional limitations on the state's power to assess and tax property. Subsections (a) and (b) together continue the present practice of requiring voter approval whenever the legislature wishes to classify property in order to prescribe differing methods or rates of taxation. However instead of requiring a constitution-cluttering amendment to classify property as the present constitution does, this provision only requires a binding referendum of the people. In addition, Subsection (b) is intended to require uniformity with regard to assessments among all taxing jurisdictions of the state.

Comment

January 24, 1974

Page 2

Subsection (c) is intended to prohibit arbitrary classifications of property, and to give arbitrarily treated taxpayers an administrative and/or judicial remedy, depending on legislative limitations.

[The comment was  
supplied by the sponsor]

63C292(2)



*Con*

To: Higgins, Titus, Anderson, Conner, Offices  
From: Bizzell

On Highway trust fund: Agnich leans toward flexibility, Aikin for fund as is, Byrd for flexibility, Brooks undecided, Caldwell & uncommitted, Calhoun uncommitted, Doyle uncommitted, Hall maybe for flexibility, Hostenbach for highway fund as is, Denton for removal, Hallowell may be for removal, Jones G for fund as is, Luther Jones for flexibility perhaps, Munsen undecided after bad treatment from another citizen group, Salem for fund, Whitehead for fund, Truan probably flexible, Waters possibly for removal. Not definite, just rough guesses at this point from one of the committee members.

Notes to Leagues of these members encouraged contact with members, especially those who seem undecided or flexible. They were asked to use Titus amplification statement as background.

2 8 74



# League of Women Voters of Texas



DICKINSON PLAZA SHOPPING CENTER • DICKINSON, TEXAS 77539 • PH. 713-337-1722

MRS. DARVIN M. WINICK, PRESIDENT

## AMPLIFICATION OF LWVT POSITIONS PRESENTED TO THE FINANCE COMMITTEE OF THE CONSTITUTIONAL CONVENTION REGARDING ARTICLE VIII, SECTION 3 OF THE CRC REVISION

January 23rd, 1974

Meg Titus, Director, Air and Water, LWVT

In the text of the statement to the Finance Committee of Con Con, which all of you probably have received by now, I attempted to take them through the steps of our study process to explain how we arrived at a position supporting either, 1, removal of Section 3 of Article VIII (which is probably not possible, in view of the political realities of the day, but would be the "ideal" option for us to support), or, 2, the rewording of Section 3 to allow for allocation of a portion of the dedicated gasoline revenues for mass transit funding.

And Now Action (p. 2) which lists our principles for a good constitution, states that we will use these eleven principles in the evaluation of any proposed constitution. Principle #6, "a coordinated finance structure capable of flexibility" seems to speak to this matter of the Highway Trust Fund. It seems in review of our principles and positions that we would consider it a matter for statutory not constitutional concern. We think, therefore, that League can support either removal or rewording (depending, of course, on our evaluation of the final and actual wording which emerges from these committee hearings and is presented to the convention).

This stated position does not, we think, preempt the consensus now being taken on financing state government as neither the formal statement, nor the answers to any questions the committee may ask, will say what we do or do not support relative to state financing. I will merely state that our positions are not yet in from our study, but we can support either removal or revamping of Section 3 on the basis of our principle of flexibility.

Our position can also be supported on the basis of the LWVUS positions on Human Resources and Environmental Quality as developed in the December 13, 1972 memorandum "Guidelines for action on transportation under national HR and EQ positions". This presents a six-point position which has been used frequently by LWVT and was used by LWVUS in testimony before the Senate Public Works Subcommittee on Roads in June, 1972 (and several times since) in an attempt to amend the Federal-Aid Highway Act of 1972 which would have permitted Highway Trust Funds to be used for public transportation if localities so desired.

These guidelines state (page 3) under "Action at state, regional, or local level" that "Leagues can now take action with appropriate governing bodies, legislative or executive, below the national level in line with the six-point position listed above." This same guideline paragraph also states, "If a local League or an ILO wishes to act at the state level, such action should be cleared with the state board." Both the Houston and Dallas Leagues have local positions on mass transportation and are speaking to this committee on the same issue after having cleared their statements with state board.

Still another mandate for action in this instance seems to come from our air and water positions which have been developed under the umbrella of our EQ position



as stated in And Now Action, p. 7,..."Evaluation of measures to achieve and maintain a physical environment beneficial to life."

Additionally, I have found in reading some of the local League Voters some committee background material which has been used in preparing for the "Financing State Government" study some comments, (Example: Fort Worth Voter, January, 1974) in which these alternatives in the handling of the highway-user revenues have been mentioned for consideration during the study. This indicates to me that there is membership concern about the Highway Trust Fund and its present financial structure.


And finally, our brand new state consensus which was adopted at the January state board meeting begins with, "The League of Women Voters of Texas supports a comprehensive state land use policy which would provide for the orderly development of the state in a manner which assures adequate protection of the environment, improvement of the quality of life, and wise use of our natural resources." This too seems supportive of our action in this matter, and may be the first opportunity for action under our new land-use consensus positions.

One more non-League point should be made in connection with Section 3 of Article VIII. Separate Statements of Commission Members published in December following the CRC drafting of the proposed constitution, contains a number of comments about the finance article. Statement 3 proposes a specific substitution for the Section 3 adopted. See page 33 and 34 to read the full text of this alternative statement. This was submitted by Ralph Yarborough and signed by eleven other commission members which include Mary Beth Briant and Janice May. In listing their reasons for suggesting a substitute section which would seem to allow for the kind of flexibility we are asking for, they give the following reasons:

"The Commission proposal to dedicate three-fourths of the motor fuels tax revenues to state highways and one-fourth to education was passed by a vote of seventeen to fifteen, with four of the five remaining members who were absent for that vote, having previously opposed the motion. Thus, only by a fortuity of circumstances was this proposal, favored by only a minority of the Commission, adopted."

If any of you have comments or questions, or additional points to make relevant to the position we have adopted, please write me.

Meg Titus



P.S. The specific groups which I mentioned above as having presented proposals for rewordings which would permit the Legislature to fund mass transit are: Texas Municipal League, City of Dallas, Common Cause, Texas Environmental Coalition, and possibly other groups we have not yet learned about.



*They never  
polled us!!*

## Poll shows road tax satisfaction

Post State Capital Bureau

AUSTIN — Most Texas voters favor leaving highway user revenues — gasoline taxes and motor vehicle license fees — earmarked as they are by the present Texas Constitution, the Texas Good Roads Association said Monday.

The Association was reporting on a statewide survey on the subject by Louis, Bowles and Grov, Inc., of Dallas.

TGRA president Russell H. Perry of Dallas said the poll will be distributed to delegates of the Texas Constitutional Convention, who have been urged by some to change the constitutional earmarking.

The polling firm said its findings in a survey of 1,000 registered voters throughout the state were:

- That 81 per cent were either "very satisfied" or "generally satisfied" with the state highway program, while 13 per cent were "somewhat dissatisfied" and 3 per cent "very dissatisfied."

- That 60 per cent want the constitutional dedication of gasoline taxes to roads and education left as is, while 16 per cent want changes made and 24 per cent expressed no opinion.

- That 56 per cent specifically approve of dedicating three-fourths of the gasoline taxes to building and maintaining highways, while 23 per cent disapprove and 21 per cent had no opinion. (The other one-fourth of the taxes goes to the available school fund.)

Perry said he thought the fact that the Louis Poll was a 1,000-sample survey "is a possible explanation of the difference" between its findings and those of another recent telephone poll of 370 persons by Common Cause, the self-styled citizens lobby.

Common Cause said its poll found 67 per cent of the respondents favored spending some of the dedicated highway funds on mass transportation and 68 per cent favored spending more of the highway-user revenues on education.

Post State Capital Bureau

AUSTIN —The Texas Student Lobby (TSL) said Monday it wants the new state constitution to remove the shield from motor fuel tax revenues and allow the legislature to spend them as it sees fit instead of earmarking three-fourths of them for highway construction.

The growing needs of our elementary and secondary education system and the changing transportation picture brought on by the energy crisis show the legislature needs flexibility in spending the money, only one-fourth of which is available now for education, the TSL maintains.

During a TSL meeting here

of more than 50 representatives of 15 universities with total enrollment of more than 300,000 students, the lobby also called on the Constitutional Convention to:

- Retain the Permanent University Fund (PUF) in the constitution and provide for other higher education institutions that do not benefit from it.

- Protect the environment by giving citizens standing to sue polluters and establish public trust doctrines in Texas.

The \$700 million PUF is shared by the University of Texas System and Texas A&M University System, with

the \$32 million income from it divided between them on a two-thirds, one-third basis annually as the Available University Fund.

The student group said it wants a constitutionally provided fund for the 37 other state-supported institutions in an amount equal to the available fund annually financed through a 20 cents per \$100 assessed valuation on property.

The environment protection section should be included to insure that the clean and open beauty of Texas be passed on to future generations and not be despoiled and ravaged by pollution and unchecked growth, the group said.

John Shackelford, TSL chairman, said the group will concentrate its efforts on a letter-writing campaign from the colleges and universities to legislators plus a small, direct lobbying effort led by him in Austin.

"We are going to join Common Cause and other groups and tie the (highway) fund with the energy crisis and the totally restricted constitutional fund," Shackelford said.

"I think there is a substantial chance to open it up. If we don't, that provision has no chance to pass with the people — at least not those in Houston, Dallas, San Antonio and El Paso and some of the larger cities," he said.

*F-Y I Val a*

## Flexible use of funds urged



*Finance  
Welfare*

TESTIMONY BEFORE GENERAL PROVISION COMMITTEE  
OF THE CONSTITUTIONAL CONVENTION

January 23, 1974

I am Mrs. Linda Avena, speaking on behalf of over 4000 members of the League of Women Voters of Texas. The Constitutional Revision Commission in revising Texas' Constitution has wisely chosen to eliminate the constitutional limitation on public assistance appropriations, thereby placing responsibility for these appropriations with the governor and the legislature of Texas. The League of Women Voters strongly supports this action. We believe that public assistance appropriations should be treated in the same manner as all other major areas of revenue disbursement. Because of the restrictive provisions of Section 51 of Article III in the present Constitution, public assistance is the only significant area of state finance in which appropriations are determined through the costly process of constitutional amendment.

The constitutional limitation on welfare expenditures has contributed to creating a system of public assistance that falls far short of meeting the most basic needs of Texas' poorest citizens. The hardship of this system has been keenly felt by the aged, disabled and children who receive public assistance. Texas' average grant levels in EACH category of assistance have been among the lowest in the nation. In three categories we ranked among the five lowest-paying states. Most recipients are given only a PERCENTAGE of the amount the STATE determines they must have to live at a bare, minimal



Avena

level. Children on AFDC receive only 75% of what the STATE says they must have for basic necessities of food, clothing and shelter. One can easily understand the plight of the recipient. How does a mother buy 75% of a pair of baby shoes or pay 75% of the cost of a bed for her child?

One could speak at length about the plight of the poor under the current system. Yet it is not recipients alone who have felt the ill-effects of the ceiling, but the State as a whole. The ceiling was designed to save Texas taxpayers money. We question the validity of the assumption that it does. Welfare expenditures are shared by the states and the federal government on a matching basis. Every dollar spent by the State returns three dollars in federal matching funds. Other states who expend more monies in caring for their needy are rewarded with more federal money. Texas, restricted by its constitutional ceiling, has found itself unable to take full advantage of the federal matching funds available to it. For example, if another State such as New Jersey appropriates two dollars for every dollar appropriated in Texas, New Jersey receives six federal dollars, while Texas receives only three. The indirect effect of this is that Texas economy is deprived of the extra spending power generated in other states. Texas' low-income citizens are spending less and therefore returning less money to the State in the form of sales and excise taxes.

The welfare ceiling has been costly in other ways. In the last forty years taxpayers have had to pay the election costs for nineteen welfare amendments.



Avena

Public Assistance grants are predicated on federal regulations over which the State has little control. Changes in these regulations and court decisions frequently result in a need for total or partial reorganization of the State's public assistance program. The constitutional limitations have deprived the State of Texas of the opportunity to respond quickly and decisively to changes in federal welfare policies. We believe the State Legislature and the Welfare Department must be given the latitude necessary to meet changes in federal regulations in a speedy, efficient manner.

Let me cite an example. On October 30, 1972, President Nixon signed into law a bill that amended the Social Security Act and signaled the beginning of a much-discussed reform of the entire federal system of public welfare. Under this law recipients formerly classified in the three adult categories of assistance receive their payments directly from the federal government in unmatched funds. For many recipients the federal payment is substantially less than the payment they received under the old system of categorical matching grants. Provisions within Section 51-a limit legislative appropriations to those programs for which federal matching funds are available. Texas is therefore unable to supplement assistance to the aged, blind, and disabled in order to bring them back to their former level of assistance. Many elderly, disabled Texans have suffered as a result of this Constitutional provision.

In the future we can expect to see even more far-reaching changes in public welfare. Will Texas, with its antiquated, inflexible constitutional welfare provisions be ready to meet a reorganized system? Will we continue tacking on new amendments each time a new federal revision is handed down? Or will we, through a revised Constitution, give the elected representatives of the people control over welfare expenditures?



Avena

Let me point out that the League of Women Voters is not alone in calling for removal of the welfare ceiling. Almost every group who has taken an in-depth look at poverty in Texas has identified the ceiling as one of the major impediments delaying progress toward the goal of alleviating poverty in Texas. The same conclusion was reached by the Texas Office of Economic Opportunity, the Senate Interim Committee on Welfare Reform, The Texas Advisory Committee of the U.S. Commission on Civil Rights, and the House Interim Committee on Poverty.<sup>1</sup>

Welfare assistance to the needy is an issue highly fraught with emotion and misconception. Poor people do not constitute a highly organized lobby with substantial access or understanding of the decision-making process. Historically, the needs of poor people have often been pushed aside in the interest of political expediency. The League of Women Voters urges you not to let this happen as you consider removal of Section 51. It is not only the aged, blind, disabled, and the needy children who will benefit, but all of us, for in preserving Texas' most vital resource--its human beings--we all stand to gain.

#### ADDENDUM

<sup>2</sup>For your convenience a bibliography of cited reports is found below:

Texas Office of Economic Opportunity, Poverty in Texas, 1972, pp. II-11, II-19.

Senate Interim Committee on Welfare Reform, Breaking the Poverty Cycle in Texas, p. 52.

U.S. Commission on Civil Rights, A Report by the Texas State Advisory Committee, Civil Rights in Texas, 1970.

House Interim Committee on Poverty, Report to the Sixty-third Legislative Session, Poverty: Time for State Policy, p. 44.



# League of Women Voters of Texas

DICKINSON PLAZA SHOPPING CENTER • DICKINSON, TEXAS 77539 • PH. 713-337-1722



MRS. DARVIN M. WINICK, PRESIDENT

## STATEMENT BEFORE THE FINANCE COMMITTEE OF THE CONSTITUTIONAL CONVENTION

January 24, 1974

Chairman Caldwell, members of the finance committee and members of the audience:

I am Meg Titus, a director of the League of Women Voters of Texas, speaking as state environmental quality chairman for air and water. I represent approximately 4500 members in 43 local Leagues across the state of Texas. I would like to thank you on behalf of the state board and the entire membership for the opportunity to speak before this finance committee of the Constitutional Convention. League members across the state hope fervently that 1974 will go down in Texas history as the year the delegates, with the help of the people, wrote a new constitution--a framework of basic law that will compare favorably with our United States Constitution.

The League of Women Voters of Texas, as you probably all know, was among the first citizen's groups to conduct a section-by-section examination of our state constitution. Our study began in 1948 and has continued during the ensuing years as an area of major concern. During these intervening years since our first look at our constitution the membership has developed a list of eleven principles for a good constitution. I believe our League Convention Corps, some thirty strong, has seen to it that each delegate has a copy of these principles. If you do not have one, I'll be happy to see that you get one, along with the list of our priority concerns during this convention.

A series of position papers has evolved during this period of study, research, and review which will be the basis for my remarks today.

First, we support a framework of basic law--a shortened and simplified document--which will reduce the detail which we think is more appropriately statutory than constitutional. Additionally, we support increased flexibility in general in the entire new constitution and in particular we urge flexibility in Article VIII, Section 3, which addresses highway-user revenues. For ideal and complete flexibility the League supports the deletion of Section 3 on the principle that a dedicated gasoline tax specifically allocated to a Highway Trust Fund "for acquiring rights-of-way, constructing and maintaining a State highway system, for policing public roadways, and for administering laws pertaining to the supervision of traffic and safety on public roadways" cannot be considered adequately flexible to meet our criteria or the needs of the people of Texas at this time. Nor is it likely to meet the needs of our citizens in the future in view of the long-range fuel situation, in view of the population increase, and in view of increasing air pollution from automobiles in our urban areas during the past few years.

Further, we request this committee keep this Section 3 flexible on the basis of another long-term study done by the League of Women Voters dealing with environmental quality. Our position, as found in And Now Action, which most of you have received from someone in your local League, was developed from both state and national studies and supports, "Evaluation of measures to achieve and maintain a physical environment beneficial to life."

Just over one year ago we developed a position on transportation which has been accepted by Leaguers across the country, and it is very relevant to Section 3 of the finance article. Point one of this position: "Before any more mileage of urban interstate highways is built, cities must have the opportunity to plan and adequately finance integrated transportation systems of their own choice.

Point two of this position: "The Highway Trust Fund should be restructured so that



cities and states may use the fund to build whatever form of ground transit they find necessary."

This position paper has been presented to the Senate Public Works Committee on Roads, and enabled the League to take action on the amending of the Federal-Aid Highway Act of 1972 which would have permitted Highway Trust Funds to be used for public transportation if localities so desired. The League of Women Voters can foresee the time when localities will so desire, and we support structuring our constitution so that other options to highway building are possible.

The Texas League of Women Voters has developed quite recently a position on land use which also broadly addresses this matter of highway user funds. This position states that we support "a comprehensive state land use policy which would provide for the orderly development of the state in a manner which assures adequate protection of the environment, improvement of the quality of life, and wise use of our natural resources."

If this committee opts to restructure rather than delete Section 3 of Article VIII as written by the Constitutional Revision Commission, we urge you to keep in mind these points which League supports. We understand a number of other citizen's groups and organizations have proposed specific re-wordings which we would have to examine in light of our positions before endorsement. It is quite likely we could support any one of these which could meet most of our criteria.

It seems to the League that the Constitutional Revisions Commission's proposed Section 3 of Article VIII does not meet our criteria nearly as well as Statement 3 of Separate Statements of Commission Members (found on pages 33-34). We urge this committee to prepare its final proposal to the convention in such a manner that the Legislature will be able to allocate funds which can be expended for transportation purposes other than highway construction, maintenance, and policing of our Texas roadways.

If the Constitutional Convention presents to the citizens of Texas a document to be voted upon which meets our criteria and fits our support positions, you can be sure that the members of the League of Women Voters of Texas will give its fullest efforts across the entire state in support of the proposed new Texas Constitution.

Thank you again for the opportunity to speak to you on behalf of the League of Women Voters of Texas at this important juncture in Texas' history.



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