

2016 Regular Session

SENATE BILL NO. 214

BY SENATOR WALSWORTH

FUNDS/FUNDING. Constitutional amendment to repeal certain constitutionally dedicated and protected allocations and funds. (2/3-CA13s1(A))

1 A JOINT RESOLUTION

2 Proposing to amend Article VII, Section 4.1, 10(F)(2)(a) and (b) and (4)(d) and 11, Article  
3 VIII, Section 13(B), and Article XII, Section 6(A)(1) of the Constitution of  
4 Louisiana and to repeal Article VII, Sections 4(D)(4)(b), 10(F)(4)(e), (f), and (g),  
5 10-A, 10.1, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9, 10.10, 10.11, 10.12, 10.13, 10.14,  
6 and 26, and Article IX, Sections 9 and 10, all relative to certain dedications of  
7 monies and special treasury funds; to amend certain provisions relative to a projected  
8 deficit; to repeal or abolish certain constitutional dedications or funds; to direct the  
9 state treasurer, after paying any outstanding obligations associated with such  
10 dedications or funds, to deposit any monies remaining after the abolition of such  
11 dedications or funds into the state general fund; to provide for the disposition of any  
12 property or other assets associated with dedications which are abolished or repealed;  
13 and to specify an election for submission of the proposition to electors and provide  
14 a ballot proposition.

15 Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members  
16 elected to each house concurring, that there shall be submitted to the electors of the state, for  
17 their approval or rejection in the manner provided by law, a proposal to amend Article VII,

1 Section 4.1, 10(F)(2)(a) and (b) and (4)(d), and 11 of the Constitution of Louisiana, to read  
2 as follows:

3 §4.1. Cigarette Tax Rates

4 Section 4.1. ~~To ensure revenue for the dedication provided for in Article VII,~~  
5 ~~Section 10.8(C)(2)(c) of this constitution, the~~ **The** rate of the tax levied pursuant to  
6 R.S. 47:841(B)(3) shall not be less than the rate set forth in that provision as it exists  
7 on January 1, 2012.

8 \* \* \*

9 §10. Expenditure of State Funds

10 Section 10.

11 \* \* \*

12 (F) Projected Deficit.

13 \* \* \*

14 (2)(a) Notwithstanding any other provision of this constitution to the  
15 contrary, adjustments to any constitutionally protected or mandated allocations or  
16 appropriations, and transfer of monies associated with such adjustments, are  
17 authorized when state general fund allocations or appropriations have been reduced  
18 in an aggregate amount equal to at least seven-tenths of one percent of the total of  
19 such allocations and appropriations for a fiscal year. Such adjustments may not  
20 exceed five percent of the total appropriation or allocation from a fund for the fiscal  
21 year. ~~For purposes of this Subsubparagraph, reductions to expenditures required by~~  
22 ~~Article VIII, Section 13(B) of this constitution shall not exceed one percent and such~~  
23 ~~reductions shall not be applicable to instructional activities included within the~~  
24 ~~meaning of instruction pursuant to the Minimum Foundation Program formula.~~  
25 Notwithstanding any other provisions of this constitution to the contrary, monies  
26 transferred as a result of such budget adjustments are deemed available for  
27 appropriation and expenditure in the year of the transfer from one fund to another,  
28 but in no event shall the aggregate amount of any transfers exceed the amount of the  
29 deficit.

1 (b) Notwithstanding any other provision of this constitution to the contrary,  
 2 for the purposes of the budget estimate and enactment of the budget for the next  
 3 fiscal year, when the official forecast of recurring revenues for the next fiscal year  
 4 is at least one percent less than the official forecast for the current fiscal year, the  
 5 following procedure may be employed to avoid a budget deficit in the next fiscal  
 6 year. An amount not to exceed five percent of the total appropriations or allocations  
 7 for the current fiscal year from any fund established by law or this constitution shall  
 8 be available for expenditure in the next fiscal year for a purpose other than as  
 9 specifically provided by law or this constitution. ~~For the purposes of this~~  
 10 ~~Subsubparagraph, an amount not to exceed one percent of the current fiscal year~~  
 11 ~~appropriation for expenditures required by Article VIII, Section 13(B) of this~~  
 12 ~~constitution shall be available for expenditures for other purposes in the next fiscal~~  
 13 ~~year.~~ Notwithstanding any other provisions of this constitution to the contrary,  
 14 monies made available as authorized under this Subsubparagraph may be transferred  
 15 to a fund for which revenues have been forecast to be less than the revenues in the  
 16 current fiscal year for such fund. Monies transferred as a result of the budget actions  
 17 authorized by this Subsubparagraph are deemed available for appropriation and  
 18 expenditure, but in no event shall the aggregate amount of any such transfers exceed  
 19 the amount of the difference between the official forecast for the current fiscal year  
 20 and the next fiscal year.

21 \* \* \*

22 (4) The provisions of Subparagraphs (1) and (2) of this Paragraph shall not  
 23 be applicable to, nor affect:

24 \* \* \*

25 ~~(d) The Louisiana Education Quality Trust Fund as defined in Article VII,~~  
 26 ~~Section 10.1(A)(1) of this constitution.~~

27 ~~(e) The Millennium Trust as provided in Article VII, Section 10.8 of this~~  
 28 ~~constitution, except for appropriations from the trust.~~

29 (f) Any monies not required to be deposited in the state treasury as provided

1 in Article VII, Section 9 of this constitution.

2 ~~(g) The Medicaid Trust Fund for the Elderly created under the provisions of~~  
3 ~~R.S. 46:2691 et seq.~~

4 \* \* \*

5 §11. Budgets

6 Section 11.(A) Budget Estimate. The governor shall submit to the legislature,  
7 at the time and in the form fixed by law, a budget estimate for the next fiscal year  
8 setting forth all proposed state expenditures. This budget shall include a  
9 recommendation for appropriations from the state general fund and from dedicated  
10 funds, ~~except funds allocated by Article VII, Section 4, Paragraphs (D) and (E),~~  
11 which shall not exceed the official forecast of the Revenue Estimating Conference  
12 and the expenditure limit for the fiscal year. The recommendation shall also comply  
13 with the provisions of Article VII, Section 10(D). This budget shall include a  
14 recommendation for funding of state salary supplements for full-time law  
15 enforcement and fire protection officers of the state, as provided in Article VII,  
16 Section 10(D)(3) of this constitution.

17 \* \* \*

18 Section 2. Be it resolved by the Legislature of Louisiana, two-thirds of the members  
19 elected to each house concurring, that there shall be submitted to the electors of the state, for  
20 their approval or rejection in the manner provided by law, a proposal to amend Article VIII,  
21 Section 13(B) of the Constitution of Louisiana, to read as follows:

22 §13. Funding; Apportionment

23 Section 13.

24 \* \* \*

25 (B) Minimum Foundation Program. The State Board of Elementary and  
26 Secondary Education, or its successor, shall annually develop and adopt a formula  
27 which shall be used to determine the cost of a minimum foundation program of  
28 education in all public elementary and secondary schools as well as to equitably  
29 allocate the funds to parish and city school systems. Such formula shall provide for

1 a contribution by every city and parish school system. Prior to approval of the  
 2 formula by the legislature, the legislature may return the formula adopted by the  
 3 board to the board and may recommend to the board an amended formula for  
 4 consideration by the board and submission to the legislature for approval. The  
 5 legislature shall annually appropriate funds sufficient to fully fund the current cost  
 6 to the state of such a program as determined by applying the approved formula in  
 7 order to insure a minimum foundation of education in all public elementary and  
 8 secondary schools. ~~Neither the governor nor the legislature may reduce such~~  
 9 ~~appropriation, except that the governor may reduce such appropriation using means~~  
 10 ~~provided in the act containing the appropriation provided that any such reduction is~~  
 11 ~~consented to in writing by two-thirds of the elected members of each house of the~~  
 12 ~~legislature.~~ The funds appropriated shall be equitably allocated to parish and city  
 13 school systems according to the formula as adopted by the State Board of  
 14 Elementary and Secondary Education, or its successor, and approved by the  
 15 legislature prior to making the appropriation. Whenever the legislature fails to  
 16 approve the formula most recently adopted by the board, or its successor, the last  
 17 formula adopted by the board, or its successor, and approved by the legislature shall  
 18 be used for the determination of the cost of the minimum foundation program and  
 19 for the allocation of funds appropriated.

20 \* \* \*

21 Section 3. Be it resolved by the Legislature of Louisiana, two-thirds of the members  
 22 elected to each house concurring, that there shall be submitted to the electors of the state, for  
 23 their approval or rejection in the manner provided by law, a proposal to amend Article XII,  
 24 Section 6(A)(1) of the Constitution of Louisiana, to read as follows:

25 §6. Lotteries; Gaming, Gambling, or Wagering

26 Section 6.(A) Lotteries. (1) The legislature may provide for the creation and  
 27 operation of a state lottery and may create a special corporation for that purpose  
 28 whose employees shall not be subject to state civil service. ~~The net proceeds from~~  
 29 ~~the operation of the lottery shall be deposited in a special fund created in the state~~

1 ~~treasury entitled the Lottery Proceeds Fund. Amounts deposited in the fund shall not~~  
2 ~~be appropriated for expenditure in the same calendar year in which they are received.~~

3 The legislature shall annually appropriate ~~from the fund~~ **net proceeds from the**  
4 **operation of the lottery** only for the purposes of the minimum foundation program  
5 and no more than five hundred thousand dollars for services related to compulsive  
6 and problem gaming as may be provided by law. **Monies appropriated for the**  
7 **minimum foundation program or for services related to compulsive and**  
8 **program gaming shall not be available for expenditure in the same calendar**  
9 **year in which they are received.**

10 \* \* \*

11 Section 4. Be it resolved by the Legislature of Louisiana, two-thirds of the members  
12 elected to each house concurring, that there shall be submitted to the electors of the state, for  
13 their approval or rejection in the manner provided by law, a proposal to repeal Article VII,  
14 Sections 4(D)(4)(b), 10(F)(4)(e), (f), and (g), 10-A, 10.1, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8,  
15 10.9, 10.10, 10.11, 10.12, 10.13, 10.14, and 26 and Article IX, Sections 9 and 10 of the  
16 Constitution of Louisiana.

17 Section 5. Be it further resolved that upon adoption of this proposed amendment by  
18 the electors of the state of Louisiana, the state treasurer is hereby authorized and directed to  
19 pay any outstanding debt or other obligations associated with such dedications or funds as  
20 provided by those dedications or funds and after compliance with the provisions of Article  
21 VII, Section 9 of the Constitution of Louisiana relative to the Bond Security and Redemption  
22 fund, and to deposit any monies remaining into the state general fund of the state of  
23 Louisiana. Upon the adoption of this proposed amendment by the electors of the state of  
24 Louisiana, the commissioner of administration is hereby authorized and directed to transfer  
25 any property, buildings, or other immovables associated with a repeal or abolition of a  
26 dedication or fund, in a manner as provided by law to effect these provisions.

27 Section 6. Be it further resolved that this proposed amendment shall be submitted to  
28 the electors of the state of Louisiana at the statewide election to be held on November 8,  
29 2016.

1 Section 7. Be it further resolved that on the official ballot to be used at said election  
2 there shall be printed a proposition, upon which the electors of the state shall be permitted  
3 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as  
4 follows:

5 Do you support an amendment to repeal the following constitutionally  
6 protected dedications or funds: Atchafalaya Basin Conservation Fund;  
7 Louisiana Wildlife and Fisheries Conservation Fund; Louisiana Education  
8 Quality Trust Fund; Budget Stabilization Fund; Higher Education Louisiana  
9 Partnership Fund; Mineral Revenue Audit and Settlement Fund; Oilfield Site  
10 Restoration Fund; Oil Spill Contingency Fund; Millennium Trust; Louisiana  
11 Fund; Millennium Leverage Fund; Artificial Reef Development Fund;  
12 Agricultural and Seafood Products Support Fund; Hospital Stabilization  
13 Fund; Louisiana Medical Assistance Trust Fund; Revenue Sharing Fund;  
14 First Use Tax Trust Fund; Louisiana Investment Fund for Enhancement; and  
15 Lottery Proceeds Fund; and to delete certain Minimum Foundation Program  
16 expenditure provisions?

17 (Amends Article VII, Section 4.1, 10(F)(2)(a) and (b) and (4)(d), and 11,  
18 Article VIII, Section 13(B), and Article XII, Section 6(A)(1) of the  
19 Constitution of Louisiana and repeals Article VII, Sections 4(D)(4)(b),  
20 10(F)(4)(e), (f), and (g), 10-A, 10.1, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9,  
21 10.10, 10.11, 10.12, 10.13, 10.14, and 26 and Article IX, Sections 9 and 10)

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Ben Huxen.

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DIGEST

SB 214 Original                      2016 Regular Session                      Walsworth

Present constitution provides for various constitutionally protected funds and dedications of monies.

Present constitution provides for the Atchafalaya Basin Conservation Fund (Art. VII, Sec. 4(D)(4)(b)) which is a special treasury fund created in the Louisiana Constitution which provides that an amount equal to 50% of the revenues received from severance taxes and royalties on state lands in the Atchafalaya Basin, but not to exceed 10 million dollars each fiscal year, shall be deposited by the treasurer into the Atchafalaya Basin Conservation Fund. The monies in the fund shall be used exclusively for projects contained in the state or federal

Basin master plans or an annual Basin plan developed and approved by the advisory or approval board created by law specifically for that purpose, or to provide match for the Atchafalaya Basin Floodway System, Louisiana Project.

Proposed constitutional amendment repeals this fund.

Present constitution provides for the Wildlife and Fisheries Conservation Fund (Art. VII, Sec. 10-A) which monies are derived from the following:

- (1) All revenue from the types and classes of fees, licenses, permits, royalties, or other revenue paid into the Conservation Fund as provided by law on the effective date of this Section.
- (2) The balance remaining on June 30, 1988, in the Conservation Fund established pursuant to R.S. 56:10.
- (3) All funds or revenues which may be donated expressly to the Conservation Fund.

Present constitution provides that the monies in the Conservation Fund shall be appropriated by the legislature to the Department of Wildlife and Fisheries, and shall be used solely for the programs and purposes of conservation, protection, preservation, management, and replenishment of the state's natural resources and wildlife.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the La. Education Quality Trust Fund (LEQTF in Art. VII, Sec. 10.1) which is a permanent trust in the treasury were derived under Section 1337(g) of Title 43 of the United States Code which are attributable to mineral production activity or leasing activity in the Outer Continental Shelf. Created the Permanent Trust Fund and the Support Fund within the LEQTF. Monies may be spent from the Support fund for educational purposes-50% for higher education and 50% for elementary and secondary purposes.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Budget Stabilization Fund (Art VII, Sec. 10.3) which receives funds from: all state general fund and dedicated funds in excess of the expenditure limit (except local severance and royalty allocations); mineral revenues over the base (\$850 million) after allocation of monies to the Bond Security and Redemption Fund, after making local allocations of severance and royalty payments, and after requirements for the Conservation Fund and the La. Education Quality Trust Fund.

Present constitution provides that the monies in the fund may be used:

- (1) If the official forecast of recurring money for the next fiscal year is less than the official forecast for the current fiscal year. The difference not to exceed one-third of the fund shall be incorporated into the next year's official forecast if approved by two-thirds of the members of each house of the legislature.
- (2) If a deficit for the current fiscal year is projected due to a decrease in the official forecast, an amount equal to one-third of the fund not to exceed the projected deficit may be appropriated if approved by two-thirds of the members of each house of the legislature.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Higher Education Louisiana Partnership Fund (Art. VII, Sec. 10.4) receives its monies from any monies appropriated by the

legislature, grants, gifts and donations. Monies may be used for matching grants for the Higher Education Louisiana Partnership Program which shall be administered by the Board of Regents.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Mineral Revenue Audit and Settlement Fund (Art. VII, Sec. 10.5) are derived from settlements or judgments equaling, in both principal and interest, five million dollars or more resulting from underpayment of severance taxes, royalty payments, bonus payments, or rentals. Requires the treasurer to make allocations to the Bond, Security, and Redemption Fund, the severance and royalty payments to local governments, and as required to the Conservation Fund, the Coastal Protection and Restoration Fund, and the Budget Stabilization Fund.

Present constitution provides that after making those allocations, the treasurer shall credit 35 million dollars into the Coastal Protection and Restoration Fund. Any monies that remain in the fund may be appropriated by the legislature for the purpose of retirement in advance of maturity of debt of the state or to the unfunded accrued liability of the public retirement systems.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Oilfield Site Restoration Fund (Art. VII, Sec. 10.6) are derived from all revenues from the types and classes of fees, penalties, other revenues, or judgments associated with site cleanup activities paid into the fund on the effective date of the amendment; any increase in such amounts charged after the effective date; the balance in the fund as of January 4, 1996; all funds or revenues which may be donated; and all site-specific trust account funds established by law.

Present constitution provides that the monies in the fund shall be appropriated to the Department of Natural Resources and used solely for the programs and purposes of oilfield site restoration.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Oil Spill Contingency Fund (Art. VII, Sec. 10.7) are derived from:

- (1) All revenue from the types and classes of fees, taxes, penalties, judgments, reimbursements, charges, and federal funds collected or other revenue paid into the contingency fund as provided by law on the effective date of this Section.
- (2) The balance remaining on January 4, 1996, in the Oil Spill Contingency Fund established by law.
- (3) All funds or revenues which may be donated expressly to the fund.

Present constitution provides that the monies in the fund shall be appropriated by the legislature to be used solely for the programs and purposes of abatement and containment of actual or threatened unauthorized discharges of oil as provided by law; and for administrative expenses associated with such programs and purposes as provided by law.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the Millennium Trust (Art. VII, Sec. 10.8) was established as a special permanent trust in the state treasury pursuant to certain monies received following a Master Settlement Agreement with certain tobacco manufacturers in the United States. Seventy-five percent of the proceeds were allocated to the Millennium Trust.

Proceeds and interest earnings on the Trust were allocated to the Health Excellence Fund, the Education Excellence Fund, and the TOPS Fund which were created within the Trust. Currently each of the funds get one-third of the annual interest earnings on the Trust, the Health Excellence Fund also gets the additional tobacco tax levy of four-twentieths of one cent per cigarette, and the TOPS Fund receives 100% of the Millennium Trust Settlement proceeds and one-third of annual interest.

Present constitution provides for spending the monies as follows:

- (1) The TOPS Fund is spent exclusively for the state programs for financial assistance for students attending Louisiana institutions of postsecondary education.
- (2) The Health Excellence Fund shall be for initiatives for the state's children through the provision of appropriate health care and initiatives to benefit citizens through the pursuit of innovation in advance health care sciences.
- (3) The Educational Excellence Fund monies are provided for a variety of elementary and secondary education purposes.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Louisiana Fund (Art. VII, Sec. 10.9) are derived from the remaining 25% of the tobacco settlement allocation as provided in the Millennium Fund. Appropriations from the fund shall be restricted to the following purposes:

- (1) Initiatives to ensure the optimal development of Louisiana's children through enhancement of educational opportunities and provision of appropriate health care.
- (2) Initiatives to benefit citizens with respect to health care through the pursuit of innovation.
- (3) Provision of direct health care for tobacco-related illnesses; educational initiatives to diminish tobacco-related injury.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Millennium Leverage Fund (Art. VII, Sec. 10.10) was established as part of the tobacco settlement. It authorized, by passage of a specific legislative instrument upon a two-thirds vote of each house of the legislature, for deposit of all or a portion of the monies received in the settlement. It allowed up to 50% of the monies to be invested in stock. It also allowed for the issuance of revenue bonds. Appropriations from the bond proceeds could be used for: 25% for the TOPS Fund; 25% for the Health Excellence Fund; 25% for the Education Excellence Fund; and 25% for the Louisiana Fund purposes.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Artificial Reef Development Fund (Art. VII, Sec. 10.11) which are derived from grants, donations of monies, and other forms of assistance from private and public sources for the purpose of siting, designing, constructing, permitting, monitoring, and otherwise managing an artificial reef system. Monies in the fund are appropriated by the legislature to the Department of Wildlife and Fisheries for such purposes.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Agricultural and Seafood Products

Support Fund (Art. VII, Sec. 10.12) are derived from any monies it receives from the licensing of trademarks or labels for use in promoting La. agricultural and seafood products, grants, gifts, donations, and any other revenues as may be provided by law. Monies in the fund may be appropriated solely for the programs and purposes as required by the Department of Economic Development for assistance to La. farmers and fishermen.

Proposed constitutional amendment repeals this fund.

Present constitution provides for the Hospitalization Stabilization Fund (Art. VII, Sec. 10.13) and provides that the legislature may annually adopt a Hospital Stabilization Formula to enhance the economic viability of La. hospitals and reduce shifting the cost of care for Louisiana's needy residents to the state's insured residents. Each formula shall establish reimbursement enhancements under the Medicaid Program.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Louisiana Medical Assistance Trust Fund (Art. VII, Sec. 10.14) are derived from fees as provided in law. The legislature is authorized to appropriate monies from the fund only if the appropriation is eligible for federal financial participation under Title XIX.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Revenue Sharing Fund (Art. VII, Sec. 26) are derived from the state general fund. Monies are annually allocated to parishes based on population and homesteads in each parish.

Proposed constitutional amendment repeals this fund.

Present constitution (Art. VIII, Sec. 13(B) and Art. VII, Sec. 10(F)(2)(a) and (b)) provides that the legislature shall annually appropriate sufficient monies to fully fund all public elementary and secondary schools to insure a minimum foundation of education throughout the state. Provisions prohibit reducing such funding unless consented to by a two-thirds vote of the members of each house of the legislature.

Proposed constitutional amendment deletes the language containing a two-thirds consent requirement.

Present constitution provides that the monies in the First Use Tax Trust Fund (Art. IX, Sec. 9) are derived from the first use tax imposed by law in 1978 or thereafter and any other tax imposed by law which would have the effect of imposing any new or alternative tax on the use of those resources subject to the first use tax. The treasurer shall pay into the state general fund such amounts as are necessary to fully reimburse the state general fund for tax credits granted in 1978.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Louisiana Investment Fund for Enhancement (Art. IX, Sec. 10) are derived from all revenues received by the state from the production of oil and gas within the state. Monies may be expended by appropriation by two-thirds of the members of each house of the legislature.

Proposed constitutional amendment repeals this fund.

Present constitution provides that the monies in the Lottery Proceeds Fund (Art. XII, Sec. 6) are derived from net proceeds from the operation of the lottery. The legislature shall annually appropriate from the fund only for the Minimum Foundation Program and no more than \$500,000 for services related to compulsive and problem gaming as may be provided

by law.

Proposed constitutional amendment directs the net proceeds to the state general fund.

Specifies submission of the amendment to the voters at the statewide election to be held on November 8, 2016.

(Amends Const. Art. VII, Secs. 4.1, 10(F)(2)(a) and (b) and (4)(d), and 11, Art. VIII, Section 13(B), and Art. XII, Sec. 6(A)(1); repeals Const. Art. VII, Secs. 4(D)(4)(b), 10(F)(4)(e), (f), and (g), 10-A, 10.1, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9, 10.10, 10.11, 10.12, 10.13, 10.14, and 26 and Art. IX, Secs. 9 and 10)