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How Should the Permanent School Fund be Managed?

O. A. Holm

South Dakota State University

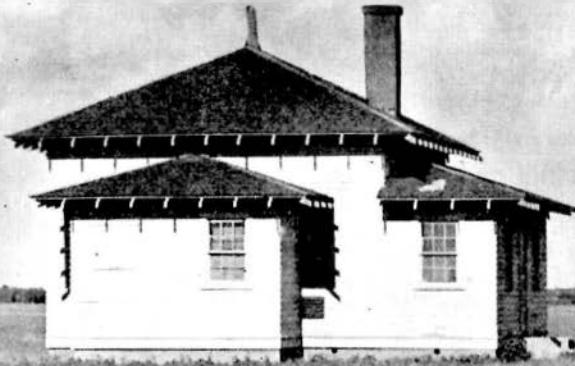
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How Should The PERMANENT SCHOOL FUND Be Managed?



STATE OF SOUTH DAKOTA
SCHOOL FUND MORTGAGE
 State of South Dakota TO
 STATE OF SOUTH DAKOTA, ss.
 of Register of Deeds |
 and recorded
 A. D. 19 day of
 mortgages on

**Foreclosure Sale
 RECORD**
 By the Sheriff of
 TO County, S. Dak.
 OFFICE OF REGISTRY
 County of
 South Dakota
 I hereby
 attest of
 Notarial
 Public

Agricultural Economics Department
 AGRICULTURAL EXPERIMENT STATION
 South Dakota State College
 BROOKINGS, S. D.

Digest

1. When admitted into the Union, South Dakota received 3,417,922 acres of land from the Federal government, the proceeds from the sale of which were placed in what is called a Permanent School Fund with the income therefrom to be used for educational purposes. By June 30, 1938 a total of 576,949 acres of this land had been sold for \$17,774,440. Most of this money has been invested through the counties in mortgages on farm land; in recent years many foreclosures have been instituted. House Joint Resolution No. 10 with which this study is primarily concerned proposes to allow counties to transfer these mortgaged lands to the Department of School and Public Lands in lieu of the principal borrowed.
2. Difficulties encountered in the investment of the Fund, increased delinquencies of principal and interest, increased foreclosures on Fund loans, and the attitude of the counties toward their Fund obligations contributed to the formulation of the Resolution.
3. If the Resolution passes, the counties will be permitted to transfer to the Department of School and Public Lands all lands upon which Fund money has been loaned in place of the principal borrowed; the interest rate for the use of Fund money will be reduced from 5 to 3 percent; and those counties which have issued bonds to meet their Fund obligations will be permitted to transfer such bonds to the Department for payment providing they also transfer to the Department all equities for which the bonds have been issued.
4. Proponents of the Resolution maintain that the principal of the Fund would be increased by the transfer of lands for the principal borrowed; that State management of the Fund would be better than county management; that a reduced interest rate for the use of Fund money is desirable; that the \$10 per acre minimum sales price for school land applies only to lands originally granted for school pur-

poses and not to lands transferred later to the Department of School and Public Lands; and that some counties are financially unable to meet their obligations.

5. Opponents of the Resolution contend that the Fund would suffer a loss by the transfer; that State management would lead to another Rural Credit situation; that the interest rate for the use of Fund money should be reduced by a special amendment; that no school lands can be sold for less than \$10 per acre; and that the extent of nontaxable land would be increased if the Resolution passed.
6. Critical observations reveal the possibility that the Fund may suffer a loss if the Resolution passes, and that management problems of the Fund and of the Department will not be solved whether the amendment is accepted or rejected. Further study of the problem seems advisable.
7. Suggested changes that might improve the situation include a flexible interest rate for the use of Fund money; future investment of more Fund money in bonds; apportionment for school support according to contributions and financial need; a more detailed accounting system in the Department of School and Public Lands; the sale of school lands at their market value; the election of the Commissioner on a nonpartisan ballot; and a more detailed classification of school lands as to productive capacity and value.

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How Should the Permanent School Fund Be Managed?

By Oral A. Holm*

Introduction

In 1889, when South Dakota was admitted into the Union, the Federal government granted the State 3,417,922 acres of land, the proceeds from the sale of which were to be placed in what is called the Permanent School Fund. Income from the investment of this Fund and from the lease of unsold school lands is apportioned to the schools of the State for support. During the past, most of the Fund has been invested through the counties in farm mortgages, which investment, in recent years, has proven uncertain because many mortgages have been foreclosed upon. House Joint Resolution No. 10, upon which the citizens of South Dakota will vote in November 1940, proposes to allow the various counties to transfer lands upon which Fund money has been loaned to the State in lieu of the principal borrowed. This study is primarily concerned with this amendment, and, to insure an adequate background of the whole situation, an inquiry was conducted into the growth, investment policies, and extent of financial support rendered the schools of the State from Interest and Income Fund apportionments.

Primary attention, however, is given to a discussion of House Joint Resolution No. 10, circumstances leading to its formulation, its implications and a critical observation of these implications.

The final section of this study comprises an analysis to the effects of the Resolution and some suggested changes in the administration of the Permanent School Fund and the Department of School and Public Lands.

Most of the information used in this study was obtained either directly or indirectly from records in the office of the Department of School and Public Lands, from biennial reports of the Department, and from the special reports prepared by the Department for the 1939 session of the legislature. In addition, circulars prepared by proponents and opponents of the Resolution, the

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The author is indebted to R. J. Penn, formerly Associate Agricultural Economist for the South Dakota Agricultural Experiment Station, for his assistance and guidance in making this study; to Gabriel Lundy, Agricultural Economist for the Agricultural Experiment Station for his critical reading of the manuscript; and to Earl Hammerquist, Commissioner of School and Public Lands of South Dakota, for his help in securing the necessary data.

He is grateful also to other members of the Department of Agricultural Economics, South Dakota Agricultural Experiment Station, and to both proponents and opponents of House Joint Resolution No. 10 for their cooperation in this study.

Constitution of the State of South Dakota, the Session Laws of the State, the 1939 Code, and reports from Departments in neighboring states were helpful sources of information.

I. The Situation

A knowledge of the origin, history, and growth of the Permanent School Fund of South Dakota, and of the investment and apportionment policies pertaining thereto, is essential to an understanding of the problems which confront the Department of School and Public Lands and especially of the merits or demerits of House Joint Resolution No. 10.

Origin of the Permanent School Fund of South Dakota. Section 14 of the Organic Act of the Dakota Territory dated March 2, 1861, which provided for the original territorial government, states that sections 16 and 36 in each township should be reserved for educational purposes in states to be erected out of the territory. The Enabling Act of 1889 which provided for the admittance of South Dakota into the Union, endowed the State with these same lands. The Constitution of South Dakota stipulates, in Article VIII, Section 2, that the proceeds from land sale shall be and remain a perpetual fund for the maintenance of the public schools in the State. "It shall be deemed a trust fund held by the State. The principal shall forever remain inviolate, and may be increased, but shall never be diminished, and the State shall make good all losses which may in any manner occur."

Those lands included in sections 16 and 36 of each township which were set aside for the common schools of the State are known as "common school" lands. In some instances lands designated for school purposes were settled upon before being surveyed; consequently, the State was obliged to take other lands in their stead. These are known as "indemnity" lands. Lands were granted also for specific educational, endowment, and penal institutions and are called "endowment" lands.

Table I shows the institutions to which lands were granted by the Federal government upon the State's admission into the Union, the amount of land granted to each, acreage sold, and the money received into the Fund therefrom.

The Department of School and Public Lands is supervised by the Commissioner, who has charge of school land management and Permanent School Fund transactions.¹ He distributes Fund money for investment to the various counties, has charge of collection of principal and interest on loans made to them, and apportions money in the Interest and Income Fund to the counties on the basis of their school population. He together with the Governor and State Auditor comprise the Board of School and Public Lands, which board supervises the selling and leasing of all school lands.

1. "Commissioner" hereafter refers to the Commissioner of School and Public Lands.

Table 1. Educational, Charitable, and Penal Institutional Land Grants and Land Sales, South Dakota, June 30, 1938*

| Institution and Fund | Land Grant | Total Sold | Amount of Sale |
|--|--------------------|----------------|-------------------|
| | Acres | Acres | Dollars |
| Common School | 2,162,733 | 183,007 } | 16,184,765 |
| Indemnity (Selected) | 638,467 | 34,128 } | |
| University of South Dakota | 86,080 | 4,043 | 117,209 |
| College of Agriculture | 160,000 | 21,218 | 557,621 |
| State School for Deaf | 40,000 | 4,220 | 121,747 |
| Substations for Experimenting in Agri. | 25,001.6 | 1,160 | 22,515 |
| State Training School | 40,000 | 3,099 | 121,879 |
| Normal Schools | 80,000 | 10,220 | 240,394 |
| School of Mines | 40,000 | 3,223 | 70,502 |
| Camp and Parade Grounds | 640 | 00 | 00 |
| Southern Normal | 40,000 | 3,490 | 125,099 |
| State School for Feeble-Minded | 40,000 | 3,191 | 77,746 |
| Northern Normal & Industrial School | 40,000 | 4,288 | 92,171 |
| State School for Blind | 25,000 | 1,662 | 42,792 |
| Public Buildings (not part of Fund) | 82,000 | | |
| Total | 3,499,921.6 | 576,949 | 17,774,440 |

* 25th Biennial Report of the Commissioner of School and Public Lands, South Dakota, 1936-38, pp. 5-44, inclusive.

History of the Fund.² Since its establishment in 1889, the Fund has suffered only one major loss. That occurred when a State Treasurer defaulted in the sum of \$367,020.59, of which \$45,519.84 belonged to the principal of the Permanent School Fund and \$52,324.48 belonged to the Interest and Income Fund. The State of South Dakota assumed the responsibility for returning to the Permanent School Fund a total of \$98,000 by way of a bond issue paying 5 percent semiannually.

Growth of the Fund. The chief contributing factors to the growth of the Fund as stipulated in Article VIII, Section 2, of the Constitution of the State are:

"All proceeds from the sale of public lands that have been given to the State by the United States; all such per centum as may be granted by the United States on the sale of its land within the State; all the gifts that shall fall to the State for public schools; and all property otherwise acquired, shall be and remain a perpetual fund for the maintenance of the public schools of the State."

Of the 3,417,922 acres of land granted to the various educational, charitable and penal institutions, only 576,949 acres have been sold; nevertheless, more than 17 million dollars has been received into the Fund from these land sales.

The Fund grew most rapidly during the period 1916-20 when most school lands were sold. In 1920 more than four million dollars was received from the sale of state school land. Several things have contributed to the less rapid

2. "Fund" hereafter refers to the Permanent School Fund.

growth of the Fund since that time. In the first place, the County Appraisal Committee, in charge of school land sales in each county, is directed to offer the best school lands for sale first. Adverse agricultural conditions together with the fact that no state school lands can be sold for less than \$10 per acre presumable have contributed to the decline in land sales. In some areas farmers have found that the cost of leasing school lands is less than the taxes on them would be if they were subject to tax.

Proceeds from gifts, otherwise acquired property, and from 5 percent of Federal land sales within the State have contributed less than a million dollars to the growth of the Fund.

Investment of the Fund. Under the present system, although the Commissioner manages the Fund, its actual investment is intrusted to the county commissioners. In regard to investment of Fund money by the counties, the following is quoted from Article VIII, Section 11 of the Constitution of the State:

"The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned; and in case of loss of any money so apportioned to any county, such county shall make the same good out of its common revenue."

The various counties are not forced to accept Fund money; for if a county has \$1,000 or more on hand which cannot be invested, this money may be returned to the State Treasurer to be intrusted to some other county or counties, or otherwise invested.

The Fund may be invested in school corporation, township, county, municipal bonds, or United States Treasury Bonds, or in first mortgages upon good improved farm lands. The amount of each loan upon agricultural land may not exceed one third of the actual value of the property offered as security for the loan, and in no case may more than \$5,000 be loaned to any one person, firm, or corporation. All bonds and loans shall draw interest at the rate of not less than 5 percent per annum.³

Of the Fund money which the counties possessed on December 31, 1938, an average for all organized counties showed that 91.2 percent was invested in first mortgages upon agricultural land while the remaining 8.8 percent was invested in bonds of the various political subdivisions.

Prior to 1935, most of the investments were in agricultural land; since that time, a greater proportion has been in bonds. On June 30, 1939, a total of \$3,817,361.33 of the Fund was invested in United States Treasury Bonds.

Investment and Management Policies of Neighboring States. A comparison of South Dakota's Fund investment with that of several neighboring states is shown in Table 2. Upon analysis it is observed that a greater percentage of this State's Fund is invested in farm mortgages, and consequently, a

3. South Dakota Code of 1939, Vol. III, Sec. 15.0612.

Table 2. A Comparison of Permanent School Fund Investments of Several States

| State | Total Permanent School Fund | | Bond Investment | | Investment in Farm Loans | |
|---------------------------|-----------------------------|---------------|-----------------|---------------------------|--------------------------|--|
| | Dollars | Dollars | Percent | Dollars | Percent | |
| South Dakota ¹ | 17,422,807.80 | 4,469,343.25 | 25.7 | 12,047,288.08 | 69.1 | |
| Idaho ² | 13,472,585.13 | 12,306,106.62 | 91.3 | 1,166,479.51 | 8.7 | |
| Minnesota ³ | 76,283,778.08 | 68,076,571.67 | 89.2 | 3,413,132.96 ⁴ | 4.5 | |
| Montana ⁵ | 20,872,145.90 | 13,712,572.11 | 66.0 | 4,153,068.92 | 20.0 | |
| Nebraska ⁶ | 13,912,281.98 | 13,912,281.98 | 100.0 | 00 | 0.0 | |
| North Dakota ⁷ | 28,265,197.03 | 9,452,439.80 | 33.4 | 11,864,054.18 | 42.0 | |
| Utah ⁸ | 8,216,931.68 | 3,213,309.37 | 39.1 | 4,323,431.20 | 52.6 | |

1. Special Report prepared by Commissioner of School and Public Lands for members of the legislature, Feb. 24, 1939.
2. 10th Biennial Report of Department of Public Investments of the State of Idaho, Sept. 30, 1938.
3. Report of State Auditor for the fiscal year ending June 30, 1938, p. 5.
4. State land contracts.
5. Biennial Report for period July 1, 1936 to June 30, 1938, Department of State Lands and Investments, Table IX, p. 15.
6. 31st Biennial Report of Commissioner of Lands and Buildings, June 30, 1938, p. 20.
7. 23rd Biennial Report of University and School Lands Department, June 30, 1938, p. 28.
8. 21st Biennial Report of State Land Board of State of Utah, June 30, 1938, p. 31.

smaller percentage in bonds of governmental subdivisions, than is the case in any of the other states concerned.

In a comparison of management policies it should be remembered that South Dakota's Fund is managed by the Commissioner, but that it is intrusted to the counties for investment. The Fund in Iowa is similarly managed. A letter received from the office of the Auditor of the State of Iowa stated that the counties can manage the Fund better than the State, and that more individual borrowers have access to Fund money than they would if the State administered the Fund.

In 1935 Montana had more than four million dollars invested in farm mortgages from which the State thought it might suffer a loss; so it set up a State Farm Loan Sinking Fund. This Fund was established to provide for the repayment to the Public School Permanent Fund of the entire investment in farm loans as of January 1, 1935. To accomplish this end, the Fund operates as follows:

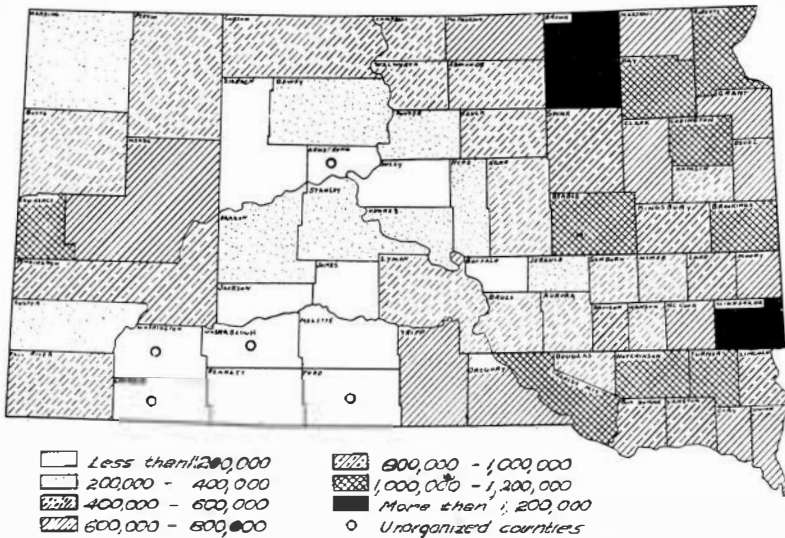
"All moneys received from farm loans, from whatever source, are credited to the State Farm Loan Sinking Fund. A quarterly transfer is then made to the Public School Permanent Fund and Public School Interest and Income Fund, the amount transferred to the latter being interest at the rate of 2 percent per annum on the unpaid balance of the total investment. Whatever is left over and above the amount of interest thus paid is transferred to the Public School Permanent Fund which is thus being slowly reimbursed for its investment in farm loans."

North Dakota's Fund, like Montana's, is state-managed. A letter received from the Deputy Commissioner of North Dakota in December 1939 stated that he believes the State can administer the Fund better than the counties as

4. Montana Department of State Lands and Investments Biennial Report for the period ending June 30, 1938.

long as its management is kept out of politics. To eliminate politics, North Dakota has a three-man commission elected on overlapping terms of six, four and two years.

Importance of Fund to Educational Finance. Proceeds obtained from the investment of the principal of the Permanent School Fund, from the lease of State school lands, from interest on deferred payments to the Fund, from the sale of timber on school land, from coal and oil leases, and from fines for violation of laws pertaining to school lands, are placed in a fund known as the Interest and Income Fund. Money in the latter Fund is apportioned for school support to the various counties and then to the local school districts on the basis of their school population. (This includes people from 6 to 21 years of age.)



SOURCE: Commissioner of School and Public Lands of South Dakota

Fig. 1. Total Interest and Income Fund Apportionment to South Dakota Counties, 1890-1939.

Fig. 1 shows the amount of Interest and Income Fund money that was apportioned to the various counties for school support during the period 1890-1939. For that period the total apportionment to all counties, organized and unorganized, amounted to \$41,213,018, or about 11.2 percent of the per capita cost for education. In other words, the tax burden for school support was reduced by more than 41 million dollars. Consequently, it seems that all South Dakota citizens should be interested in the administration and welfare of the Permanent School Fund.

II. Analysis of House Joint Resolution No. 10

Several circumstances have contributed to the formulation of House Joint Resolution No. 10. Unfavorable and uncertain agricultural conditions probably underlie the whole situation, but some other related factors include the difficulty of investing the principal, increased delinquencies of principal and interest, increased number of Permanent School Fund foreclosures and the attitude of the counties toward their Permanent School Fund obligations.

Circumstances Leading to the Formulation of the Resolution. The Constitution of South Dakota provides that Fund money may be invested at not less than a 5 percent interest rate. In recent years the going rate of interest has been relatively lower than this; consequently, if counties and individuals can borrow at lower rates of interest elsewhere they will not borrow Fund money. Inasmuch as interest received from the investment of the Fund is the chief source of income for the Interest and Income Fund, the latter fund must necessarily apportion smaller amounts for school support when the Permanent School Fund is not wholly invested. In December 1935, more than \$1,670,000 was uninvested; at 5 percent interest for one year this would amount to an \$83,500 decrease in apportionment to the schools of the State. This is a loss of \$33,400 as compared with the \$50,100 that could have been obtained at 3 percent.

The interest rate for the use of Fund money was reduced from 6 to 5 percent in 1902. At the 1933 session of the legislature, an unsuccessful attempt was made to lower the rate from 5 to 4 percent in House Joint Resolution No. 3. Again, in 1939, House Joint Resolution No. 3 proposed to reduce the interest rate from 5 to 3 percent, but was defeated. This bill was incorporated into House Joint Resolution No. 10 later.

Prompt payment of principal and interest is also important for if either or both is delinquent, maximum income from the Fund is not possible. The various counties owed the Fund \$12,567,154 in principal and \$1,166,999 in delinquent interest on December 31, 1939 (Fig. 2).

If the counties cannot collect the principal and interest upon loans made, it is difficult for them to make payments to the Commissioner. Unfavorable agricultural and business conditions during the last decade tended to lower land prices considerably and in some instances loans made a few years ago equal or exceed the present value of the land. Such being the situation, it is not surprising that the various counties have foreclosed upon mortgages on which they were receiving no payments, expecting to realize some income from the lease or sale of the lands involved. Since agricultural land sales have not been numerous in recent years, the extent of county-owned nontaxable land has been increased. Foreclosure of mortgages and the transfer of lands to a nontaxable status does not always mean a reduction in tax revenues, however, for the land may be in a non-taxpaying status already.

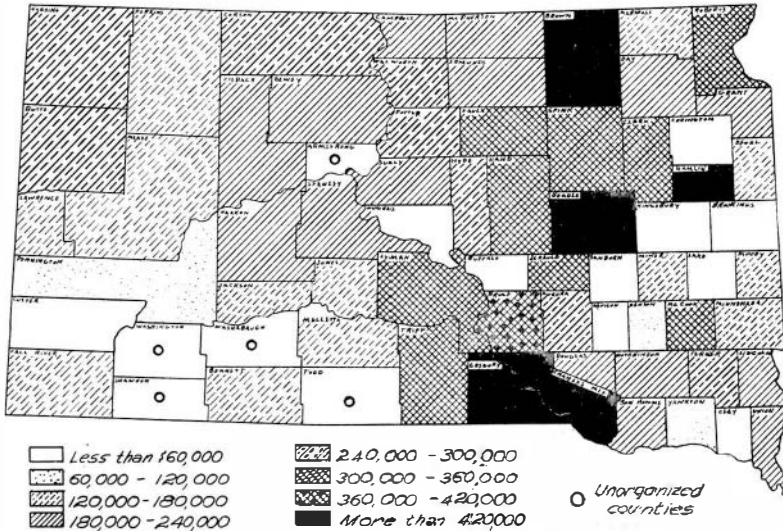


Fig. 2. Total Amount Owed to the Permanent School Fund by the Various South Dakota Counties, December 31, 1939.

Senate Bill No. 53 which was passed at the 1935 session of the legislature allowed the counties to make special tax levies for their Permanent School Fund obligations. Findings from an investigation of the levies made by the counties since that time disclose the fact that for the most part, the counties which owe the Fund the greatest amount of money have made smaller tax levies to meet their obligations than the counties with less indebtedness.

Tax levies for Fund purposes, however, must be considered in relation to the total taxes levied by a county, and a small levy for this special purpose does not necessarily indicate a lack of desire to pay a debt. The amount of a tax levy is limited by the ability of the taxpayers, and the imposition of an additional special levy might only result in increased tax delinquency. In some cases, local public finance is in such a condition that it is probably unreasonable to expect the counties to retire their accumulated Fund obligations except over a period of years.

The Resolution. The foregoing circumstances have culminated in House Joint Resolution No. 10, a proposed amendment to Article VIII, Section 11, of the Constitution of South Dakota.

This proposal is not the first of its kind, for House Bill No. 264 which was introduced in the legislature in 1933 had a similar purpose. Although the bill was defeated, its ultimate objective was to allow the various counties to

substitute lands upon which Fund money had been loaned and foreclosure instituted for the principal loaned on the land.

To avoid confusion and to clarify any misunderstandings which might have arisen concerning House Joint Resolution No. 10, the more important parts of Section 11 of Article VIII of the Constitution of South Dakota are presented here. The words and sentences enclosed in parentheses are changes or additions to the Section, and the omission of words and sentences is indicated in this way . . .

House Joint Resolution No. 10. A Joint Resolution.

A Joint Resolution Proposing and Agreeing to an Amendment to Section 11 of Article VIII of the Constitution of the State of South Dakota, Relating to the Loaning of the Moneys of the Permanent School and Other Educational Funds and Authorizing the Turning Over to the Permanent School Fund of all Assets Thereof Held by the Several Counties, and the Release of Said Counties From All Liability by Reason of the Loans of Said Funds Submitting the Same to a Vote of the Electors of the State.

BE IT RESOLVED by the House of Representatives of the State of South Dakota, the Senate Concurring:

Section 1.

That Section 11 of Article VIII of the Constitution of the State of South Dakota be amended to read as follows:

Section 11. The moneys of the Permanent School and other Educational Funds shall be invested only in first mortgages upon good improved farm lands within this State, as hereinafter provided, or in bonds of school corporations within this State, or in bonds of the United States or of the State of South Dakota or any organized county, township or incorporated city in said State. The legislature shall provide by law the method of determining the amounts of said funds, which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in bonds of . . . organized counties, townships, or incorporated cities within the State, shall for such purpose be divided among the organized counties of the State in proportion to population as nearly as provisions . . . (of) law to secure continuous investment may permit . . . The amount of each loan shall not exceed one third of the actual value of the lands covered by the mortgage given to secure the same, such value to be determined by . . . (such means as the Legislature may provide), and in no case shall more than Five Thousand Dollars [\$5,000] be loaned to any . . . person, firm or corporation (other than a public corporation) and the rate of interest shall not be less than 3 percent per annum and shall be such other and higher rate as the Legislature may provide and shall be payable semiannually on the first day of January and July . . . (provided that any and all investments of the permanent school fund heretofore made by the several counties of this State under existing constitutional and statutory provisions, and all notes, mortgages and bonds evidencing and securing such investments, and all lands title of which has heretofore or may hereafter be taken by and in the names of any county as a result of a foreclosure of any mortgage securing money of such fund or by execution of said county of deeds of conveyance shall be assigned, transferred, and conveyed to the State of South Dakota for the benefit of permanent school funds, and that evidences of such transfers and conveyances of title shall be delivered to the Commissioner of School and Public Lands to be held, collected and administered by him as property belonging to such funds, and in such manner as the Legislature may provide.)

(Provided further that any county of this State that may have heretofore issued its bonds to liquidate its indebtedness of principal, interest or both to the Permanent School Fund under constitutional or statutory provisions heretofore existing, may assign and transfer to

the permanent school fund of this State any and all notes, mortgages and bonds representing and securing loan of said funds made by such counties under constitutional and statutory provisions heretofore existing which may convey to said permanent school fund any and all lands, title to which has heretofore been taken by and in the name of said county as a result of the foreclosure of any mortgage securing money of the permanent school fund, and the bonds so issued by any such county for said purposes, shall thereupon be and become the liability of the said permanent school fund.)

(Provided further that upon the assignment and transfer of all evidences of loans of the permanent school fund moneys and the conveyance of all lands acquired by the several counties of the state through the foreclosure of mortgages securing loans of such moneys to the permanent school funds of this state, that the several counties shall be released of all liability to such fund by reason thereof.)

The legislature shall provide by law for the safe investment of the permanent school fund and other educational funds, and for the prompt collection of interest and income thereof . . . (and shall provide any and all further legislation as it may be deemed necessary to carry fully into effect the provisions of this section.) . . .

Proponents' Arguments on the Resolution. Both proponents and opponents of the Resolution have definite reasons for their convictions. In an endeavor to present an unbiased picture of the situation, arguments of both groups are given. Citizens should weigh the advantages against the disadvantages of the proposed changes.

Those who advocate adoption of the Resolution maintain that:

(1) Its acceptance by the counties is optional; that is, if it is adopted at the coming election the counties may choose whether or not to participate in the privileges which it provides.

(2) The minimum sales price of \$10 per acre for school lands applies only to the lands granted to the State by the Federal government, and that if the Resolution passes, the various lands transferred to the State may be sold at any price. Inasmuch as Permanent School Fund loans are supposed to be made on improved farm lands, proponents believe that "lands upon which mortgages had been foreclosed would have as great a value as the raw lands originally granted to the State by the United States, and if such lands were worth \$10 per acre, then surely the foreclosed lands would be worth at least that sum."

(3) The interest rate for the use of Fund money should be reduced from 5 to 3 percent and this would facilitate a continuous and secure investment.

(4) South Dakota is the only one of the group of four states admitted into the Union in 1889 that permits its Permanent School Fund to be invested by the boards of county commissioners, for Montana, North Dakota and Washington's Funds are state-managed. They contend that North Dakota has invested Fund money in farm mortgages and has foreclosed upon about 22 per cent of them, while more than 44.5 percent of South Dakota's loans have been foreclosed.

5. "Preserve the Permanent School Fund," published by proponents of the Resolution, 1939.

(5) The cost of management by the State will not be any greater than the present cost, all things considered. Opponents of the Resolution stated in one of their circulars that the annual cost of management of Rural Credit lands is 17.24 cents per acre as compared with 1.04 cents per acre for managing state school lands. Proponents believe that when these figures were computed opponents considered only the State costs for school land management and failed to consider the costs of management to the counties.

(6) The present method of placing a tax upon all taxable property to defray Fund obligations is unfair. They say that no more than 5 percent of the electors in any one county have borrowed Fund money, yet all are taxed.

(7) Since more land is taxable in the eastern counties than in the western, the former are more able to pay their debts. They maintain further that although there is much nontaxable school land in the western counties which can be leased, the lease income from that land has to be turned in to the Commissioner who later apportions it back to the counties on the basis of school population; the eastern part of the State is the more thickly populated.

(8) If it passes the Permanent School Fund will be increased rather than decreased. They assert that the Department of School and Public Lands will acquire 239,203 acres of land in addition to that which it was granted originally. Since this land is supposed to be improved farm land, they believe that on the average it should sell for at least \$10 per acre.

Opponents' Arguments on the Resolution. Those who oppose the adoption of the Resolution maintain that:

(1) The commissioners of the various counties are not compelled to accept money offered for loan by the Commissioner of School and Public Lands, and that any county which possesses \$1,000 or more of the uninvested Fund money may return it to the Commissioner.

(2) Lands transferred to the State shall be state school lands and cannot be sold for less than \$10 per acre. In one of the circulars which the Commissioner prepared recently it was estimated that the value of land was less than that amount in 38 counties. At the present time the counties can sell, at any price, lands upon which Fund loans have been made and foreclosed.

(3) The interest rate charged for the use of Fund money should be reduced for the purpose of conformity to current market rates, but suggest that this could be accomplished through a separate amendment providing for this feature alone.⁶

(4) The State could not manage the Fund and school lands more efficiently than the counties. They cite the Rural Credits situation as an example. To manage 1,749,790 acres of land the Rural Credits Department spent \$302,251; to manage 2,845,583 acres the Department of School and Public Lands

6. "Save the School Fund," pamphlet by opponents of House Joint Resolution No. 10, p. 17.

spent \$30,000. Opponents maintain further that if the Resolution passes, nearly a million acres of land may be transferred to the Department of School and Public Lands. They believe that administration of these lands by the county commissioners without cost to the State as at present would be more economical than State management, necessitating a large field force.

(5) The principal of the Fund will not be increased by its passage, but rather it will be decreased. They claim that although the total acreage of school land may be greater than the acreage originally granted to the schools, the fiscal return will be less than the principal borrowed because much of the land transferred to the State is located in counties in which land values are very low.

(6) It contains no provision for making up losses to the Fund, and if a loss is suffered it is quite likely that a State tax will be levied to make up the loss. They believe that such a procedure would be unfair to those counties which have managed their Fund loans well.

(7) It will not remedy weaknesses of the present apportionment policy, for if it passes, additional acreages of land will be taken from the tax roll. The lease income from these lands will be apportioned to the counties according to population and perhaps rightly so, for school expenditures are greater in counties which have large enrollments.

(8) The extent of nontaxable land will be increased if it passes. The Rural Credits Department has found it difficult to sell its lands, and it can sell at any price. The amendment proposes to add nearly a million acres of land to the nontaxable list, none of which may be sold for less than \$10 per acre.

Critical Observations of the Resolution. If the Resolution passes, the various counties will be permitted to transfer to the State in lieu of the principal, lands upon which Fund money has been loaned. The interest rate charged for the use of Fund money will be reduced from 5 to 3 percent. All counties which have issued bonds to meet their Fund obligations will be allowed to transfer these bonds to the State for payment if the counties transfer to the State all Permanent School Fund equities for which the bonds were issued.

In a circular which they prepared for the 1939 session of the legislature, employes of the Department of School and Public Lands computed the amount of the average Permanent School Fund loan per acre in each of the various counties. They classified the loans as current, delinquent and foreclosed. The average sales price per acre of land in each county was also estimated. In an endeavor to compare the average Permanent School Fund loan per acre in each county with the estimated average sales value of land, only the loans and acreages classified as delinquent and foreclosed were considered. This was done because it is believed that current loans have been more conservative in nature than the others and that they would not be affected very much by the passage of the Resolution. Upon investigation it was found that the average Fund loan per acre for all counties exceeded the average estimated

sales value per acre by about \$4.70. In other words, if the lands are sold, the market values evidently will not cover the book values which will mean a loss to the Permanent School Fund. However, the real loss accrues when land values decline and not when the land is sold, and the fact that a fictitious book value can be maintained does not mean that the Fund can be kept intact simply by not selling the land.

Should the Resolution pass and approximately 1,000,000 acres of land be transferred to the Department of School and Public Lands in addition to the 2,800,000 acres which it now manages, any attempt at an intensive sales campaign might be hampered by the fact that no school lands may be sold for less than \$10 per acre. If such were the situation, greater attempts might be made to lease the lands and maintain the Interest and Income Fund. Complaints have been voiced against the present leasing policies for some claim that the lease rates charged for the use of school land have been too low in the past and that the acreage available has never been totally leased. Others say that if the lease rates are too low all land would be leased unless the individuals felt that they could use the land without paying rent. During the year ending June 30, 1937, 71.2 percent of the school land available for lease was leased, as compared with 81.8 percent for 1938. During these two years a total of \$347,395 and \$368,206 respectively, or an average of 16.9 and 15.6 cents per acre was received as lease income from school lands. Totals of \$775,433 and \$953,317 respectively, were received as interest from the investment of the Permanent School Fund for these two years.

Should a large acreage be transferred to the Department of School and Public Lands necessitating a larger administrative force, more school lands probably would be leased, and possibly at higher rates, but the costs of administration also would be increased. Past experiences of the Department indicate that income from the investment of the Fund has contributed more than lease income to the Interest and Income Fund.

Although it is impossible to predict rental and interest returns in the future, evidences from past experiences are that if the Resolution passes and much land is transferred to the State, relatively little of which is sold, and the Interest and Income Fund is forced to rely more heavily upon lease income than on interest on the investment, apportionments for school support will be decreased.

There has been considerable argument as to whether the lands that would be transferred back to the State if the Resolution passes legally could be sold at their market price or at the \$10 per acre minimum price. In the 1939 Code when referring to the sales of school land, it is stated, "No land shall be sold for less than the appraised value and in no case for less than ten dollars an acre." This stipulation seems to imply that all lands owned and managed by the Department of School and Public Lands are subject to the \$10 per acre minimum sales price.

Safe investment is imperative to the successful operation of the Permanent School Fund. Although the greater part of the Fund is invested in first mortgages on farm land and even though this type of investment has been rather unsafe and uncertain in recent years, no changes that might improve upon the present investment policy, other than the reduction of the interest rate, are made in the Resolution.

Although much criticism has been voiced against the present method of apportionment on the basis of school population, the Resolution presents no solution to this difficulty.

No provision is made in the Resolution for the payment of delinquent interest owed on the principal by the various counties. This amounted to more than \$1,166,000 on December 31, 1939. Twenty counties owed no delinquent interest, while one owed \$99,000. If the Resolution passes, that county which owes \$99,000 apparently will be freed of its obligations, while those counties which owe nothing will receive no consideration for their prompt interest payments.

The provision for the reduction in the minimum interest rate from 5 to 3 percent for the use of Fund money is a desirable provision of the Resolution. The proposed amendment also is beneficial in that it discloses problems in the administration of the Department of School and Public Lands which will have to be solved in the near future. All things considered, however, it appears that the implications of the Resolution would increase rather than decrease the number of problems which confront the management of the Permanent School Fund and the Department of School and Public Lands.

III. Suggestions and Recommendations

Findings from the study of the Permanent School Fund of South Dakota and House Joint Resolution No. 10 pertaining thereto, have prompted suggestions for certain changes in management of the Fund and the Department of School and Public Lands.

The Resolution. Management problems of the Permanent School Fund and the Department of School and Public Lands will not be remedied regardless of whether the amendment is accepted or rejected. If the Resolution passes, the problems of leasing and selling school lands still will prevail, and difficulties mentioned regarding the types of investment of the Permanent School Fund and the apportionment of Interest and Income Fund money will still be unsolved. Legal disputes involved in transferring mortgages, bonds and lands from the counties to the State will be numerous. If the Resolution is rejected, existing problems will remain unsolved, but presumably the public will be conscious of them and may encourage a more thorough analysis of the whole situation.

The problem warrants careful consideration. Perhaps the Governor should be empowered to appoint a committee to investigate further and endeavor

to arrive at a more satisfactory solution to the situation than is presented in House Joint Resolution No. 10.

The Permanent School Fund. If the interest rate charged for the use of Fund money were a flexible one which varied with business conditions, perhaps the Fund could be more consistently and securely invested. According to the experiences of this and neighboring states, bond investments are the more secure. Perhaps more of South Dakota's Fund should be invested in bonds. If the apportionment policy were operated in such a way that the counties received money back from the Interest and Income Fund in proportion to their contribution to the Fund and their financial need, it is possible that the counties would manage Fund money more conservatively and lease more school lands. Under the present system of management the Commissioner of School and Public Lands, who is virtually the banker of the Fund money, knows only how much principal and delinquent interest is owed by each county. If the counties were compelled to submit an annual report as to how they have invested the Fund money which they have received, they probably would be more conservative in its management.

Department of School and Public Lands. Nebraska has classified 218,000 acres of school land in 15 counties as to topography, soil type and proper land use. In his 31st Biennial Report, the Commissioner of Public Lands and Buildings of that State recommended that all school lands be classified and reappraised. No detailed classification such as Nebraska's has been made in South Dakota, however. If South Dakota's school lands were so classified it seems that more profitable lease and sales transactions could be conducted. The highest regard is held for General W. H. Beadle for insisting upon the \$10 per acre minimum sales price for school lands when the State was admitted into the Union. However, today the situation has changed considerably. Inasmuch as the Constitution provides that the best lands be sold first, it is not surprising that land sales have been declining in recent years. If the \$10 per acre minimum sales price for school lands were removed and the lands could be sold for their market value, it seems that more lands would be sold, thereby increasing the principal of the Fund and decreasing the extent of non-taxable land. The next suggestion is not a reflection on the work of any particular Commissioner, but since the primary duty of each Commissioner is to manage equities of educational institutions it seems that the selection of a Commissioner on a nonpartisan ballot and according to his training and experience would be highly desirable.