

THE TEXAS CONSTITUTION

ARTICLE 7. EDUCATION

Sec. 1. SUPPORT AND MAINTENANCE OF SYSTEM OF PUBLIC FREE SCHOOLS. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

Sec. 2. PERPETUAL SCHOOL FUND. All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual public school fund.

Sec. 2A. RELEASE OF CLAIM TO CERTAIN LANDS AND MINERALS WITHIN SHELBY, FRAZIER, AND MCCORMICK LEAGUE AND IN BASTROP COUNTY. (a) The State of Texas hereby relinquishes and releases any claim of sovereign ownership or title to an undivided one-third interest in and to the lands and minerals within the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the interest in that league originally granted under the Mexican Colonization Law of 1823 to John McCormick on or about July 24, 1824, and subsequently voided by the governing body of Austin's Original Colony on or about December 15, 1830.

(b) The State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the lands, excluding the minerals, in Tracts 2-5, 13, 15-17, 19-20, 23-26, 29-32, and 34-37, in the A. P. Nance Survey, Bastrop County, as said tracts are:

(1) shown on Bastrop County Rolled Sketch No. 4, recorded

in the General Land Office on December 15, 1999; and

(2) further described by the field notes prepared by a licensed state land surveyor of Travis County in September through November 1999 and May 2000.

(c) Title to such interest in the lands and minerals described by Subsection (a) is confirmed to the owners of the remaining interests in such lands and minerals. Title to the lands, excluding the minerals, described by Subsection (b) is confirmed to the holder of record title to each tract. Any outstanding land award or land payment obligation owed to the state for lands described by Subsection (b) is canceled, and any funds previously paid related to an outstanding land award or land payment obligation may not be refunded.

(d) The General Land Office shall issue a patent to the holder of record title to each tract described by Subsection (b). The patent shall be issued in the same manner as other patents except that no filing fee or patent fee may be required.

(e) A patent issued under Subsection (d) shall include a provision reserving all mineral interest in the land to the state.

(f) This section is self-executing.

(Added Nov. 2, 1993; amended Nov. 6, 2001.)

Sec. 2B. AUTHORITY TO RELEASE STATE'S INTEREST IN LAND HELD BY PERSON UNDER COLOR OF TITLE. (a) The legislature by law may provide for the release of all or part of the state's interest in land, excluding mineral rights, if:

(1) the land is surveyed, unsold, permanent school fund land according to the records of the General Land Office;

(2) the land is not patentable under the law in effect before January 1, 2002; and

(3) the person claiming title to the land:

(A) holds the land under color of title;

(B) holds the land under a chain of title that originated on or before January 1, 1952;

(C) acquired the land without actual knowledge that title to the land was vested in the State of Texas;

(D) has a deed to the land recorded in the appropriate county; and

(E) has paid all taxes assessed on the land and any interest and penalties associated with any period of tax delinquency.

(b) This section does not apply to:

(1) beach land, submerged or filled land, or islands; or

(2) land that has been determined to be state-owned by judicial decree.

(c) This section may not be used to:

(1) resolve boundary disputes; or

(2) change the mineral reservation in an existing patent.

(d) (Added Nov. 6, 2001; expired Jan. 2, 2002.)

Sec. 2C. RELEASE OF CLAIM TO CERTAIN LANDS IN UPSHUR AND SMITH COUNTIES. (a) Except as provided by Subsection (b) of this section, the State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the tracts of land, including mineral rights, described as follows:

Tract 1:

The first tract of land is situated in Upshur County, Texas, about 14 miles South 30 degrees east from Gilmer, the county seat, and is bounded as follows: Bound on the North by the J. Manning Survey, A-314 the S.W. Beasley Survey A-66 and the David Meredith Survey A-315 and bound on the East by the M. Mann Survey, A-302 and by the M. Chandler Survey, A-84 and bound on the South by the G. W. Hooper Survey, A-657 and by the D. Ferguson Survey, A-158 and bound on the West by the J. R. Wadkins Survey, A-562 and the H. Alsup Survey, A-20, and by the W. Bratton Survey, A-57 and the G. H. Burroughs Survey, A-30 and the M. Tidwell Survey, A-498 of Upshur County, Texas.

Tract 2:

The second tract of land is situated in Smith County, Texas, north of Tyler and is bounded as follows: on the north and west by the S. Leeper A-559, the Frost Thorn Four League Grant A-3, A-9, A-7, A-19, and the H. Jacobs A-504 and on the south and east by the following

surveys: John Carver A-247, A. Loverly A-609, J. Gimble A-408, R. Conner A-239, N.J. Blythe A-88, N.J. Blythe A-89, J. Choate A-195, Daniel Minor A-644, William Keys A-527, James H. Thomas A-971, Seaborn Smith A-899, and Samuel Leeper A-559.

(b) This section does not apply to:

- (1) any public right-of-way, including a public road right-of-way, or related interest owned by a governmental entity;
- (2) any navigable waterway or related interest owned by a governmental entity; or
- (3) any land owned by a governmental entity and reserved for public use, including a park, recreation area, wildlife area, scientific area, or historic site.

(c) This section is self-executing.

(Added Nov. 8, 2005.)

Sec. 3. TAXES FOR BENEFIT OF SCHOOLS; SCHOOL DISTRICTS.

(a) One-fourth of the revenue derived from the State occupation taxes shall be set apart annually for the benefit of the public free schools.

(b) It shall be the duty of the State Board of Education to set aside a sufficient amount of available funds to provide free text books for the use of children attending the public free schools of this State.

(c) Should the taxation herein named be insufficient the deficit may be met by appropriation from the general funds of the State.

(d) The Legislature may provide for the formation of school districts by general laws, and all such school districts may embrace parts of two or more counties.

(e) The Legislature shall be authorized to pass laws for the assessment and collection of taxes in all school districts and for the management and control of the public school or schools of such districts, whether such districts are composed of territory wholly

within a county or in parts of two or more counties, and the Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts for the further maintenance of public free schools, and for the erection and equipment of school buildings therein; provided that a majority of the qualified voters of the district voting at an election to be held for that purpose, shall approve the tax.

(Amended Aug. 14, 1883, Nov. 3, 1908, Aug. 3, 1909, Nov. 5, 1918, Nov. 2, 1920, Nov. 2, 1926, and Nov. 2, 1999.) (TEMPORARY TRANSITION PROVISIONS for Sec. 3: See Appendix, Note 1.)

Sec. 3a. (Repealed Aug. 5, 1969.)

Sec. 3-b. INDEPENDENT SCHOOL DISTRICTS AND JUNIOR COLLEGE DISTRICTS; TAXES AND BONDS; CHANGES IN BOUNDARIES. No tax for the maintenance of public free schools voted in any independent school district and no tax for the maintenance of a junior college voted by a junior college district, nor any bonds voted in any such district, but unissued, shall be abrogated, cancelled or invalidated by change of any kind in the boundaries thereof. After any change in boundaries, the governing body of any such district, without the necessity of an additional election, shall have the power to assess, levy and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the purposes of the maintenance of public free schools or the maintenance of a junior college, as the case may be, and the payment of principal of and interest on all bonded indebtedness outstanding against, or attributable, adjusted or allocated to, such district or any territory therein, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the district prior to the change in its boundaries, and further in accordance with the laws under which all such bonds, respectively, were voted; and such governing body also shall have the power, without the necessity of an additional election, to sell and deliver any unissued bonds voted in the district prior to any such change in

boundaries, and to assess, levy and collect ad valorem taxes on all taxable property in the district as changed, for the payment of principal of and interest on such bonds in the manner permitted by the laws under which such bonds were voted. In those instances where the boundaries of any such independent school district are changed by the annexation of, or consolidation with, one or more whole school districts, the taxes to be levied for the purposes hereinabove authorized may be in the amount or at not to exceed the rate theretofore voted in the district having at the time of such change the greatest scholastic population according to the latest scholastic census and only the unissued bonds of such district voted prior to such change, may be subsequently sold and delivered and any voted, but unissued, bonds of other school districts involved in such annexation or consolidation shall not thereafter be issued.

(Added Nov. 6, 1962; amended Nov. 8, 1966.)

Sec. 4. SALE OF LANDS; INVESTMENT OF PROCEEDS. The lands herein set apart to the Public Free School fund, shall be sold under such regulations, at such times, and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to purchasers thereof. The proceeds of such sales must be used to acquire other land for the Public Free School fund as provided by law or the proceeds shall be invested by the comptroller of public accounts, as may be directed by the Board of Education herein provided for, in the bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the State shall be responsible for all investments.

(Amended Aug. 14, 1883, Nov. 5, 1985, and Nov. 7, 1995.)

Sec. 4A. (Repealed Nov. 6, 2001.)

(TEMPORARY TRANSITION PROVISION for Sec. 4A: See Appendix, Note 3.)

Sec. 4B. INDEPENDENT SCHOOL DISTRICT; BOARD OF TRUSTEES; DONATION OF REAL PROPERTY AND IMPROVEMENTS. (a) The legislature by general law may authorize the board of trustees of an independent school district to donate district real property and improvements formerly used as a school campus for the purpose of preserving the improvements.

(b) A law enacted under this section must provide that before the board of trustees may make the donation, the board must determine that:

- (1) the improvements have historical significance;
- (2) the transfer will further the preservation of the improvements; and
- (3) at the time of the transfer, the district does not need the real property or improvements for educational purposes.

(Added Nov. 6, 2001.)

Sec. 5. PERMANENT SCHOOL FUND; AVAILABLE SCHOOL FUND; USE OF FUNDS; DISTRIBUTION OF AVAILABLE SCHOOL FUND. (a) The permanent school fund consists of all land appropriated for public schools by this constitution or the other laws of this state, other properties belonging to the permanent school fund, and all revenue derived from the land or other properties. The available school fund consists of the distributions made to it from the total return on all investment assets of the permanent school fund, the taxes authorized by this constitution or general law to be part of the available school fund, and appropriations made to the available school fund by the legislature. The total amount distributed from the permanent school fund to the available school fund:

- (1) in each year of a state fiscal biennium must be an

amount that is not more than six percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:

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

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

(2) over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.

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

(c) The available school fund shall be applied annually to the support of the public free schools. Except as provided by this section, the legislature may not enact a law appropriating any part of the permanent school fund or available school fund to any other purpose. The permanent school fund and the available school fund may not be appropriated to or used for the support of any sectarian school. The available school fund shall be distributed to the several counties according to their scholastic population and applied in the manner provided by law.

(d) The legislature by law may provide for using the permanent school fund to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an

amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed \$750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.

(e) The legislature may appropriate part of the available school fund for administration of a bond guarantee program established under this section.

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

(g) (Expired Dec. 1, 2006.)

(h) (Expired Dec. 1, 2006.)

(Amended Aug. 11, 1891, and Nov. 3, 1964; Subsec. (a) amended and (b) and (c) added Nov. 8, 1983; Subsec. (d) added Nov. 8, 1988; Subsec. (b) amended Nov. 7, 1989; Subsec. (a) amended, a new (b) added, a portion of (a) redesignated as (c), former (b) and (c) amended, former (b)-(d) redesignated as (d)-(f), and (g) and (h) added Sept. 13, 2003;

Subsecs. (g) and (h) expired Dec. 1, 2006.)

Sec. 6. COUNTY SCHOOL LANDS; PROCEEDS OF SALES; INVESTMENT; AVAILABLE SCHOOL FUND. All lands heretofore, or hereafter granted to the several counties of this State for educational purposes, are of right the property of said counties respectively, to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the Commissioners Court of the county. Said lands, and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the counties shall be responsible for all investments; the interest thereon, and other revenue, except the principal shall be available fund.

(Amended Aug. 14, 1883, and Nov. 6, 2001.) (TEMPORARY TRANSITION PROVISION for Sec. 6: See Appendix, Note 3.)

Sec. 6a. COUNTY AGRICULTURAL OR GRAZING SCHOOL LAND SUBJECT TO TAX. All agriculture or grazing school land mentioned in Section 6 of this article owned by any county shall be subject to taxation except for State purposes to the same extent as lands privately owned.

(Added Nov. 2, 1926.)

Sec. 6b. REDUCTION OF COUNTY PERMANENT SCHOOL FUND; DISTRIBUTION. Notwithstanding the provisions of Section 6, Article VII, Constitution of the State of Texas, any county, acting through

the commissioners court, may reduce the county permanent school fund of that county and may distribute the amount of the reduction to the independent and common school districts of the county on a per scholastic basis to be used solely for the purpose of reducing bonded indebtedness of those districts or for making permanent improvements. The commissioners court shall, however, retain a sufficient amount of the corpus of the county permanent school fund to pay ad valorem taxes on school lands or royalty interests owned at the time of the distribution. Nothing in this Section affects financial aid to any school district by the state.

(Added Nov. 7, 1972.)

Sec. 7. (Repealed Aug. 5, 1969.)

Sec. 8. STATE BOARD OF EDUCATION. The Legislature shall provide by law for a State Board of Education, whose members shall be appointed or elected in such manner and by such authority and shall serve for such terms as the Legislature shall prescribe not to exceed six years. The said board shall perform such duties as may be prescribed by law.

(Amended Nov. 6, 1928.)

Sec. 9. (Repealed Nov. 6, 2001.)

(TEMPORARY TRANSITION PROVISION for Sec. 9: See Appendix, Note 3.)

Sec. 9-a. (Added Nov. 6, 2001; expired Jan. 1, 2005.)

Sec. 10. ESTABLISHMENT OF UNIVERSITY; AGRICULTURAL AND MECHANICAL DEPARTMENT. The legislature shall as soon as practicable establish, organize and provide for the maintenance, support and direction of a University of the first class, to be located by a vote

of the people of this State, and styled, "The University of Texas," for the promotion of literature, and the arts and sciences, including an Agricultural, and Mechanical department.

Sec. 11. PERMANENT UNIVERSITY FUND; INVESTMENT; ALTERNATE SECTIONS OF RAILROAD GRANT. In order to enable the Legislature to perform the duties set forth in the foregoing Section, it is hereby declared all lands and other property heretofore set apart and appropriated for the establishment and maintenance of the University of Texas, together with all the proceeds of sales of the same, heretofore made or hereafter to be made, and all grants, donations and appropriations that may hereafter be made by the State of Texas, or from any other source, except donations limited to specific purposes, shall constitute and become a Permanent University Fund. And the same as realized and received into the Treasury of the State (together with such sums belonging to the Fund, as may now be in the Treasury), shall be invested in bonds of the United States, the State of Texas, or counties of said State, or in School Bonds or municipalities, or in bonds of any city of this State, or in bonds issued under and by virtue of the Federal Farm Loan Act approved by the President of the United States, July 17, 1916, and amendments thereto; and the interest accruing thereon shall be subject to appropriation by the Legislature to accomplish the purpose declared in the foregoing Section; provided, that the one-tenth of the alternate Section of the lands granted to railroads, reserved by the State, which were set apart and appropriated to the establishment of the University of Texas, by an Act of the Legislature of February 11, 1858, entitled, "An Act to establish the University of Texas," shall not be included in, or constitute a part of, the Permanent University Fund.

(Amended Nov. 4, 1930, and Nov. 8, 1932.)

Sec. 11a. INVESTMENT OF PERMANENT UNIVERSITY FUND. In addition to the bonds enumerated in Section 11 of Article VII of the Constitution of the State of Texas, the Board of Regents of The

University of Texas may invest the Permanent University Fund in securities, bonds or other obligations issued, insured, or guaranteed in any manner by the United States Government, or any of its agencies, and in such bonds, debentures, or obligations, and preferred and common stocks issued by corporations, associations, or other institutions as the Board of Regents of The University of Texas System may deem to be proper investments for said funds; provided, however, that not more than one per cent (1%) of said fund shall be invested in the securities of any one (1) corporation, nor shall more than five per cent (5%) of the voting stock of any one (1) corporation be owned: provided, further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for five (5) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors.

In making each and all of such investments said Board of Regents shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

The interest, dividends and other income accruing from the investments of the Permanent University Fund, except the portion thereof which is appropriated by the operation of Section 18 of Article VII for the payment of principal and interest on bonds or notes issued thereunder, shall be subject to appropriation by the Legislature to accomplish the purposes declared in Section 10 of Article VII of this Constitution.

This amendment shall be self-enacting, and shall become effective upon its adoption, provided, however, that the Legislature shall provide by law for full disclosure of all details concerning the investments in corporate stocks and bonds and other investments

authorized herein.

(Added Nov. 6, 1956; amended Nov. 5, 1968.)

Sec. 11b. PERMANENT UNIVERSITY FUND; AUTHORIZED INVESTMENTS. Notwithstanding any other provision of this constitution, in managing the assets of the permanent university fund, the Board of Regents of The University of Texas System may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas growth fund created by Article XVI, Section 70, of this constitution, that prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(Added Nov. 8, 1988; amended Nov. 7, 1995, and Nov. 2, 1999.)

Sec. 12. SALE OF LANDS. The land herein set apart to the University fund shall be sold under such regulations, at such times, and on such terms as may be provided by law; and the Legislature shall provide for the prompt collection, at maturity, of all debts due on account of University lands, heretofore sold, or that may hereafter be sold, and shall in neither event have the power to grant relief to the purchasers.

Sec. 13. AGRICULTURAL AND MECHANICAL COLLEGE. The Agricultural and Mechanical College of Texas, established by an Act of the Legislature passed April 17th, 1871, located in the county of Brazos, is hereby made, and constituted a Branch of the University of Texas, for instruction in Agriculture, the Mechanic Arts, and the Natural Sciences connected therewith. And the Legislature shall at its next

session, make an appropriation, not to exceed forty thousand dollars, for the construction and completion of the buildings and improvements, and for providing the furniture necessary to put said College in immediate and successful operation.

Sec. 14. PRAIRIE VIEW A&M UNIVERSITY. Prairie View A&M University in Waller County is an institution of the first class under the direction of the same governing board as Texas A&M University referred to in Article VII, Section 13, of this constitution as the Agricultural and Mechanical College of Texas.

(Amended Nov. 6, 1984.)

Sec. 15. GRANT OF ADDITIONAL LANDS TO UNIVERSITY. In addition to the lands heretofore granted to the University of Texas, there is hereby set apart, and appropriated, for the endowment maintenance, and support of said University and its branches, one million acres of the unappropriated public domain of the State, to be designated, and surveyed as may be provided by law; and said lands shall be sold under the same regulations, and the proceeds invested in the same manner, as is provided for the sale and investment of the permanent University fund; and the Legislature shall not have power to grant any relief to the purchasers of said lands.

Sec. 16. COUNTY TAXATION OF UNIVERSITY LANDS. All land mentioned in Sections 11, 12, and 15 of Article VII, of the Constitution of the State of Texas, now belonging to the University of Texas shall be subject to the taxation for county purposes to the same extent as lands privately owned; provided they shall be rendered for taxation upon values fixed by the State Tax Board; and providing that the State shall remit annually to each of the counties in which said lands are located an amount equal to the tax imposed upon said land for county purposes.

(Added Nov. 4, 1930.)

Sec. 16-a. TERMS OF OFFICE. The Legislature shall fix by law the terms of all offices of the public school system and of the State institutions of higher education, inclusive, and the terms of members of the respective boards, not to exceed six years.

(Added Nov. 6, 1928; amended Nov. 4, 1997.)

Sec. 17. COLLEGES AND UNIVERSITIES; APPROPRIATIONS AND FUNDING.

(a) In the fiscal year beginning September 1, 1985, and each fiscal year thereafter, there is hereby appropriated out of the first money coming into the state treasury not otherwise appropriated by the constitution \$100 million to be used by eligible agencies and institutions of higher education for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair or rehabilitation of buildings or other permanent improvements, acquisition of capital equipment, library books and library materials, and paying for acquiring, constructing, or equipping or for major repair or rehabilitation of buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities. For the five-year period that begins on September 1, 2000, and for each five-year period that begins after that period, the legislature, during a regular session that is nearest, but preceding, a five-year period, may by two-thirds vote of the membership of each house increase the amount of the constitutional appropriation for the five-year period but may not adjust the appropriation in such a way as to impair any obligation created by the issuance of bonds or notes in accordance with this section.

(b) The funds appropriated under Subsection (a) of this section shall be for the use of the following eligible agencies and institutions of higher education (even though their names may be

changed) :

(1) East Texas State University including East Texas State University at Texarkana;

(2) Lamar University including Lamar University at Orange and Lamar University at Port Arthur;

(3) Midwestern State University;

(4) University of North Texas;

(5) The University of Texas-Pan American including The University of Texas at Brownsville;

(6) Stephen F. Austin State University;

(7) Texas College of Osteopathic Medicine;

(8) Texas State University System Administration and the following component institutions:

(9) Sam Houston State University;

(10) Southwest Texas State University;

(11) Sul Ross State University including Uvalde Study Center;

(12) Texas Southern University;

(13) Texas Tech University;

(14) Texas Tech University Health Sciences Center;

(15) Angelo State University;

(16) Texas Woman's University;

(17) University of Houston System Administration and the following component institutions:

(18) University of Houston;

(19) University of Houston-Victoria;

(20) University of Houston-Clear Lake;

(21) University of Houston-Downtown;

(22) Texas A&M University-Corpus Christi;

(23) Texas A&M International University;

(24) Texas A&M University-Kingsville;

(25) West Texas A&M University; and

(26) Texas State Technical College System and its campuses, but not its extension centers or programs.

(c) Pursuant to a two-thirds vote of the membership of each

house of the legislature, institutions of higher education may be created at a later date by general law, and, when created, such an institution shall be entitled to participate in the funding provided by this section if it is not created as a part of The University of Texas System or The Texas A&M University System. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 18, of this constitution may not be entitled to participate in the funding provided by this section.

(d) In the year 1985 and every 10 years thereafter, the legislature or an agency designated by the legislature no later than August 31 of such year shall allocate by equitable formula the annual appropriations made under Subsection (a) of this section to the governing boards of eligible agencies and institutions of higher education. The legislature shall review, or provide for a review, of the allocation formula at the end of the fifth year of each 10-year allocation period. At that time adjustments may be made in the allocation formula, but no adjustment that will prevent the payment of outstanding bonds and notes, both principal and interest, may be made.

(d-1) Notwithstanding Subsection (d) of this section, the allocation of the annual appropriation to Texas State Technical College System and its campuses may not exceed 2.2 percent of the total appropriation each fiscal year.

(e) Each governing board authorized to participate in the distribution of money under this section is authorized to expend all money distributed to it for any of the purposes enumerated in Subsection (a). In addition, such governing board may issue bonds and notes for the purposes of refunding bonds or notes issued under this section or prior law, acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, acquiring capital equipment, library books, and library materials, paying for acquiring, constructing, or equipping or for major repair or rehabilitation of buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities, and

for major repair and rehabilitation of buildings or other permanent improvements, and may pledge up to 50 percent of the money allocated to such governing board pursuant to this section to secure the payment of the principal and interest of such bonds or notes. Proceeds from the issuance of bonds or notes under this subsection shall be maintained in a local depository selected by the governing board issuing the bonds or notes. The bonds and notes issued under this subsection shall be payable solely out of the money appropriated by this section and shall mature serially or otherwise in not more than 10 years from their respective dates. All bonds issued under this section shall be sold only through competitive bidding and are subject to approval by the attorney general. Bonds approved by the attorney general shall be incontestable. The permanent university fund may be invested in the bonds and notes issued under this section.

(f) The funds appropriated by this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used only for student housing, intercollegiate athletics, or auxiliary enterprises.

(g) The comptroller of public accounts shall make annual transfers of the funds allocated pursuant to Subsection (d) directly to the governing boards of the eligible institutions.

(h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section.

(i) The legislature by general law may dedicate portions of the state's revenues to the creation of a dedicated fund ("the higher education fund") for the purposes expressed in Subsection (a) of this section. The legislature shall provide for administration of the fund, which shall be invested in the manner provided for investment of the permanent university fund. The income from the investment of the higher education fund shall be credited to the higher education fund until such time as the fund totals \$2 billion. The principal of the

higher education fund shall never be expended. At the beginning of the fiscal year after the fund reaches \$2 billion, as certified by the comptroller of public accounts, the dedication of general revenue funds provided for in Subsection (a) of this section shall cease. At the beginning of the fiscal year after the fund reaches \$2 billion, and each year thereafter, 10 percent of the interest, dividends, and other income accruing from the investments of the higher education fund during the previous fiscal year shall be deposited and become part of the principal of the fund, and out of the remainder of the annual income from the investment of the principal of the fund there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued under this section and the balance of the income shall be allocated, distributed, and expended as provided for the appropriations made under Subsection (a).

(j) The state systems and institutions of higher education designated in this section may not receive any additional funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:

(1) in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and

(2) the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate additional general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

(k) Without the prior approval of the legislature, appropriations under this section may not be expended for acquiring

land with or without permanent improvements, or for constructing and equipping buildings or other permanent improvements, for a branch campus or educational center that is not a separate degree-granting institution created by general law.

(1) This section is self-enacting upon the issuance of the governor's proclamation declaring the adoption of the amendment, and the state comptroller of public accounts shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of any bonds and notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms. If the provisions of this section conflict with any other provisions of this constitution, then the provisions of this section shall prevail, notwithstanding all such conflicting provisions.

(Added Nov. 6, 1984; Subsecs. (a), (b), (e), (f), and (g) amended and (d-1) added Nov. 2, 1993; Subsec. (1) amended Nov. 7, 1995; Subsec. (b) amended Nov. 6, 2007.)

Sec. 18. TEXAS A&M UNIVERSITY SYSTEM; UNIVERSITY OF TEXAS SYSTEM; BONDS OR NOTES PAYABLE FROM INCOME OF AVAILABLE UNIVERSITY FUND. (a) The Board of Regents of The Texas A&M University System may issue bonds and notes not to exceed a total amount of 10 percent of the cost value of the investments and other assets of the permanent university fund (exclusive of real estate) at the time of the issuance thereof, and may pledge all or any part of its one-third interest in the available university fund to secure the payment of the principal and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under this Section or prior law, at or for The Texas A&M University System administration and the

following component institutions of the system:

- (1) Texas A&M University, including its medical college which the legislature may authorize as a separate medical institution;
- (2) Prairie View A&M University, including its nursing school in Houston;
- (3) Tarleton State University;
- (4) Texas A&M University at Galveston;
- (5) Texas Forest Service;
- (6) Texas Agricultural Experiment Stations;
- (7) Texas Agricultural Extension Service;
- (8) Texas Engineering Experiment Stations;
- (9) Texas Transportation Institute; and
- (10) Texas Engineering Extension Service.

(b) The Board of Regents of The University of Texas System may issue bonds and notes not to exceed a total amount of 20 percent of the cost value of investments and other assets of the permanent university fund (exclusive of real estate) at the time of issuance thereof, and may pledge all or any part of its two-thirds interest in the available university fund to secure the payment of the principal and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under this section or prior law, at or for The University of Texas System administration and the following component institutions of the system:

- (1) The University of Texas at Arlington;
- (2) The University of Texas at Austin;
- (3) The University of Texas at Dallas;
- (4) The University of Texas at El Paso;
- (5) The University of Texas of the Permian Basin;
- (6) The University of Texas at San Antonio;
- (7) The University of Texas at Tyler;
- (8) The University of Texas Health Science Center at

Dallas;

(9) The University of Texas Medical Branch at Galveston;

(10) The University of Texas Health Science Center at
Houston;

(11) The University of Texas Health Science Center at San
Antonio;

(12) The University of Texas System Cancer Center;

(13) The University of Texas Health Center at Tyler; and

(14) The University of Texas Institute of Texan Cultures
at San Antonio.

(c) Pursuant to a two-thirds vote of the membership of each house of the legislature, institutions of higher education may be created at a later date as a part of The University of Texas System or The Texas A&M University System by general law, and, when created, such an institution shall be entitled to participate in the funding provided by this section for the system in which it is created. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 17, of this constitution may not be entitled to participate in the funding provided by this section.

(d) The proceeds of the bonds or notes issued under Subsection (a) or (b) of this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used for student housing, intercollegiate athletics, or auxiliary enterprises.

(e) The available university fund consists of the distributions made to it from the total return on all investment assets of the permanent university fund, including the net income attributable to the surface of permanent university fund land. The amount of any distributions to the available university fund shall be determined by the board of regents of The University of Texas System in a manner intended to provide the available university fund with a stable and predictable stream of annual distributions and to maintain over time the purchasing power of permanent university fund investments and annual distributions to the available university fund. The amount distributed to the available university fund in a fiscal year must be

not less than the amount needed to pay the principal and interest due and owing in that fiscal year on bonds and notes issued under this section. If the purchasing power of permanent university fund investments for any rolling 10-year period is not preserved, the board may not increase annual distributions to the available university fund until the purchasing power of the permanent university fund investments is restored, except as necessary to pay the principal and interest due and owing on bonds and notes issued under this section. An annual distribution made by the board to the available university fund during any fiscal year may not exceed an amount equal to seven percent of the average net fair market value of permanent university fund investment assets as determined by the board, except as necessary to pay any principal and interest due and owing on bonds issued under this section. The expenses of managing permanent university fund land and investments shall be paid by the permanent university fund.

(f) Out of one-third of the annual distribution from the permanent university fund to the available university fund, there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Board of Regents of The Texas A&M University System under this section and prior law, and the remainder of that one-third of the annual distribution to the available university fund shall be appropriated to the Board of Regents of The Texas A&M University System which shall have the authority and duty in turn to appropriate an equitable portion of the same for the support and maintenance of The Texas A&M University System administration, Texas A&M University, and Prairie View A&M University. The Board of Regents of The Texas A&M University System, in making just and equitable appropriations to Texas A&M University and Prairie View A&M University, shall exercise its discretion with due regard to such criteria as the board may deem appropriate from year to year. Out of the other two-thirds of the annual distribution from the permanent university fund to the available university fund there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Board of Regents of The University of Texas System under this section and

prior law, and the remainder of such two-thirds of the annual distribution to the available university fund, shall be appropriated for the support and maintenance of The University of Texas at Austin and The University of Texas System administration.

(f) (Expired Nov. 6, 1994.)

(g) The bonds and notes issued under this section shall be payable solely out of the available university fund, mature serially or otherwise in not more than 30 years from their respective dates, and, except for refunding bonds, be sold only through competitive bidding. All of these bonds and notes are subject to approval by the attorney general and when so approved are incontestable. The permanent university fund may be invested in these bonds and notes.

(h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section except The University of Texas at Austin, Texas A&M University in College Station, and Prairie View A&M University.

(i) The state systems and institutions of higher education designated in this section may not receive any funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:

(1) in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and

(2) the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent

improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

(j) This section is self-enacting on the issuance of the governor's proclamation declaring the adoption of this amendment, and the state comptroller of public accounts shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of bonds or notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms, and the changes herein made in the allocation of the available university fund shall not affect the pledges thereof made in connection with such bonds or notes heretofore issued. If the provisions of this section conflict with any other provision of this constitution, then the provisions of this section shall prevail, notwithstanding any such conflicting provisions.

(Added Aug. 23, 1947; amended Nov. 6, 1956, Nov. 8, 1966, and Nov. 6, 1984; Subsec. (j) amended Nov. 7, 1995; Subsec. (e) amended and Subsec. (f) added Nov. 2, 1999.) (TEMPORARY PROVISION for Sec. 18: See Appendix, Note 2.)

Sec. 19. TEXAS TOMORROW FUND. (a) The Texas tomorrow fund is created as a trust fund dedicated to the prepayment of tuition and fees for higher education as provided by the general laws of this state for the prepaid higher education tuition program. The assets of the fund are held in trust for the benefit of participants and beneficiaries and may not be diverted. The state shall hold the assets of the fund for the exclusive purposes of providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the program.

(b) Financing of benefits must be based on sound actuarial principles. The amount contributed by a person participating in the prepaid higher education program shall be as provided by the general

laws of this state, but may not be less than the amount anticipated for tuition and required fees based on sound actuarial principles. If in any fiscal year there is not enough money in the Texas tomorrow fund to pay the tuition and required fees of an institution of higher education in which a beneficiary enrolls or the appropriate portion of the tuition and required fees of a private or independent institution of higher education in which a beneficiary enrolls as provided by a prepaid tuition contract, there is appropriated out of the first money coming into the state treasury in each fiscal year not otherwise appropriated by the constitution the amount that is sufficient to pay the applicable amount of tuition and required fees of the institution.

(c) Assets of the fund may be invested by an entity designated by general law in securities considered prudent investments. Investments shall be made in the exercise of judgment and care under the circumstances that a person of ordinary prudence, discretion, and intelligence exercises in the management of the person's affairs, not for speculation, but for the permanent disposition of funds, considering the probable income from the disposition as well as the probable safety of capital.

(d) The state comptroller of public accounts shall take the actions necessary to implement this section.

(e) To the extent this section conflicts with any other provision of this constitution, this section controls.

(Added Nov. 4, 1997.)