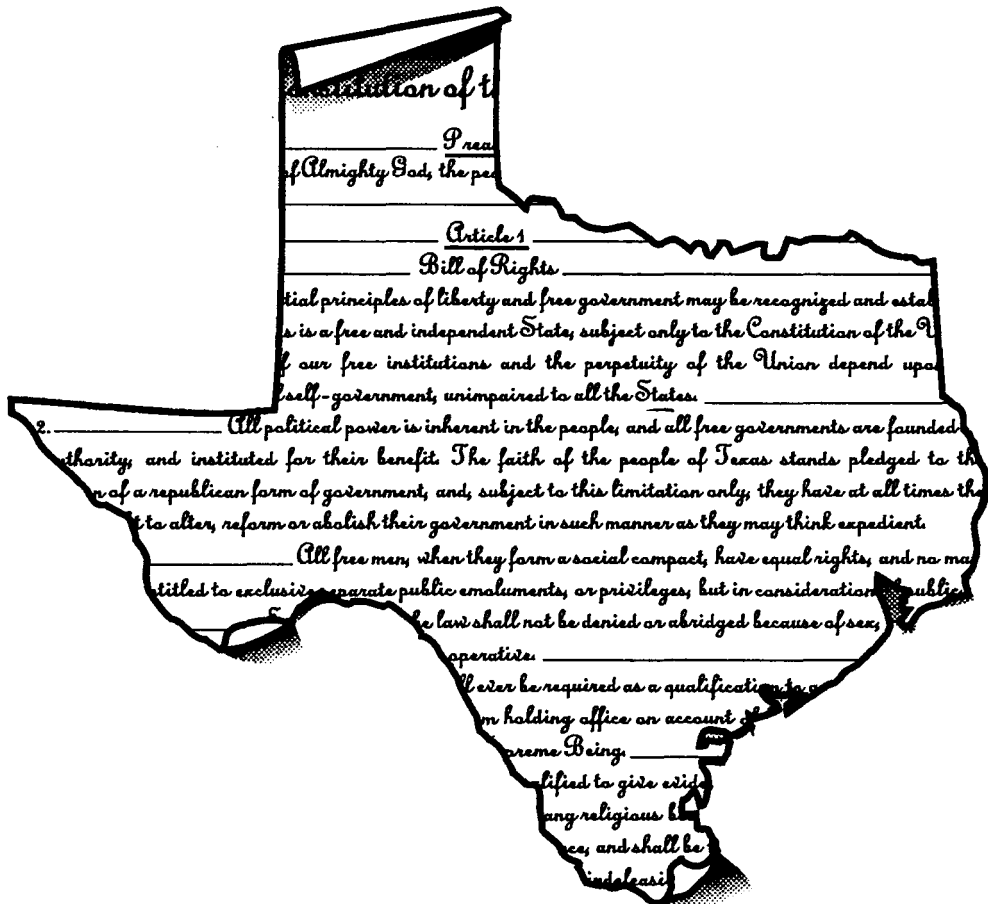


Analyses of Proposed Constitutional Amendments

November 5, 1991, Election



Texas Legislative Council
October 1991

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Constitutional Amendments**
* November 5, 1991, Election *

Prepared by the Staff
of the
Texas Legislative Council

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Lieutenant Governor Bob Bullock, Chairman
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TABLE OF CONTENTS

INTRODUCTION	Page
General Information	3
Table—Amendments Proposed and Adopted	4
Wording of Ballot Propositions	7
 ANALYSES OF PROPOSED AMENDMENTS	
Amendment No. 1, Allowing a Home-rule Charter City with a Population of 5,000 or Less to Amend Its Charter by Popular Vote	11
Amendment No. 2, Providing Aid for Turnpikes, Toll Roads, and Toll Bridges	13
Amendment No. 3, Expanding the Investment Authority of the Veterans' Land Board	15
Amendment No. 4, Providing for the Issuance of General Obligation Bonds for Acquiring and Maintaining Prisons, Mental Health and Mental Retardation Facilities, and Youth Corrections Institutions	17
Amendment No. 5, Authorizing the Exemption from Ad Valorem Taxes of Certain Property in an Enterprise Zone	19
Amendment No. 6, Establishing the Texas Ethics Commission and Authorizing the Commission to Set the Salaries of Members of the Legislature and the Lieutenant Governor	23
Amendment No. 7, Expanding the Investment Authority of Trustees of Statewide Public Retirement Systems	29
Amendment No. 8, Authorizing the Legislature to Submit Debt Questions to the Voters in Proposition Form	31
Amendment No. 9, Authorizing the Issue of Patents for Certain Public Free School Fund Lands	33

Amendment No. 10, Authorizing the Exemption from Ad Valorem Taxes of Certain Property of a Nonprofit Water or Wastewater Service	35
Amendment No. 11, Authorizing a State Lottery	39
Amendment No. 12, Increasing the Percentage of Texas Water Development Bonds That May Be Issued for Economically Distressed Areas	43
Amendment No. 13, Providing for the Issuance of General Obligation Bonds to Provide Educational Loans to Students	45

APPENDIX—Text of Resolutions Proposing Amendments

Amendment No. 1 (H.J.R. 114, Regular Session)	51
Amendment No. 2 (H.J.R. 10, 1st Called Session)	53
Amendment No. 3 (S.J.R. 26, Regular Session)	55
Amendment No. 4 (S.J.R. 4, 1st Called Session)	63
Amendment No. 5 (S.J.R. 39, Regular Session)	65
Amendment No. 6 (S.J.R. 8, Regular Session)	67
Amendment No. 7 (S.J.R. 6, Regular Session)	71
Amendment No. 8 (S.J.R. 21, Regular Session)	73
Amendment No. 9 (S.J.R. 11, Regular Session)	75
Amendment No. 10 (S.J.R. 15, Regular Session)	77
Amendment No. 11 (H.J.R. 8, 1st Called Session)	79
Amendment No. 12 (S.J.R. 34, Regular Session)	81
Amendment No. 13 (S.J.R. 2, 2nd Called Session)	83

INTRODUCTION

GENERAL INFORMATION

In the 1991 regular session, the 72nd Texas Legislature passed 11 joint resolutions proposing 11 constitutional amendments. In the 1st Called Session, the legislature passed three additional joint resolutions proposing three amendments, and in the 2nd Called Session it passed one resolution proposing one amendment, for a combined total of 15 proposed amendments. Two of the proposed amendments were offered for voter ratification on an August 10, 1991, election ballot, with the remaining 13 propositions to be offered for ratification on the November 5, 1991, election ballot.

The Texas Constitution provides that the legislature, by a two-thirds vote of all members of each house, may propose amendments revising the constitution and that proposed amendments must then be submitted for approval to the qualified voters of the state. A proposed amendment becomes a part of the constitution if a majority of the votes cast in an election on the proposition are cast in its favor. An amendment approved by voters is effective on the date of the official canvass of returns showing adoption. The date of canvass, by law, is not earlier than the 15th or later than the 30th day after election day. An amendment may provide for a later effective date.

Since adoption in 1876 and through August 1991, the state's constitution has been amended 328 times, from a total of 489 amendments submitted to the voters for their approval. The 13 amendments on the November 5, 1991, election ballot bring the total number of amendments submitted to 502. The following table lists the years in which constitutional amendments have been proposed by the Texas Legislature, the number of amendments proposed, and the number of those adopted. The year of the vote is not reflected in the table.

TABLE
1876 CONSTITUTION
AMENDMENTS PROPOSED AND ADOPTED

year proposed	number proposed	number adopted	year proposed	number proposed	number adopted
1879	1	1	1941	5	1
1881	2	0	1943	3**	3
1883	5	5	1945	8	7
1887	6	0	1947	9	9
1889	2	2	1949	10	2
1891	5	5	1951	7	3
1893	2	2	1953	11	11
1895	2	1	1955	9	9
1897	5	1	1957	12	10
1899	1	0	1959	4	4
1901	1	1	1961	14	10
1903	3	3	1963	7	4
1905	3	2	1965	27	20
1907	9	1	1967	20	13
1909	4	4	1969	16	9
1911	5	4	1971	18	12
1913	8*	0	1973	9	6
1915	7	0	1975	12††	3
1917	3	3	1977	15	11
1919	13	3	1978	1	1
1921	5**	1	1979	12	9
1923	2†	1	1981	10	8
1925	4	4	1982	3	3
1927	8**	4	1983	19	16
1929	7**	5	1985	17**	17
1931	9	9	1986	1	1
1933	12	4	1987	28**	20
1935	13	10	1989	21**	19
1937	7	6	1990	1	1
1939	4	3	1991	15	(a)

TOTAL PROPOSED 502

TOTAL ADOPTED 328

NOTES

- * Eight resolutions were approved by the legislature, but only six were actually submitted on the ballot; one proposal that included two amendments was not submitted to the voters.
- ** Total reflects two amendments that were included in one joint resolution.
- † Two resolutions were approved by the legislature, but only one was actually submitted on the ballot.
- †† Total reflects eight amendments that would have provided for an entire new Texas Constitution and that were included in one joint resolution.
- (a) Two amendments approved by the 72nd Legislature during the 1991 regular session appeared on the August 10, 1991, election ballot, and only one amendment was adopted. The remaining 13 amendments will appear on the November 5, 1991, election ballot.

WORDING OF BALLOT PROPOSITIONS

The ballot wording of a proposal to amend the state constitution is prescribed in the joint resolution adopted by the legislature that authorizes the submission of the proposed amendment to the voters for ratification. The wording of the ballot propositions offered at the November 5, 1991, election is provided below.

AMENDMENT NO. 1

The constitutional amendment allowing a home-rule city with a population of 5,000 or less to amend its charter by popular vote.

AMENDMENT NO. 2

The constitutional amendment mandating the repayment to the Texas Department of Transportation of monies expended to assist the Texas Turnpike Authority in the construction, maintenance, and operation of turnpikes, toll roads, and toll bridges.

AMENDMENT NO. 3

The constitutional amendment to authorize the legislature to further implement and enhance the administration of veterans' housing assistance and land programs and to expand the investment authority of the Veterans' Land Board.

AMENDMENT NO. 4

The constitutional amendment authorizing the issuance of up to \$1.1 billion in general obligation bonds for acquiring, constructing, or equipping new prisons or other punishment facilities to confine criminals, mental health and mental retardation institutions, and youth corrections institutions, for major repair or renovation of existing facilities of those institutions, and for the acquisition of, major repair to, or renovation of other facilities for use as state prisons or other punishment facilities.

AMENDMENT NO. 5

The constitutional amendment authorizing the exemption from ad valorem taxes of certain property in an enterprise zone.

AMENDMENT NO. 6

The constitutional amendment creating the Texas Ethics Commission and authorizing the commission to recommend the salary for members of the legislature and the lieutenant governor, subject to voter approval, and to set the per diem for those officials, subject to a limit.

AMENDMENT NO. 7

The constitutional amendment to allow the board of trustees of a statewide public retirement system to invest funds of the system in a manner that the board considers prudent.

AMENDMENT NO. 8

The constitutional amendment authorizing the voters of this state to consider state debt questions in the form of ballot propositions that must clearly describe the amounts, purposes, and sources of payment of the debt only after approval of the propositions by a two-thirds vote of each house of the legislature.

AMENDMENT NO. 9

The constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years.

AMENDMENT NO. 10

The constitutional amendment authorizing the legislature to exempt from ad valorem taxes certain property of a nonprofit corporation that supplies water or provides wastewater service.

AMENDMENT NO. 11

The constitutional amendment authorizing a state lottery.

AMENDMENT NO. 12

The constitutional amendment to increase from 20 percent to 50 percent the percentage of Texas water development bonds previously authorized by Texas voters that may be issued for economically distressed areas.

AMENDMENT NO. 13

The constitutional amendment providing for the issuance of general obligation bonds not to exceed \$300,000,000 to continue existing programs to provide educational loans to students, with repayments of student loans applied toward retirement of the bonds.

**ANALYSES
OF
PROPOSED AMENDMENTS**

AMENDMENT NO. 1

House Joint Resolution 114, proposing a constitutional amendment allowing a home-rule city with a population of 5,000 or less to amend its charter by popular vote. (HOUSE AUTHOR: Tom Uher; SENATE SPONSOR: Bob Glasgow)

The proposed amendment to Article XI, Section 5, of the Texas Constitution authorizes the voters of a home-rule city with a population of 5,000 or less to amend the city's charter.

BACKGROUND

In 1912 Article XI, Section 5, of the Texas Constitution was amended to authorize a city with a population of more than 5,000 to adopt or amend its charter and to remove that authority from the legislature. That amendment is known as the "home-rule amendment." Before the adoption of that amendment, a city charter could be adopted or amended only by an act of the legislature, except in very limited circumstances.

Under a strict reading of the home-rule amendment, a home-rule city loses the authority to amend its charter if the city's population decreases to 5,000 or less. If the proposed constitutional amendment is approved, a home-rule city may amend its charter regardless of the city population.

ARGUMENTS

FOR:

Currently, there are approximately 36 home-rule cities in Texas with populations of 5,000 or less. Those cities, many of which have operated under home-rule for decades, should not be prevented from amending their charters simply because their populations have decreased to 5,000 or less.

AGAINST:

The ability of a city to adopt or amend its charter should not be decided on the basis of the size of the city's population. The proposed constitutional amendment removes the population restriction regarding the amendment of a city charter but leaves intact the population restriction regarding the adoption of a charter. The proposed amendment does not go far enough; the population restriction should be repealed altogether.

AMENDMENT NO. 2

House Joint Resolution 10, proposing a constitutional amendment in aid of turnpikes, toll roads, and toll bridges.
(HOUSE AUTHOR: David Cain, et al.; SENATE SPONSOR: Gene Green)

The proposed amendment to Article III, Section 52-b, of the Texas Constitution permits the legislature to pass legislation allowing the Texas Department of Transportation to give money to the Texas Turnpike Authority for the construction of turnpikes, toll roads, or toll bridges. If the money given to the Texas Turnpike Authority comes from the state highway fund, that money must be repaid to the fund from tolls or other turnpike revenue.

BACKGROUND

Article III, Section 52-b, of the Texas Constitution prohibits the use of the state's money or credit to build or operate turnpikes or toll roads. The Texas Turnpike Authority was created by state law to build and operate turnpikes and toll roads through the issuance of revenue bonds. The principal of and interest on the bonds are payable solely from the tolls collected by the turnpike authority. The Texas Turnpike Authority presently operates with no state funds and no bonds backed by the state's credit.

Article VIII, Section 7-a, of the Texas Constitution requires all revenue collected from motor vehicle registration fees and three-fourths of all revenue collected from taxes on motor fuels to be spent on public roadways. This money is deposited in the state highway fund and appropriated by the legislature to construct, maintain, and police public roadways.

ARGUMENTS

FOR:

1. Highway projects can often be built more quickly, and to the same standards, as turnpikes rather than freeways using federal money. In addition, toll facilities are usually built only in high-traffic metropolitan areas where revenues can be expected to repay the facilities' costs, which means that the competition for approval of toll facilities is limited to fewer projects than the competition for approval of state highway projects generally. As a result, pooling of projects between the turnpike authority and the transportation department will allow critical metropolitan transportation needs to be met more quickly and efficiently, while reducing competition for remaining state highway money.

2. The Texas Turnpike Authority can issue fewer bonds and those it does issue will have better ratings if the state can provide money for turnpikes. Better bond ratings will save money that would otherwise be required to pay higher interest rates. The projects, which may eventually become a part of the state highway system, can therefore be constructed for less money.

3. Passage of the amendment will make it easier for Texas to receive federal funds earmarked for turnpike projects. Federal programs are designed so that one state agency is designated as the recipient for all highway funds. Having money for turnpike projects sent to the turnpike authority directly by the federal government is difficult and may require an act of congress.

AGAINST:

1. Texas residents should not have to, through their tax dollars, support toll roads. Toll roads should be able to support themselves if they are necessary. If a toll road is not self-supporting, then it should not be built.

2. Toll road projects based on projected growth may be unprofitable if the projected growth fails to occur or the economy enters a downturn. The state might then be burdened by huge debt for the roads and might never recover its investment.

3. This amendment will result in a proliferation of toll roads. Texans already pay enough in motor fuels taxes to support a state highway system. They should not then have to pay an additional fee to use a road just because the closest road happens to be a toll road. Also, persons of limited incomes would have their budgets further strained by the imposition of toll charges.

AMENDMENT NO. 3

Senate Joint Resolution 26, proposing a constitutional amendment relating to investments made by the Veterans' Land Board of funds in the Veterans' Land Fund or the Veterans' Housing Assistance Fund. (SENATE AUTHOR: Frank Tejada; HOUSE SPONSOR: David Counts)

The proposed constitutional amendment amends Article III, Sections 49-b and 49-b-1, of the Texas Constitution.

The amendments to Sections 49-b and 49-b-1 delete unnecessary language from the constitution that requires members serving on the Veterans' Land Board on the date of adoption of a prior constitutional amendment to complete their terms of office, authorizes the legislature to determine the limits on investments of available funds in the Veterans' Land Fund or the Veterans' Housing Assistance Fund, and adds language to Section 49-b-1 similar to language existing in Section 49-b authorizing the legislature to implement the purposes of the bond program.

BACKGROUND

To reward Texans who served in the military in World War II, the voters in 1946 approved a constitutional amendment providing for the issuance of state general obligation bonds to finance the purchase of land by the state to be resold on favorable credit terms to qualified veterans. Subsequent constitutional amendments have authorized issuance of additional bonds for the land program and for a new Veterans' Housing Assistance Program. The housing assistance program was established in 1983 to make mortgage loans in a manner similar to that of a conventional lending institution. The constitution restricts investments of proceeds of bonds under the programs to investments in bonds and obligations of the United States.

The amendment proposed by S.J.R. 26 delegates to the legislature the responsibility for authorizing by law the types of investments for proceeds of bonds issued under the programs while those proceeds are held by the state. The proposed amendment also makes it clear that the legislature has full power to implement the programs authorized by the constitution.

The 72nd Legislature, Regular Session, 1991, enacted Senate Bill 647 to designate the authorized investments of bond proceeds that are not needed immediately to pay off bonds. The bill is contingent on the voters' approval of the amendment.

ARGUMENTS

FOR:

1. The constitutional amendment and enabling legislation will give the Veterans' Land Board additional investment authority that will allow the board to increase its investment income by investing in instruments with higher yields than those of the federal government.

2. Placing the authority in the legislature to determine which investments are authorized allows for more investment flexibility and lessens the need for additional constitutional amendments.

AGAINST:

1. Eliminating the requirement that the bond proceeds be invested only in bonds and obligations of the United States may create an opportunity for the Veterans' Land Board to make risky investments.

2. Investing state funds in bonds and obligations of the United States is good, conservative public policy and should be preserved as a constitutional requirement.

AMENDMENT NO. 4

Senate Joint Resolution 4, proposing a constitutional amendment providing for the issuance of general obligation bonds for certain construction projects. (SENATE AUTHORS: Ted Lyon, Temple Dickson, J. E. (Buster) Brown, Teel Bivins, John Leedom, et al.; HOUSE SPONSORS: Allen Hightower, Bill Carter)

The proposed amendment to Article III of the Texas Constitution adds Subsection (d) to Section 49-h, authorizing the legislature to provide for the issuance of up to \$1.1 billion in general obligation bonds. The proceeds from the bond sale will be used for acquiring, constructing, or equipping new prisons and substance abuse felony punishment facilities, youth corrections institutions, and mental health and mental retardation institutions, for major repair or renovation of existing facilities, and for the acquisition of, major repair to, or renovation of other facilities for use as prisons or substance abuse felony punishment facilities.

BACKGROUND

The current facilities of the Texas prison system, youth corrections institutions, and mental health and mental retardation institutions are below current needs and projections of future needs. The Texas Department of Criminal Justice and the Texas Department of Mental Health and Mental Retardation have been monitored by the federal courts since 1974 as the result of two federal court cases that challenged on a constitutional basis the adequacy of the services and facilities provided for inmates in the Texas prison system and for retarded patients in mental health and mental retardation institutions. The lack of facilities and unsuitable facilities have resulted in the state operating a prison system and mental health and mental retardation institutions that are arguably in contempt of federal court orders. In addition, the lack of prison facilities has created a backlog of convicted felons in county jails, causing an overcrowding crisis in many of those jails.

Two previous amendments, adopted in 1987 and 1989, authorized the legislature to provide for the issuance of up to \$500 million and \$400 million, respectively, in general obligation bonds for similar purposes.

ARGUMENTS

FOR:

1. Authorizing the issuance of general obligation bonds and the use of bond proceeds for acquiring, constructing, or equipping new facilities and

repairing existing facilities will make it possible for the state to comply with federal court orders.

2. Since the state is experiencing serious financial difficulties and taxation problems, using bonds to finance these improvements of facilities would reduce the amount of general revenue spending for the current fiscal biennium.

3. In spite of the hard economic times and arguments that may be made countering the federal court orders, the state must meet its obligation to provide adequate facilities for inmates and mentally retarded patients for the general welfare of the state. Because many crimes are directly related to drug use, it is essential to devote more facilities for persons whose crimes are related to substance abuse. The proceeds of the general obligation bonds would provide the necessary resources to help the state meet these needs.

AGAINST:

1. Relying too heavily on bonded indebtedness to solve the state's fiscal responsibilities at the present may lead to financial problems in the future. There are many bond programs already in operation, and another bond program will further strain the credit of the state.

2. Interest that the State of Texas will have to pay on the general obligation bonds sold under the provisions of this proposed amendment will increase the revenue responsibilities of the state at a time when it is already experiencing serious financial difficulties.

3. Reforms enacted during the 72nd Legislature, 2nd Called Session, and a possible revision of the Penal Code in 1993 may reduce the need for expanded facilities. Instead of spending more money to expand facilities for corrections institutions and getting the State of Texas further into debt, the state should wait to determine the effect of the reforms and the possible revision.

AMENDMENT NO. 5

Senate Joint Resolution 39, proposing a constitutional amendment to exempt from property taxes certain property in an enterprise zone. (SENATE AUTHOR: Judith Zaffirini; HOUSE SPONSOR: Rene Oliveira)

The proposed constitutional amendment to Article VIII of the Texas Constitution adds Section 1-k and allows a taxing jurisdiction that is a county, junior college district, or municipality, by agreement with a qualified business located in an enterprise zone, to exempt from the taxing unit's property taxes the property of the qualified business if the property is assembled, stored, repaired, maintained, manufactured, processed, or fabricated in the zone and is transported from the state not later than the 175th day after the property was acquired or brought into the zone. For the purposes of this constitutional provision, an enterprise zone may be defined by general law but must be an area having pervasive poverty, unemployment, and economic distress and must be designated by the state agency that is responsible for economic development. A qualified business also may be defined by general law but must be a new or expanding business in the zone.

BACKGROUND

The Texas Constitution prohibits local taxing units from adopting property tax exemptions unless the exemptions are allowed under the constitution. All property tax exemptions must be authorized in the constitution. In 1989, the legislature proposed and the voters approved a constitutional amendment generally exempting all property that is manufactured or stored in the state and then is transported from the state within 175 days after the property is acquired or made in the state. The exemption is referred to as the "freeport exemption." That amendment, however, allowed local taxing units to deny the exemption under certain conditions. The freeport exemption, if made effective in a taxing unit, is comprehensive and can seriously affect the tax base of the unit. To protect the tax bases of the taxing units, many jurisdictions did option out of the exemption.

General state law allows for the creation of enterprise zones in which local governments may apply special rules and laws in order to encourage the growth and development of the area within the zones. The zones are required to be areas that are economically depressed because of poverty or other economic distress. Special tax breaks and government spending have been authorized for enterprise zones. Tax abatement agreements and tax increment financing are examples of these provisions.

The amendment proposed by S.J.R. 39 would allow a less comprehensive freeport exemption applicable only to enterprise zones.

ARGUMENTS

FOR:

1. This constitutional provision will allow for an increased effort to revitalize economically depressed areas and encourage the development of business in areas in which growth and expansion are really needed. Tax breaks are an effective way to stimulate business opportunities.

2. Manufactured goods that are only temporarily located in this state should be exempt from property taxes, and this proposal will allow the expansion of the freeport exemption concept to areas that could not otherwise afford to grant the more comprehensive exemption available under current law. Because of the limited size and scope of enterprise zones, the tax base of affected taxing jurisdictions that adopt the exemption will not be adversely reduced. In addition, the exemption is completely permissive and subject to local discretion and judgment.

3. Most other states have freeport exemptions, and now many local jurisdictions in Texas that have strong tax bases also have the Texas freeport exemption. In the absence of this amendment, those local taxing jurisdictions that cannot afford the general freeport exemption are at an economic disadvantage because of not having the ability to offer a freeport exemption. The competitive disadvantage is especially harmful to the effort to reconstruct economically depressed areas because new business or business expansion is attracted elsewhere. Furthermore, a jurisdiction with an economically depressed area is more likely to be a jurisdiction that cannot afford to grant the general freeport exemption.

AGAINST:

1. All tax breaks result in unequal distribution of tax burdens. To grant a substantial property tax exemption for some businesses within a taxing jurisdiction but not others within the same jurisdiction creates a substantial competitive disadvantage for the businesses that are not located within the enterprise zones. Furthermore, the value of any tax break granted must be compensated for by property tax rate increases for other businesses and home owners.

2. Qualified businesses in enterprise zones are already qualified for other kinds of tax breaks and special considerations, and further tax exemptions

are unnecessary to encourage the development of economically depressed areas. Businesses that are developed because of tax advantages may not be competitive when those tax breaks expire or the businesses no longer qualify for the special treatment. When those businesses fail because of their inability to compete in an equal competitive environment, the community and the economically depressed areas are further harmed, and the tax base of the jurisdiction is reduced even more.

3. The present constitution and statutes allow local jurisdictions to accept the current freeport exemption. The currently authorized freeport exemption is worded somewhat differently from the exemption to be authorized by the proposal. For example, oil, gas, and petroleum products are not covered by the present constitutional freeport exemption but will be covered under the proposed language. These differences may allow certain businesses qualifying for the freeport exemption to have a substantial advantage over businesses that are located in a taxing jurisdiction that has adopted the general law freeport exemption. In many cases the proposal is unfair to businesses that do not qualify, and in other cases the amendment is unnecessary and duplicative of current law.

AMENDMENT NO. 6

Senate Joint Resolution 8, proposing a constitutional amendment to establish the Texas Ethics Commission and to authorize the commission to recommend the salary of members of the legislature and the lieutenant governor, subject to voter approval, and to set the per diem for those officials, subject to a limit. (SENATE AUTHOR: Bob Glasgow; HOUSE SPONSOR: Bruce Gibson)

The proposed amendment to Article III of the Texas Constitution adds Section 24a and creates the Texas Ethics Commission. The commission is a bipartisan state agency composed of four members appointed by the governor, two members appointed by the speaker of the house of representatives, and two members appointed by the lieutenant governor. The proposed amendment authorizes the commission to recommend the salary of members of the legislature and the lieutenant governor, subject to voter approval, and to set their per diem allowance in an amount not to exceed the amount set by federal law as a deduction from federal income taxes for living expenses incurred by a legislator in connection with legislative business. The proposed amendment also amends Article III, Section 24, and Article IV, Section 17, of the Texas Constitution to remove the current constitutional limit on salaries and per diem for members of the legislature and the lieutenant governor. The amendment to Article IV, Section 17, also provides that an increase in the emoluments of the office of lieutenant governor does not make a member of the legislature ineligible to serve in the office of lieutenant governor.

BACKGROUND

The proposed constitutional amendment creating the Texas Ethics Commission was enacted during the regular session of the 72nd Legislature, which also enacted Senate Bill 1, creating a statutory Texas Ethics Commission. The statutory commission does not have any appointments by the speaker of the house of representatives nor does it have the authority to recommend salaries for members of the legislature and the lieutenant governor subject to voter approval. The authority of the speaker to make appointments and changing the salary of legislators currently require a constitutional amendment. If S.J.R. 8 is adopted by the voters, the statutory commission does not take effect.

Existing Texas law provides for a State Ethics Advisory Commission (Article 6252-9d, Revised Statutes). That commission was created in 1983

following a study conducted by the Public Servant Standards of Conduct Advisory Committee. The ethics advisory commission's main function is to provide advisory opinions on questions related to state ethics laws; to date, the ethics advisory commission has rendered 29 opinions. The ethics advisory commission has not met since August 1986, and has not been directly appropriated any funds since its appropriation was eliminated during the 3rd Called Session of the 69th Legislature in 1986 as part of a budget reduction package. Although the terms of all members have expired, state officers are required by the Texas Constitution to continue their duties of office until a successor is duly qualified, and thus the ethics advisory commission technically still exists. The law establishing the ethics advisory commission is repealed by S.B. 1.

Before the creation of the State Ethics Advisory Commission in 1983, there were numerous legislative attempts at establishing an ethics commission. Bills proposing ethics commissions were introduced in 1973, 1975, and 1981, but failed to pass. In 1971, the legislature enacted numerous amendments to the state ethics law (Article 6252-9, Vernon's Texas Civil Statutes), including the creation of the State Ethics Commission with investigatory powers. However, the attorney general determined that the Act was unconstitutional, and specifically found that the State Ethics Commission created by that Act violated the equal protection clauses of both the federal and state constitutions. (Op. Tex. Att'y Gen. No. M-1039 (1972).) Although that determination could have been challenged in court, the legislature itself at its next regular session in 1973 repealed Article 6252-9. The 1973 session came in the wake of the Sharpstown Bank stock scandal involving a number of high state officials, which resulted in a demand for tougher ethics laws. During that session, the legislature enacted a package of reform legislation, including the revision of laws relating to campaign reporting and disclosure, registration and reporting by lobbyists, and disclosure of personal financial assets and potential conflicts of interest by state officials. However, legislation creating an ethics commission failed to pass.

Also in 1971, before creating the statutory ethics commission, the 62nd Legislature, Regular Session, passed Senate Joint Resolution 15 and submitted to the voters a proposed constitutional State Ethics Commission that had the power to adopt rules of ethics and to investigate alleged ethics violations. The commission also had the authority to recommend the compensation, per diem, and mileage allowance of members of the legislature and the lieutenant

governor. The proposed constitutional amendment was submitted to the voters at an election held May 18, 1971, and was rejected.

The Texas Ethics Commission proposed by S.J.R. 8 also has the power to recommend the salary of members of the legislature and the lieutenant governor, subject to voter approval, and may recommend that the salaries of the lieutenant governor and speaker of the house of representatives be set at amounts higher than that of other members. The commission is required to set the per diem of legislators and the lieutenant governor, but the per diem may not exceed the amount allowed by federal law as a deduction for living expenses incurred by a legislator in connection with legislative business.

Currently, under Article III, Section 24, of the Texas Constitution, a member of the legislature receives a salary of \$600 per month during the entire term to which the legislator is elected (\$7,200 annually) and a per diem of \$30 for each day during a legislative session. The per diem payment is an additional compensation granted during a legislative session to help offset the greater expenses incurred by a member when the legislature is meeting. Article IV, Section 17, of the Texas Constitution provides that the lieutenant governor, while serving as president of the senate, receives the same compensation as a member of the legislature, but that while substituting for the governor, the lieutenant governor receives compensation equal to that of the governor. The constitution provides no special or additional pay for the speaker of the house of representatives. The speaker receives only the regular pay and per diem of a member of the legislature.

In response to changing dollar values and public sentiment concerning the payment of expenses of legislators, Article III, Section 24, has undergone several amendments since its original enactment in 1876. Amendments to that section were approved in 1930, 1954, 1960, and 1975. Generally, those amendments increased the legislators' compensation or per diem by modest amounts. Most recently, at an election held November 7, 1989, the voters rejected proposed constitutional amendments to Article III, Section 24, and Article IV, Section 17, that would have increased the salary of the speaker of the house of representatives and of the lieutenant governor to an amount equal to one-half of the governor's salary, and would have increased the salary of members of the legislature to an amount equal to one-fourth of the governor's salary.

During the 72nd Regular Session, the attorney general was asked whether the legislature may authorize expense payments to members of the legislature

to cover the expenses incurred during a regular or special session as a supplement to the per diem and mileage mentioned in Article III, Section 24, of the Texas Constitution. The attorney general concluded that the legislature may authorize those payments so long as the payments constitute reimbursement for "legislative expenses." (Op. Tex. Att'y Gen. No. DM-23 (1991).) Under that reasoning, the \$30 per diem provided by Article III, Section 24, when the legislature is in session may be supplemented by claims for reimbursement for legislative expenses incurred by a legislator.

ARGUMENTS

FOR:

1. Allegations of ethical violations by public servants tend to erode public confidence in officials elected to represent the public interest, in those officials appointed to carry out the law, and in governmental employees hired to perform functions of government. Creating the Texas Ethics Commission with the authority to investigate and respond to allegations of misconduct will provide the public with an accessible governmental entity that serves as a watchdog not only to punish but also to deter unethical conduct. Creating the ethics commission by constitutional amendment helps safeguard the commission against legislative amendments that may effectively abolish the commission.

2. Ethics laws are very complex and are sometimes difficult to understand without the help of an expert who knows how the laws have been interpreted and how the various laws operate together. Public servants should have access to a governmental body that can advise them on the requirements of law and that can formally render opinions on the application of those laws to a public servant's specific fact situation. The proposed ethics commission will have that interpretive authority, and a public servant will be entitled to rely on those opinions. Creating a constitutional ethics commission with advisory powers will increase compliance with the law.

3. The salary currently provided by the Texas Constitution is out of date and inadequate to support the activities of diligent legislators. The legislative salary, last set in 1975, has eroded considerably in value since then and, adjusted for current inflation, is now worth less than \$3,300. Legislators are forced to rely on other sources of income to support the performance of their official duties, and, even so, many perform those duties only with great financial hardship. Service in the legislature should not be limited to persons who are independently wealthy or who become dependent on outside sources

of income. By allowing the Texas Ethics Commission to recommend legislators' salaries subject to voter approval, the salaries can accurately reflect current economic conditions while still giving the voters control over the compensation of their elected legislative officials. Allowing the commission to set the per diem, subject to limits, will bring that amount in line with prevailing determinations concerning legislative living expenses.

AGAINST:

1. The proposed constitutional amendment provides for members to be appointed to the Texas Ethics Commission from lists prepared by the senate and the house of representatives. This amounts to the fox guarding the henhouse, and gives an inordinate amount of power in the appointing process to one of the largest groups under the jurisdiction of the commission. In addition, since only two political parties are currently required by law to hold a primary and appointments of commission members are required to be from each of those political parties in equal numbers, the commission will be deadlocked along party lines concerning many issues, and thus will be ineffective at any meaningful ethics reform.

2. Legislators receive benefits of office other than salary and per diem that represent often unrecognized compensation, such as retirement benefits in amounts tied to the substantial salaries paid to district judges and amounts of up to \$85 per day for legislative business when the legislature is not in session. In fact, because of a recent attorney general opinion, legislators may claim up to \$85 per day for "legislative expenses" even when the legislature is in session. These benefits offset the need for any pay raise that may be proposed by the Texas Ethics Commission. In addition, retaining modest compensation for members of the legislature continues the tradition in Texas of discouraging the service of professional politicians in legislative offices.

3. Combining the creation of the Texas Ethics Commission with constitutional authority for the commission to recommend legislative salaries plays a trick on the voters. A very similar constitutional amendment establishing an ethics commission with authority to recommend legislative salaries was defeated in 1971. In addition, a proposed constitutional amendment to increase legislative salaries was rejected by the voters less than two years ago. Tying the creation of the commission to possible legislative salary increases is an attempt at obtaining a constitutional amendment that the voters obviously do not want.

AMENDMENT NO. 7

Senate Joint Resolution 6, proposing a constitutional amendment relating to investments by statewide public retirement systems. (SENATE AUTHOR: John Leedom; HOUSE SPONSOR: Nolan (Buzz) Robnett)

The proposed amendment to Article XVI, Section 67(a)(3), of the Texas Constitution expands the constitutional authority of statewide public retirement systems, the largest of which are the Teacher Retirement System of Texas (TRS) and the Employees Retirement System of Texas (ERS), to invest their assets in such manner as their boards may consider prudent by removing the limitation on their investment authority to such "securities" as their boards may consider "prudent investments." Under the amendment, statewide public retirement systems would remain subject to legislative restrictions on investments.

BACKGROUND

As of August 31, 1990, ERS had approximately \$6.1 billion in assets and TRS had approximately \$21.9 billion in assets. Other statewide public retirement systems hold more than \$4 billion in assets. The funds of these statewide retirement systems are invested under Article XVI, Section 67(a)(3), of the Texas Constitution, which allows a board of trustees to invest its funds in "such securities as the board may consider prudent." Article XVI, Section 67(a)(3), also further restricts investments by imposing a "prudent person rule." The prudent person rule requires that trustees exercise the judgment and care under the circumstances then prevailing that persons 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 probable income as well as probable safety of capital.

The constitution permits the legislature to further restrict a board's investment discretion but the legislature currently does not restrict TRS and ERS investments other than investments of the separately held fund for supplemental benefits for state law enforcement officers and custodial officers of the Texas Department of Criminal Justice (Section 815.305, Government Code). The legislature has restricted investments of some other statewide public retirement systems.

The attorney general has stated, in Op. Tex. Att'y Gen. No. MW-152 (1980), that the term "securities" includes "evidences of debt," such as a

mortgage certificate backed by real estate, but does not include direct investments in real estate, and that a constitutional amendment is required for such direct investments.

ARGUMENTS

FOR:

1. Investments in real estate and other direct investments, such as private placements and limited partnerships, will help diversify the large ERS and TRS portfolios, increasing investment returns and balancing the portfolios against downturns in the stock and bond markets.

2. Other state funds governed solely by the prudent person rule have made direct real estate investments and have not encountered investment problems. Texas pension fund trustees have been extremely conservative in their past investments and are unlikely to be lured into unreasonable risks in the future.

3. The legislature by statute has repeatedly shown its confidence in the prudent person rule as the proper restriction on state investments. The legislature may impose further restrictions by statute if necessary.

AGAINST:

1. Real estate investments are unduly speculative. Investment managers should not be allowed to take risks with money that is dedicated to supporting retired state employees and teachers.

2. Many private investors, banks, and savings and loan institutions have gone bankrupt or failed in the past decade because of bad real estate investments. Easing the marketing troubles faced by the Resolution Trust Corporation or other property owners trying to sell their real estate is not a proper function of the state retirement systems.

3. State pension funds in New York, Oregon, Washington, and other states have placed money in leveraged-buyout funds run by a firm that has destroyed healthy companies through junk-bond-financed hostile takeovers. Retirement fund trustees should not be permitted to be involved in this type of activity.

AMENDMENT NO. 8

Senate Joint Resolution 21, proposing a constitutional amendment authorizing the legislature to submit debt questions to voters of the state in proposition form. (SENATE AUTHOR: John Montford; HOUSE SPONSOR: Bruce Gibson)

The proposed amendment to Article III, Section 49, of the Texas Constitution allows state debt to be created through propositions submitted to the voters, rather than by constitutional amendments.

BACKGROUND

Article III, Section 49, of the Texas Constitution prohibits the legislature from creating state debt without specific authorization in the constitution. Voters have approved amendments to the constitution authorizing debt in the form of state general obligation bonds for various purposes, including college student loans, college and university land and buildings, farm and ranch loans, security for farm and ranch loans, state park development, support for the superconducting super collider project, correctional and mental health facilities, new product development and production and small business incubator funds, water development, and veterans' loans for land, housing, and home improvements.

Under the proposed amendment, the legislature is authorized to submit state debt proposals to the voters for approval. A proposition election on creating state debt must be authorized by a joint resolution approved by at least two-thirds of the membership of each house of the legislature. The joint resolution may be approved during any regular legislative session or any special legislative session in which the subject of the proposition election is designated in the governor's call. An election may be held on any date and requires the same notice as an election on a proposed amendment to the constitution. The ballot proposal must describe the amount, purpose, and repayment source of the debt, and new state debt may not be created under the proposition unless a majority of those voting on the question approve.

ARGUMENTS

FOR:

1. The proposition process will give voters more information about state bond proposals without taking away voter authority to control and monitor state debt. Currently, a ballot proposal for a constitutional amendment to

create state debt reveals merely the purpose of the bonds, not necessarily the amount or the method of repayment. The constitutional amendment will require debt propositions to describe the amount, purpose, and repayment source.

2. There is no need to add even more detailed bond provisions to the constitution.

3. The amendment will require the same legislative and voter approval to create new state debt as the current constitutional amendment process.

AGAINST:

1. Authorization of each new state debt is an important matter that merits amendment of the constitution. By amending the constitution, each authorization is recorded for posterity.

2. More informative disclosure on new state debt proposals may be imposed without deleting the existing requirement that the voters approve the proposal by constitutional amendment.

3. If new debt is created by proposition instead of constitutional amendment, a reasonable debt ceiling amount should be added to the constitution to maintain a constitutional restraint of the total amount of state debt.

AMENDMENT NO. 9

Senate Joint Resolution 11, proposing a constitutional amendment to authorize the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years as of January 1, 1991. (SENATE AUTHOR: Bill Sims; HOUSE SPONSOR: Edmund Kuempel)

The proposed amendment to Article VII of the Texas Constitution adds Section 4A and is designed to remedy title defects in certain public free school fund lands held by individuals. If a landholder meets certain criteria, the commissioner of the General Land Office is authorized to issue a document in the form of a patent, which establishes title to the land in question and confirms the property interest of the landholder.

To qualify for such a patent under the proposed amendment, a landholder must file an application before January 1, 1993, and must prove that the land was acquired without knowledge that the title was defective. A landholder also must establish that he, or the person who had the interest in the land before him, holds a recorded deed to the land and has paid all taxes on it for at least 50 years as of January 1, 1991. If these requirements are satisfied, the landholder may apply for a patent with the School Land Board and follows the administrative procedures set forth in the amendment to receive the patent or to appeal its denial.

The amendment provisions do not apply to beach land, submerged land, or islands, and may not be used to resolve a boundary dispute. They also do not apply to land interests determined to belong to the state in an earlier court decision or to state-owned land that is producing under a mineral lease at the time the amendment takes effect. Also, a patent issued under the proposed amendment for land within five miles of mineral production reserves minerals for the state.

BACKGROUND

In 1900, the state dedicated to a permanent fund for the support of public free schools all public land not officially granted to individuals and not held for other public purposes. The proper legal requirements for obtaining good title from the state were not always followed in the 19th century. As a result, some Texans have recently discovered that the land that they bought in good faith and on which they have paid taxes for years belongs not to them but to the state and legally remains a part of the permanent school fund.

The attorney general of Texas advises that a constitutional amendment is necessary to allow the state to pass good title to these individuals without additional compensation. (Op. Tex. Att'y Gen. No. H-881 (1976).) Without an amendment, these individuals have to formally purchase the land from the state.

A constitutional amendment similar to the proposed amendment was approved by the voters in 1981 but expired on January 1, 1990.

ARGUMENTS

FOR:

1. The individuals with title problems that are proposed to be remedied by this amendment purchased lands in good faith and have paid the taxes on them for a long period of time. The state neither claimed nor inspected these lands until 1966. The state issued claims to the lands in 1978. The amendment provides a simple way for the state to correct an inequitable situation.

2. The conditions required for obtaining title under this amendment will prevent unworthy applicants from receiving titles.

AGAINST:

1. The land in question is currently dedicated to the permanent school fund. Under the current constitution, land may not be given from a constitutional fund without just compensation to the state. To resolve the title problems of these individuals in the manner prescribed by the amendment will effectively be making a gift of the lands.

2. The proposed amendment discriminates unfairly. It prescribes rigid eligibility requirements that will apply to only a small class of landholders, excluding other landholders in similar, but not identical, circumstances who may be just as worthy of relief.

AMENDMENT NO. 10

Senate Joint Resolution 15, proposing a constitutional amendment to authorize the legislature to exempt property owned by a nonprofit water supply corporation or by a nonprofit wastewater service corporation from ad valorem taxation. (SENATE AUTHOR: Bill Ratliff; HOUSE SPONSOR: Jerry Johnson)

The proposed amendment amends Article VIII of the Texas Constitution by adding a new Section 1-k, to provide for the exemption from property taxes of property owned by a nonprofit water supply corporation or a nonprofit wastewater service corporation. The amendment authorizes the legislature to exempt the property of a nonprofit corporation if: (a) the corporation is organized to supply water or provide wastewater service; (b) the property is reasonably necessary for and used in the acquisition, treatment, storage, transportation, sale, or distribution of water, or the provision of wastewater service; and (c) the corporation provides in its bylaws that on dissolution of the corporation, its assets are to be transferred to an entity that provides water supply or wastewater service and that is exempt from ad valorem taxation.

BACKGROUND

Article VIII, Section 1, of the Texas Constitution provides that all real property and tangible personal property, unless exempt as required or permitted by the constitution, shall be taxed in proportion to its value. Exemptions not authorized by the Texas Constitution are void.

The 61st Legislature enacted Senate Joint Resolution 6, proposing an amendment to Article VIII, Section 2, of the Texas Constitution. The proposed amendment would have added language explicitly authorizing the legislature to exempt all property of a nonprofit water supply corporation necessary for and used in its business of acquiring, storing, transporting, and selling water. The proposed amendment failed to be approved by the voters at an election held on August 5, 1969.

In 1969, the 61st Legislature attempted to exempt water supply corporations from ad valorem taxation. (Senate Bill 54, adding Section 23 to Article 7150, Vernon's Texas Civil Statutes.)

In 1972, the Texas Supreme Court held that because the exemption was not authorized by the constitution, the legislature could not validly exempt the property. The court also held that the property of such corporations is not

exempt as "public property used for public purposes." Leander Independent School District v. Cedar Park Water Supply Corporation, 479 S.W.2d 908 (Tex. 1972).

In 1973, the 63rd Legislature enacted Senate Joint Resolution 25, proposing a similar amendment to Article VIII of the Texas Constitution. The proposed amendment failed to be approved by the voters at an election held on November 6, 1973.

In 1973, the Texas Supreme Court held that nonprofit water supply corporations that sought exemptions from ad valorem taxation on the basis that they qualified as charitable organizations were not "purely public charities" under Article VIII of the Texas Constitution, and were not entitled to tax-exempt status on that basis. North Alamo Water Supply Corporation v. Willacy County Appraisal District, et al.; Sharyland Water Supply Corporation v. Hidalgo County Appraisal District, et al., 804 S.W.2d 894 (Tex. 1972).

The provision of wastewater services is subject to the same constitutional rules as are applicable to water supply corporations.

ARGUMENTS

FOR:

1. Nonprofit water supply corporations and wastewater service corporations perform vital functions in many parts of the state that might not otherwise have adequate water supplies or wastewater services. The amendment will encourage the formation of such corporations or cooperatives and thus will help develop water resources and wastewater services. The development of adequate wastewater services will encourage the elimination of nonpoint source pollution.

2. In many ways nonprofit water supply and wastewater service corporations and cooperatives are similar to public water and wastewater utilities that are tax exempt. The amendment will equalize the tax burden between these similar kinds of organizations.

3. In many areas water supply and wastewater service corporations are required to have miles of pipelines in order to provide service to their customers, and these pipelines are laid at great expense. The collection of property taxes on these pipelines only increases the costs to customers.

AGAINST:

1. There are many privately owned water supply and wastewater service corporations that are operated for profit and that are in competition with

nonprofit supply corporations and cooperatives. This amendment will give the nonprofit corporations and cooperatives a competitive advantage since they will be relieved from paying property taxes.

2. The voters have twice rejected similar constitutional amendments applicable only to nonprofit water supply corporations. There has been no significant change affecting water supply corporations since those disapprovals.

3. Costs of government and dwindling sources of revenue require the maintenance of a complete tax base. Further special tax breaks are not in order at this time.

AMENDMENT NO. 11

House Joint Resolution 8, proposing a constitutional amendment relating to the establishment of a state lottery.
(HOUSE AUTHORS: Ron Wilson, Rick Crawford; SENATE SPONSOR: John Montford)

The proposed amendment amends Article III, Section 47, of the Texas Constitution to permit the legislature to authorize the state to operate lotteries and to enter into a contract with one or more legal entities that will operate lotteries on behalf of the state.

BACKGROUND

Since the constitution was adopted in 1876, Article III, Section 47, has required the legislature to prohibit lotteries and "gift enterprises." Currently, Chapter 47 of the Penal Code prohibits most forms of gambling, including lotteries.

Article III, Section 47, was amended in 1980 to permit bingo games and again in 1989 to permit raffles. Under the constitution, bingo and raffles may be conducted only by charitable organizations. The state taxes gross receipts from bingo, rentals for bingo halls, and bingo prizes. Charitable raffles are not taxed.

Pari-mutuel betting on horse and dog racing was authorized by a statewide referendum in 1987; no constitutional amendment was proposed. Pari-mutuel pools are divided between bettors, track owners, horse and dog owners, and the state.

If the constitutional amendment is approved, the legislature may, but is not required to, adopt a law authorizing a state lottery. The amendment specifically provides that all or part of the operation of the lottery may be delegated to private firms. House Bill 54, passed by the 72nd Legislature, 1st Called Session, establishes a lottery to be administered by a division of the office of the comptroller of public accounts. Under H.B. 54, proceeds from the sale of lottery tickets will be used to pay prizes, administrative costs, and ticket sales agent commissions, with the balance going into the state's general revenue fund. H.B. 54 will take effect only if the constitutional amendment authorizing a lottery is approved.

ARGUMENTS

FOR:

1. The lottery will generate significant revenue for the state. The Legislative Budget Board estimates that once the lottery is fully operational, it will produce at least \$500 million in net revenue each year. Without the lottery, this revenue will have to be generated through tax increases or new taxes, such as applying the sales tax to goods and services that are not now taxed, raising the sales tax rate, or imposing a state income tax.

2. Once fully operational, the lottery will be self-supporting. All the costs of administering and promoting the lottery would come from ticket sales, licensing fees, and broadcast revenues.

3. The lottery will stimulate the Texas economy. Many supplies and services required by the lottery could be produced in Texas. Lottery sales agents will earn a commission for selling tickets and may see an increase in other business because the lottery will draw in customers. Lottery sales agents may employ more people than they otherwise would. Lottery winners will spend their winnings on goods and services they otherwise would not buy. Texans who now participate in lotteries outside Texas will play the Texas lottery, and many players from other states will spend some of their lottery dollars on the Texas lottery.

4. Participation in the lottery will be voluntary. In addition to generating revenue for the state, the lottery will provide legal entertainment for people who enjoy games of chance.

5. The lottery may attract people who would otherwise gamble illegally; illegal gambling is unregulated and does not benefit the state. Legal gambling will discourage organized criminal gambling by reducing its profitability.

AGAINST:

1. The revenue to be gained from a lottery is a relatively small part of the state's budgetary needs and will not prevent future tax increases. Lottery revenue in other states has proven to be unstable from year to year and is now generally declining. Once the novelty of a lottery wears off, players lose interest; the lottery must constantly introduce new games and increase prizes to keep players.

2. The lottery is a highly regressive method of funding government. Studies in other states show that low-income and middle-income people buy most lottery tickets. Lottery advertising often targets such players with the

hope of wealth and a better life. Necessary revenue should not be obtained from those least able to pay.

3. Lotteries are an inefficient way for government to raise money. Less than half the money paid for lottery tickets will benefit the state. By contrast, 99 percent of the money paid for state taxes benefits the state.

4. Money spent on lottery tickets is money that otherwise would be spent on food, housing, clothing, or other needs. Because of this, the state may experience a drop in sales tax revenue, and retailers may see a drop in sales of other items on which they might make a higher profit.

5. A lottery will compete with other forms of legalized gambling. The state's pari-mutuel horse and dog racing industries may never become established. Charitable organizations that have bingo or raffles will lose players to the lottery. This will hurt the organizations and also reduce bingo tax collections.

AMENDMENT NO. 12

Senate Joint Resolution 34, proposing a constitutional amendment to increase the percentage of Texas water development bonds previously authorized by Texas voters that may be issued for economically distressed areas. (SENATE AUTHOR: John Montford, et al.; HOUSE SPONSOR: Rene Oliveira)

This proposed amendment increases from 20 percent to 50 percent (or from \$100 million to \$250 million) the percentage of Texas water development bonds previously authorized by Section 49-d-7 of Article III of the Texas Constitution that may be issued under that section for subsidized loans and grants to provide wholesale and retail water and wastewater facilities to economically distressed areas of the state.

BACKGROUND

For the past 32 years, the state has funded numerous projects designed to address the water needs of the state through the issuance of Texas water development bonds. Most recently, in November 1989 voters approved \$500 million in water development bonds to fund water supply, water quality, and flood control projects and authorized the legislature to provide by law for subsidized loans and grants from the proceeds of those bonds, in an amount not to exceed 20 percent of the total amount of bonds authorized (\$100 million), to provide wholesale and retail water and wastewater facilities to economically distressed areas of the state, specifically the "colonias" along the Rio Grande.

The \$100 million previously obligated for colonias projects is now being used to provide water and sewer services for an estimated 50,000 people in the colonias, but an estimated 150,000 more people still need basic water and sewer services. This amendment will provide an additional \$150 million to help finish the job of providing basic services to those economically distressed areas.

ARGUMENTS

FOR:

1. Desperately needed water and sewer services will be provided in economically distressed areas without increasing the state's bonded indebtedness or detracting from water development programs elsewhere in the state.

2. Increasing the amount of money available to finance water and wastewater facilities for economically distressed areas of the state will greatly enhance the ability of the state and local governments to solve major health problems in those affected areas in the most economical and efficient manner.

3. Most of the colonias were established by developers who promised but never provided water and sewer hookups to the low-income residents of their developments. These developments sprang up in unincorporated areas where it is difficult to enforce minimum sanitation standards and land-use controls. This relatively small additional investment of state money will finance state loans and grants to provide the basic water and sewer services most people take for granted.

4. Colonias residents have tried to solve their own problems but lack the tax base needed to support repayment of local bonds issued by municipal utility districts and need a way to finance water and sewer systems to raise their living conditions to a basic level. Residents who receive financial assistance for water improvements are required to pay back as much as they can afford to local units of government, which in turn repay the loans. The residents have an excellent record of repaying their debts.

AGAINST:

1. Expanding the water development bond program to provide grants to clean up the colonias could undermine the "pay-as-you-go" nature of the current water development program. Recipients of these subsidized loans may be unable to repay the full amount, requiring that state funds be used to make up the difference when the state bonds must be repaid.

2. The extra bond capacity used for the colonias will increase the likelihood of other constitutional amendments being sought to replace those proceeds for the benefit of other projects.

3. Colonias are a local problem that should be dealt with at the local level. Homeowners in these areas should organize municipal utility districts or find some other means of local financing.

4. Improved conditions in the colonias will result in population growth in those areas and increased demands for other state services by people unable to pay for them.

AMENDMENT NO. 13

Senate Joint Resolution 2, proposing a constitutional amendment providing for the issuance of general obligation bonds not to exceed \$300 million by the Texas Higher Education Coordinating Board to continue existing programs to provide educational loans to students, with repayments of student loans applied toward retirement of the bonds. (SENATE AUTHORS: Gonzalo Barrientos, Peggy Rosson, and Carlos Truan; HOUSE SPONSOR: Eddie Cavazos)

The proposed amendment adds Section 50b-3 to Article III of the Texas Constitution and permits the legislature to authorize the Texas Higher Education Coordinating Board or its successor or successors to provide for, issue, and sell general obligation bonds of the State of Texas in an amount not to exceed \$300 million in addition to those bonds issued under Sections 50b, 50b-1, and 50b-2 of Article III of the Texas Constitution. The proposed amendment provides that the bonds issued under Section 50b-3 be issued as provided by that section and the enabling legislation passed by the 72nd Legislature, 2nd Called Session, 1991. The proposed amendment also provides that the repayment of student loans will be applied to retire the bonds.

BACKGROUND

In 1965, Section 50b of Article III of the Texas Constitution was adopted, authorizing the Coordinating Board, Texas College and University System, or its successor or successors, to provide for, issue, and sell general obligation bonds in an amount not to exceed \$85 million and authorizing the establishment of the Texas Opportunity Plan Fund. All proceeds from the sale of the bonds were to be deposited in the Texas Opportunity Plan Fund and used to make loans to Texas students attending public or private institutions of higher education in the state under the loan program now known as the Hinson-Hazelwood College Student Loan Program. An additional \$200 million in general obligation bonds was authorized for the student loan program in 1969 by Section 50b-1 of Article III of the Texas Constitution and an additional \$75 million in general obligation bonds was authorized for the student loan program in 1989 by Section 50b-2 of Article III of the Texas Constitution.

Between 1986 and 1990, the annual volume of loans under the Hinson-Hazelwood College Student Loan Program increased from \$12 million in 1986 to almost \$80 million in 1990. Additional money will be necessary to finance the growth of the loan program. Without additional money to finance the loan

program, the program will run out of funds for student loans by the end of March 1992.

The proposed constitutional amendment authorizes the coordinating board to provide for, issue, and sell general obligation bonds of the State of Texas in an amount not to exceed \$300 million in addition to those bonds issued under Sections 50b, 50b-1, and 50b-2 of the Texas Constitution. Proceeds from the sale of the bonds would be credited to the student loan auxiliary fund to be used for student loans under the Hinson-Hazelwood College Student Loan Program. The repayment of the student loans under the Hinson-Hazelwood College Student Loan Program will be applied toward the retirement of the bonds. Historically, state money has never been used to retire bonds issued under Sections 50b, 50b-1, and 50b-2 of the Texas Constitution and the default rate of the student loans has been approximately six percent. The six percent default rate is very low compared to a nationwide default rate of 16 percent for similar programs. Moreover, all defaults on the student loans have been covered by interest earnings or by a federal insurance program.

Under the enabling legislation, Senate Bill 20, passed by the 72nd Legislature, 2nd Called Session, 1991, the Texas Higher Education Coordinating Board may not issue more than \$100 million of general obligation bonds in a state fiscal year. The bonds will be issued under the terms and name provided by the coordinating board. The bonds may have a different face value from other bonds issued by the coordinating board.

ARGUMENTS

FOR:

1. Because the costs of a college education continue to increase and federal financial aid to students is likely to decrease, it is imperative that the state establish and support programs designed to assist students in paying for a college education.

2. The economic development of the state is enhanced by a well-educated citizenry. The state's issuance of general obligation bonds to provide loans that are more financially attractive than other loans available to students to pay for a college education and the issuance of the general obligation bonds will likely promote college attendance and ultimately contribute positively to the state's economy.

AGAINST:

1. Although the state does need to address the issue of the projected increased costs of a college education, authorizing the issuance of more

general obligation bonds for college student loans will only further strain the credit of the state and is not the best alternative for assisting the public in financing a college education. Other private, state, and federal financial assistance programs are available to pay for a college education.

2. The system of providing loan financing to students has changed so much since the Texas Opportunity Plan Fund was established to provide student loans that it is no longer cost effective for the state to use its limited resources by authorizing the issuance of more general obligation bonds to support the Hinson-Hazelwood College Student Loan Program.

APPENDIX
Text of Resolutions Proposing Amendments

AMENDMENT NO. 1

HOUSE AUTHOR: Tom Uher

H.J.R. 114

SENATE SPONSOR: Bob Glasgow (72nd Legislature, Regular Session)

A JOINT RESOLUTION

proposing a constitutional amendment relating to the amending of a home-rule charter by a city with a population of 5,000 or less.

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

SECTION 1. Article XI, Section 5, of the Texas Constitution is amended to read as follows:

Sec. 5. Cities having more than five thousand (5,000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters. If the number of inhabitants of cities that have adopted or amended their charters under this section is reduced to five thousand (5,000) or fewer, the cities still may amend their charters by a majority vote of the qualified voters of said city at an election held for that purpose. The adoption or amendment of charters is[;] subject to such limitations as may be prescribed by the Legislature, and [providing that] no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State. Said[;—said] cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half per cent. of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two per cent. thereon. Furthermore,[;—and provided further, that] no city charter shall be altered, amended or repealed oftener than every two years.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment allowing home-rule cities with a population of 5,000 or less to amend their charters by popular vote."

AMENDMENT NO. 2

HOUSE AUTHOR: David Cain, et al.

H.J.R. 10

SENATE SPONSOR: Gene Green (72nd Legislature, 1st Called Session)

A JOINT RESOLUTION

proposing a constitutional amendment in aid of turnpikes, toll roads, and toll bridges.

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

SECTION 1. Article III, Section 52-b, of the Texas Constitution is amended to read as follows:

Sec. 52-b. The Legislature shall have no power or authority to in any manner lend the credit of the State or grant any public money to, or assume any indebtedness, present or future, bonded or otherwise, of any individual, person, firm, partnership, association, corporation, public corporation, public agency, or political subdivision of the State, or anyone else, which is now or hereafter authorized to construct, maintain or operate toll roads and turnpikes within this State except that the Legislature may authorize the Texas Department of Transportation to expend money, from any source available, for the costs of turnpikes, toll roads, or toll bridges of the Texas Turnpike Authority, or successor agency, provided that any monies expended out of the state highway fund shall be repaid to the fund from tolls or other turnpike revenue.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment mandating the repayment to the Department of Transportation of monies expended to assist the Texas Turnpike Authority in the construction, maintenance, and operation of turnpikes, toll roads and toll bridges."

AMENDMENT NO. 3

SENATE AUTHOR: Frank Tejada

S.J.R. 26

HOUSE SPONSOR: David Counts (72nd Legislature, Regular Session)

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to investments made by the Veterans' Land Board of funds in the Veterans' Land Fund or the Veterans' Housing Assistance Fund.

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

SECTION 1. Article III, Section 49-b, of the Texas Constitution is amended to read as follows:

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

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

The Veterans' Land Board may provide for, issue and sell not to exceed Nine Hundred Fifty Million Dollars (\$950,000,000) in bonds or obligations of

the State of Texas for the purpose of creating a fund to be known as the Veterans' Land Fund, Seven Hundred Million Dollars (\$700,000,000) of which have heretofore been authorized. Such bonds or obligations shall be sold for not less than par value and accrued interest; shall be issued in such forms, denominations, and upon such terms as are now or may hereafter be provided by law; shall be issued and sold at such times, at such places, and in such installments as may be determined by said Board; and shall bear a rate or rates of interest as may be fixed by said Board but the weighted average annual interest rate, as that phrase is commonly and ordinarily used and understood in the municipal bond market, of all the bonds issued and sold in any installment of any bonds may not exceed the rate specified in Section 65 of this Article. All bonds or obligations issued and sold hereunder shall, after execution by the Board, approval by the Attorney General of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchaser or purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas; and all bonds heretofore issued and sold by said Board are hereby in all respects validated and declared to be general obligations of the State of Texas. In order to prevent default in the payment of principal or interest on any such bonds, the Legislature shall appropriate a sufficient amount to pay the same.

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

Said Veterans' Land Fund shall consist of any lands heretofore or hereafter purchased by said Board, until the sale price therefor, together with any interest and penalties due, have been received by said Board (although nothing herein shall be construed to prevent said Board from accepting full payment for a portion of any tract), and of the moneys attributable to any bonds heretofore or hereafter issued and sold by said Board which moneys so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; the moneys received from the sale or resale of any lands, or rights therein, purchased with such proceeds; the moneys received from the sale or resale of any lands, or rights therein, purchased with other moneys attributable to such bonds; the interest and penalties received from the sale or resale of such lands, or rights therein; the bonuses, income, rents, royalties, and any other pecuniary benefit received by said Board from any such lands; sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to

comply with his bid and accept and pay for such bonds or for the failure of any bidder for the purchase of any lands comprising a part of said Fund to comply with his bid and accept and pay for any such lands; and interest received from investments of any such moneys. The principal and interest on the bonds heretofore and hereafter issued by said Board shall be paid out of the moneys of said Fund in conformance with the Constitutional provisions authorizing such bonds; but the moneys of said Fund which are not immediately committed to the payment of principal and interest on such bonds, the purchase of lands as herein provided, or the payment of expenses as herein provided may be invested as authorized by law [~~in bonds or obligations of the United States~~] until such moneys [~~funds~~] are needed for such purposes.

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

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

The Veterans' Land Fund shall be used by said Board for the purpose of purchasing lands situated in the State of Texas owned by the United States or any governmental agency thereof, owned by the Texas Prison System or any other governmental agency of the State of Texas, or owned by any

person, firm, or corporation. All lands thus purchased shall be acquired at the lowest price obtainable, to be paid for in cash, and shall be a part of said Fund. Such lands heretofore or hereafter purchased and comprising a part of said Fund are hereby declared to be held for a governmental purpose, although the individual purchasers thereof shall be subject to taxation to the same extent and in the same manner as are purchasers of lands dedicated to the Permanent Free Public School Fund.

The lands of the Veterans' Land Fund shall be sold by said Board in such quantities, on such terms, at such prices, at such rates of interest and under such rules and regulations as are now or may hereafter be provided by law to veterans, as they are now or may hereafter be defined by the laws of the State of Texas. The foregoing notwithstanding, any lands in the Veterans' Land Fund which have been first offered for sale to veterans and which have not been sold may be sold or resold to such purchasers, in such quantities, and on such terms, and at such prices and rates of interest, and under such rules and regulations as are now or may hereafter be provided by law.

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

All of the moneys attributable to any series of bonds hereafter issued and sold by said Board (a "series of bonds" being all of the bonds issued and sold in a single transaction as a single installment of bonds) may be used for the purchase of lands as herein provided, to be sold as herein provided, for a period ending eight (8) years after the date of sale of such series of bonds; provided, however, that so much of such moneys as may be necessary to pay interest on bonds hereafter issued and sold shall be set aside for that purpose in accordance with the resolution adopted by said Board authorizing the issuance and sale of such series of bonds. After such eight (8) year period, all of such moneys shall be set aside for the retirement of any bonds hereafter issued and sold and to pay interest thereon, together with any expenses as

provided herein, in accordance with the resolution or resolutions authorizing the issuance and sale of such additional bonds, until there are sufficient moneys to retire all of the bonds hereafter issued and sold, at which time all such moneys then remaining a part of said Veterans' Land Fund and thereafter becoming a part of said Fund shall be governed as elsewhere provided herein.

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

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

SECTION 2. Article III, Sections 49-b-1(d) and (e), of the Texas Constitution are amended to read as follows:

(d) Three hundred million dollars of the state bonds authorized by this section shall be used to augment the Veterans' Land Fund. The Veterans' Land Fund shall be used by the board for the purpose of purchasing lands situated in the State of Texas owned by the United States government or any agency thereof, the State of Texas or any subdivision or agency thereof, or any person, firm, or corporation. The lands shall be sold to veterans in such quantities, on such terms, at such prices, at such rates of interest, and under such rules and regulations as may be authorized by law. The expenses of the board in connection with the issuance of the bonds and the purchase and sale of the lands may be paid from money in the fund. The Veterans' Land Fund shall continue to consist of any lands purchased by the board until the sale price therefor, together with any interest and penalties due, have been received by the board (although nothing herein shall prevent the board from accepting full payment for a portion of any tract) and of the money attributable to any bonds issued and sold by the board for the Veterans' Land Fund, which money so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; the money received from the sale or resale of any lands, or rights therein, purchased from such proceeds; the money received from the sale or resale of any lands, or rights therein, purchased with other money attributable to such bonds; the interest and penalties received from the sale or resale of such lands, or rights therein; the

bonuses, income, rents, royalties, and any other pecuniary benefit received by the board from any such lands; sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to comply with his bid and accept and pay for such bonds or for the failure of any bidder for the purchase of any lands comprising a part of the fund to comply with his bid and accept and pay for any such lands; and interest received from investments of any such money. The principal of and interest on the general obligation bonds previously authorized by Section 49-b of this constitution shall be paid out of the money of the fund in conformance with the constitutional provisions authorizing such bonds. The principal of and interest on the general obligation bonds authorized by this section for the benefit of the Veterans' Land Fund shall be paid out of the money of the fund, but the money of the fund which is not immediately committed to the payment of principal and interest on such bonds, the purchase of lands as herein provided, or the payment of expenses as herein provided may be invested as authorized by law ~~[in bonds or obligations of the United States]~~ until the money is needed for such purposes.

(e) The Veterans' Housing Assistance Fund is created, and \$1 billion of the state bonds authorized by this section shall be used for the Veterans' Housing Assistance Fund, \$500 million of which have heretofore been authorized. Money in the Veterans' Housing Assistance Fund shall be administered by the Veterans' Land Board and shall be used for the purpose of making home mortgage loans to veterans for housing within the State of Texas in such quantities, on such terms, at such rates of interest, and under such rules and regulations as may be authorized by law. The expenses of the board in connection with the issuance of the bonds and the making of the loans may be paid from money in the fund. The Veterans' Housing Assistance Fund shall consist of any interest of the board in all home mortgage loans made to veterans by the board pursuant to a Veterans' Housing Assistance Program which the legislature may establish by appropriate legislation until, with respect to any such home mortgage loan, the principal amount, together with any interest and penalties due, have been received by the board; the money attributable to any bonds issued and sold by the board to provide money for the fund, which money so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; income, rents, and any other pecuniary benefit received by the board as a result of making such loans; sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to comply with his

bid and accept and pay for such bonds; and interest received from investments of any such money. The principal of and interest on the general obligation bonds authorized by this section for the benefit of the Veterans' Housing Assistance Fund shall be paid out of the money of the fund, but the money of the fund which is not immediately committed to the payment of principal and interest on such bonds, the making of home mortgage loans as herein provided, or the payment of expenses as herein provided may be invested as authorized by law ~~[in bonds or obligations of the United States]~~ until the money is needed for such purposes.

SECTION 3. Article III, Section 49-b-1, of the Texas Constitution is amended by adding Subsection (h) to read as follows:

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

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize the legislature to further implement and enhance the administration of the veterans' housing assistance and land programs and to expand the investment authority of the Veterans' Land Board."

AMENDMENT NO. 4

SENATE AUTHOR: Ted Lyon, et al.

S.J.R. 4

HOUSE SPONSOR: Allen Hightower, et al.

(72nd Legislature,
1st Called Session)

SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the authorization for issuance of general obligation bonds for acquiring, constructing, or equipping new prisons and other punishment facilities to confine criminals, mental health and mental retardation institutions, and youth corrections institutions, for major repair or renovation of existing facilities of those institutions, and for the acquisition of, major repair to, or renovation of other facilities to convert those facilities into state prisons or other punishment facilities.

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

SECTION 1. Article III, Section 49-h, of the Texas Constitution is amended by adding Subsection (d) to read as follows:

(d)(1) The legislature may authorize the issuance of up to \$1.1 billion in general obligation bonds, in addition to the amount authorized by Subsections (a) and (c) of this section, and may use the proceeds of the bonds for acquiring, constructing, or equipping new prisons and substance abuse felony punishment facilities to confine criminals, mental health and mental retardation institutions, and youth corrections institutions, for major repair or renovation of existing facilities of those institutions, and for the acquisition of, major repair to, or renovation of other facilities for use as state prisons or substance abuse felony punishment facilities. Proceeds of general obligation bonds issued under this subdivision may not be appropriated by any session of the legislature other than the 2nd Called Session of the 72nd Legislature or any subsequent session of the legislature.

(2) The provisions of Subsection (a) of this section relating to the review and approval of bonds and the provisions of Subsection (b) of this section relating to the status of the bonds as a general obligation of the state and to the manner in which the principal and interest on the bonds are paid apply to bonds authorized under this subsection.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the issuance of up to \$1.1 billion in

general obligation bonds for acquiring, constructing, or equipping new prisons or other punishment facilities to confine criminals, mental health and mental retardation institutions, and youth corrections institutions, for major repair or renovation of existing facilities of those institutions, and for the acquisition of, major repair to, or renovation of other facilities for use as state prisons or other punishment facilities."

AMENDMENT NO. 5

SENATE AUTHOR: Judith Zaffirini

S.J.R. 39

HOUSE SPONSOR: Rene Oliveira (72nd Legislature, Regular Session)

SENATE JOINT RESOLUTION

proposing a constitutional amendment to exempt from property taxes certain property in an enterprise zone.

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

SECTION 1. Article VIII of the Texas Constitution is amended by adding Section 1-k to read as follows:

Sec. 1-k. (a) A county, junior college district, or municipality, including a home-rule municipality, may exempt tangible personal property from ad valorem taxation if:

(1) the property is acquired in or brought into the state in an enterprise zone to be forwarded outside the state, whether the intention to forward the property outside the state is formed or the destination to which the property is forwarded is specified when the property is acquired or brought into the state in an enterprise zone;

(2) the property is assembled, stored, repaired, maintained, manufactured, processed, or fabricated in the enterprise zone;

(3) the property is transported outside the state not later than 175 days after the date that the person acquired the property or brought it into the state in an enterprise zone; and

(4) the person who acquired the property or brought the property into the state in an enterprise zone is a qualified business.

(b) A county, junior college district, or municipality, including a home-rule municipality, may exempt property under Subsection (a) of this section if the governing body of the county, junior college district, or municipality enters into a written agreement with the qualified business that states the duration of the exemption and the terms upon which the exemption shall be granted. Any official action to exempt property under Subsection (a) of this section must be taken before April 1 of the first year in which the property otherwise would be taxed, and if the action is taken before that time, the exemption applies for the period specified in the written agreement.

(c) In this section, "enterprise zone" means an area that:

(1) has been designated as an enterprise zone by a state agency responsible for economic development; and

(2) meets qualifications established by general law that include the requirement that the area of the designated zone be an area with pervasive poverty, unemployment, and economic distress.

(d) In this section, "qualified business" means a business that meets the qualification established by general law that includes the requirement that the qualified business is actively engaged in a new business in the enterprise zone or is expanding a business that is already active in the enterprise zone.

SECTION 2. This constitutional amendment shall be submitted to the voters at an election to be held November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the exemption from ad valorem taxes of certain property in an enterprise zone."

AMENDMENT NO. 6

SENATE AUTHOR: Bob Glasgow

S.J.R. 8

HOUSE SPONSOR: Bruce Gibson (72nd Legislature, Regular Session)

SENATE JOINT RESOLUTION

proposing a constitutional amendment to establish the Texas Ethics Commission and to authorize the commission to recommend the salary of members of the legislature and the lieutenant governor, subject to voter approval, and to set the per diem for those officials, subject to a limit.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 24a to read as follows:

Sec. 24a. (a) The Texas Ethics Commission is a state agency consisting of the following eight members:

(1) two members of different political parties appointed by the governor from a list of at least 10 names submitted by the members of the house of representatives from each political party required by law to hold a primary;

(2) two members of different political parties appointed by the governor from a list of at least 10 names submitted by the members of the senate from each political party required by law to hold a primary;

(3) two members of different political parties appointed by the speaker of the house of representatives from a list of at least 10 names submitted by the members of the house from each political party required by law to hold a primary; and

(4) two members of different political parties appointed by the lieutenant governor from a list of at least 10 names submitted by the members of the senate from each political party required by law to hold a primary.

(b) The governor may reject all names on any list submitted under Subsection (a)(1) or (2) of this section and require a new list to be submitted. The members of the commission shall elect annually the chairman of the commission.

(c) With the exception of the initial appointees, commission members serve for four-year terms. Each appointing official will make one initial appointment for a two-year term and one initial appointment for a four-year term. A vacancy on the commission shall be filled for the unexpired portion of the term in the same manner as the original appointment. A member who has

served for one term and any part of a second term is not eligible for reappointment.

(d) The commission has the powers and duties provided by law.

(e) The commission may recommend the salary of the members of the legislature and may recommend that the salary of the speaker of the house of representatives and the lieutenant governor be set at an amount higher than that of other members. The commission shall set the per diem of members of the legislature and the lieutenant governor, and the per diem shall reflect reasonable estimates of costs and may be raised or lowered biennially as necessary to pay those costs, but the per diem may not exceed during a calendar year the amount allowed as of January 1 of that year for federal income tax purposes as a deduction for living expenses incurred in a legislative day by a state legislator in connection with the legislator's business as a legislator, disregarding any exception in federal law for legislators residing near the Capitol.

(f) At each general election for state and county officers following a proposed change in salary, the voters shall approve or disapprove the salary recommended by the commission if the commission recommends a change in salary. If the voters disapprove the salary, the salary continues at the amount paid immediately before disapproval until another amount is recommended by the commission and approved by the voters. If the voters approve the salary, the approved salary takes effect January 1 of the next odd-numbered year.

SECTION 2. Article III, Section 24, of the Texas Constitution is amended to read as follows:

Sec. 24. (a) Members of the Legislature shall receive from the Public Treasury a salary of Six Hundred Dollars (\$600) per month, unless a greater amount is recommended by the Texas Ethics Commission and approved by the voters of this State in which case the salary is that amount. Each member shall also receive a per diem set by the Texas Ethics Commission [of Thirty Dollars (\$30)] for each day during each Regular and Special Session of the Legislature.

(b) No Regular Session shall be of longer duration than one hundred and forty (140) days.

(c) In addition to the per diem the Members of each House shall be entitled to mileage at the same rate as prescribed by law for employees of the State of Texas. [This amendment takes effect on April 22, 1975.]

SECTION 3. Article IV, Section 17, of the Texas Constitution is amended to read as follows:

Sec. 17. (a) If, during the vacancy in the office of Governor, the Lieutenant Governor should die, resign, refuse to serve, or be removed from office, or be unable to serve; or if he shall be impeached or absent from the State, the President of the Senate, for the time being, shall, in like manner, administer the Government until he shall be superseded by a Governor or Lieutenant Governor.

(b) The Lieutenant Governor shall, while he acts as President of the Senate, receive for his services the same compensation and mileage which shall be allowed to the members of the Senate, and no more unless the Texas Ethics Commission recommends and the voters approve a higher salary in which case the salary is that amount; and during the time he administers the Government, as Governor, he shall receive in like manner the same compensation which the Governor would have received had he been employed in the duties of his office, and no more. An increase in the emoluments of the office of Lieutenant Governor does not make a member of the Legislature ineligible to serve in the office of Lieutenant Governor.

(c) The President, for the time being, of the Senate, shall, during the time he administers the Government, receive in like manner the same compensation, which the Governor would have received had he been employed in the duties of his office.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment creating the Texas Ethics Commission and authorizing the commission to recommend the salary for members of the legislature and the lieutenant governor, subject to voter approval, and to set the per diem for those officials, subject to a limit."

AMENDMENT NO. 7

SENATE AUTHOR: John Leedom

S.J.R. 6

HOUSE SPONSOR: Nolan (Buzz) Robnett

(72nd Legislature,
Regular Session)

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to investments by statewide public retirement systems.

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

SECTION 1. Article XVI, Section 67(a)(3), of the Texas Constitution is amended to read as follows:

(3) Each statewide benefit system must have a board of trustees to administer the system and to invest the funds of the system in such manner [~~securities~~] as the board may consider prudent [~~investments~~]. In making investments, a board shall exercise the judgment and care under the circumstances then prevailing that persons 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 legislature by law may further restrict the investment discretion of a board.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to allow the board of trustees of a statewide public retirement system to invest funds of the system in a manner that the board considers prudent."

AMENDMENT NO. 8

SENATE AUTHOR: John Montford

S.J.R. 21

HOUSE SPONSOR: Bruce Gibson (72nd Legislature, Regular Session)

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to submit debt questions to the voters of this state in proposition form.

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

SECTION 1. Article III, Section 49, of the Texas Constitution is amended to read as follows:

Sec. 49. (a) No debt shall be created by or on behalf of the State, except;

(1) to supply casual deficiencies of revenue, not to exceed in the aggregate at any one time two hundred thousand dollars;

(2) to repel invasion, suppress insurrection, or defend the State in war[, or pay existing debt]; [~~and the debt created to supply deficiencies in the revenue, shall never exceed in the aggregate at any one time two hundred thousand dollars.~~]

(3) as otherwise authorized by this constitution; or

(4) as authorized by Subsections (b) through (f) of this section.

(b) The legislature, by joint resolution approved by at least two-thirds of the members of each house, may from time to time call an election and submit to the eligible voters of this State one or more propositions that, if approved by a majority of those voting on the question, authorize the legislature to create State debt for the purposes and subject to the limitations stated in the applicable proposition. Each election and proposition must conform to the requirements of Subsections (c) and (d) of this section.

(c) The legislature may call an election during any regular session of the legislature or during any special session of the legislature in which the subject of the election is designated in the governor's proclamation for that special session. The election may be held on any date, and notice of the election shall be given for the period and in the manner required for amending this constitution. The election shall be held in each county in the manner provided by law for other statewide elections.

(d) A proposition must clearly describe the amount and purpose for which debt is to be created and must describe the source of payment for the debt. Except as provided by law under Subsection (f) of this section, the amount of debt stated in the proposition may not be exceeded and may not be renewed after the debt has been created unless the right to exceed or renew is stated in the proposition.

(e) The legislature may enact all laws necessary or appropriate to implement the authority granted by a proposition that is approved as provided by Subsection (b) of this section. A law enacted in anticipation of the election is valid if, by its terms, it is subject to the approval of the related proposition.

(f) State debt that is created or issued as provided by Subsection (b) of this section may be refunded in the manner and amount and subject to the conditions provided by law.

(g) State debt that is created or issued as provided by Subsections (b) through (f) of this section and that is approved by the attorney general in accordance with applicable law is incontestable for any reason.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 72nd Legislature, Regular Session, 1991, authorizing the legislature to submit debt questions to the voters of this state in proposition form.

(b) The constitutional amendment takes effect January 1, 1992.

(c) This temporary provision takes effect on the adoption of the amendment by the voters and expires January 2, 1992.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the voters of this state to consider state debt questions in the form of ballot propositions that must clearly describe the amounts, purposes, and sources of payment of the debt only after approval of the propositions by a two-thirds vote of each house of the legislature."

AMENDMENT NO. 9

SENATE AUTHOR: John Montford

S.J.R. 11

HOUSE SPONSOR: Bruce Gibson (72nd Legislature, Regular Session)

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years.

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

SECTION 1. Article VII of the Texas Constitution is amended by adding Section 4A to read as follows:

Sec. 4A. (a) On application to the School Land Board, a natural person is entitled to receive a patent to land from the commissioner of the General Land Office if:

(1) the land is surveyed public free school fund land, either surveyed or platted according to records of the General Land Office;

(2) the land was not patentable under the law in effect immediately before adoption of this section;

(3) the person acquired the land without knowledge of the title defect out of the State of Texas or Republic of Texas and held the land under color of title, the chain of which dates from at least as early as January 1, 1941; and

(4) the person, in conjunction with his predecessors in interest:

(A) has a recorded deed on file in the respective county courthouse and has claimed the land for a continuous period of at least 50 years as of January 1, 1991; and

(B) for at least 50 years has paid taxes on the land together with all interest and penalties associated with any period of delinquency of the taxes; provided, however, that in the event that public records concerning the tax payments on the land are unavailable for any period within the past 50 years, the tax assessors-collectors of the taxing jurisdictions in which the land is located shall provide the School Land Board with a sworn certificate stating that, to the best of their knowledge, all taxes have been paid for the past 50 years and there are no outstanding taxes nor interest or penalties currently due against the property.

(b) The applicant for the patent must submit to the School Land Board certified copies of his chain of title and a survey of the land for which a patent is sought, if requested to do so by the board. The board shall determine the qualifications of the applicant to receive a patent under this section. On a finding by the board that the applicant meets the requirements of Subsection (a) of this section, the commissioner of the General Land Office shall award the applicant a patent. If the applicant is denied a patent, he may file suit against the board in a district court of the county in which the land is situated within 60 days from the date of the denial of the patent under this section. The trial shall be de novo and not subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and the burden of proof is on the applicant.

(c) This section does not apply to beach land, submerged or filled land, or islands and may not be used by an applicant to resolve a boundary dispute. This section does not apply to land that, pursuant to an action filed previous to the date of an application for patent thereon, was found by a court of competent jurisdiction to be state owned or to land on which the state has given a mineral lease that is in effect on the date of an application for patent thereon. A patent under this section for land within five miles of mineral production shall reserve minerals to the state in the same manner provided by law for reservations of minerals in sales to good faith claimants of unsurveyed school land within five miles of production.

(d) Application for a patent under this section must be filed with the School Land Board before January 1, 1993.

(e) This section is self-executing.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the commissioner of the General Land Office to issue patents for certain public free school fund land held in good faith under color of title for at least 50 years."

AMENDMENT NO. 10

SENATE AUTHOR: Bill Ratliff

S.J.R. 15

HOUSE SPONSOR: Jerry Johnson (72nd Legislature, Regular Session)

SENATE JOINT RESOLUTION

proposing a constitutional amendment to authorize the exemption from ad valorem taxation of property owned by a nonprofit water supply or wastewater service corporation.

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

SECTION 1. Article VIII of the Texas Constitution is amended by adding Section 1-k to read as follows:

Sec. 1-k. The legislature by general law may exempt from ad valorem taxation property owned by a nonprofit corporation organized to supply water or provide wastewater service that provides in the bylaws of the corporation that on dissolution of the corporation, the assets of the corporation remaining after discharge of the corporation's indebtedness shall be transferred to an entity that provides a water supply or wastewater service, or both, that is exempt from ad valorem taxation, if the property is reasonably necessary for and used in the acquisition, treatment, storage, transportation, sale, or distribution of water or the provision of wastewater service.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to exempt from ad valorem taxes certain property of a nonprofit corporation that supplies water or provides wastewater service."

AMENDMENT NO. 11

HOUSE AUTHOR: Ron Wilson, et al.

H.J.R. 8

SENATE SPONSOR: John Montford

(72nd Legislature,
1st Called Session)

A JOINT RESOLUTION

proposing a constitutional amendment relating to the establishment of a state lottery.

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

SECTION 1. Article III, Section 47, of the Texas Constitution is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) The Legislature shall pass laws prohibiting lotteries and gift enterprises in this State other than those authorized by Subsections (b), ~~[and] (d), and (e)~~ of this section.

(e) The Legislature by general law may authorize the State to operate lotteries and may authorize the State to enter into a contract with one or more legal entities that will operate lotteries on behalf of the State.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing a state lottery."

AMENDMENT NO. 12

SENATE AUTHOR: John Montford, et al.

S.J.R. 34

HOUSE SPONSOR: Rene Oliveira (72nd Legislature, Regular Session)

SENATE JOINT RESOLUTION

proposing a constitutional amendment to increase the amount of bonds that may be issued for economically distressed areas under existing bond authorization.

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

SECTION 1. Article III, Section 49-d-7(e), of the Texas Constitution is amended to read as follows:

(e) The legislature may provide by law for subsidized loans and grants from the proceeds of bonds authorized by this section to provide wholesale and retail water and wastewater facilities to economically distressed areas of the state as defined by law, provided, the principal amount of bonds that may be issued for the purposes under this subsection may not exceed 50 [20] percent of the total amount of bonds authorized by this section. Separate accounts shall be established in the water development fund for administering the proceeds of bonds issued for purposes under this subsection, and an interest and sinking fund separate from and not subject to the limitations of the interest and sinking fund created pursuant to Section 49-c for other Texas water development bonds is established in the State Treasury to be used for paying the principal of and interest on bonds for the purposes of the subsection. While any of the bonds authorized for the purposes of this subsection or any of the interest on those bonds is outstanding and unpaid, there is appropriated out of the first money coming into the State Treasury in each fiscal year, not otherwise appropriated by this constitution, an [and] amount that is sufficient to pay the principal of and interest on those bonds issued for the purposes under this subsection that mature or become due during that fiscal year.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to increase from 20 percent to 50 percent the percentage of Texas water development bonds previously authorized by Texas voters that may be issued for economically distressed areas."

AMENDMENT NO. 13

SENATE AUTHOR: Gonzalo Barrientos, et al.

S.J.R. 2

HOUSE SPONSOR: Eddie Cavazos

(72nd Legislature,
2nd Called Session)

SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the issuance of general obligation bonds by the Texas Higher Education Coordinating Board.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 50b-3 to read as follows:

Sec. 50b-3. ADDITIONAL STUDENT LOANS. (a) The legislature by general law may authorize the Texas Higher Education Coordinating Board or its successor or successors to issue and sell general obligation bonds of the State of Texas in an amount not to exceed \$300 million to finance educational loans to students. The bonds are in addition to those bonds issued under Sections 50b, 50b-1, and 50b-2 of Article III of this constitution.

(b) The bonds shall be executed in the form, on the terms and in the denominations, bear interest, and be issued in installments, as prescribed by the Texas Higher Education Coordinating Board or its successor or successors.

(c) The maximum net effective interest rate to be borne by bonds issued under this section must be set by law.

(d) The legislature may provide for the investment of bond proceeds and may establish and provide for the investment of an interest and sinking fund to pay the bonds. Income from the investment shall be used for the purposes prescribed by the legislature.

(e) While any of the bonds issued under this section or interest on the bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, less any amount in an interest and sinking fund established under this section at the end of the preceding fiscal year that is pledged to the payment of the bonds or interest.

(f) Bonds issued under this section, after approval by the attorney general, registration by the comptroller of public accounts, and delivery to the purchasers, are incontestable.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing for the issuance of general obligation bonds not to exceed \$300,000,000 to continue existing programs to provide educational loans to students, with repayments of student loans applied toward retirement of the bonds."