PAR 1999 Guide to the Constitutional Amendments

INTRODUCTION

Louisiana voters will be asked to make decisions on 16 proposed constitutional amendments this fall, 10 at the October 23 election and six at the November 20 election. The record number of proposed amendments to the 1974 constitution in one year was set just last fall at 20.

Louisiana leads the nation in the number of constitutions adopted (11) and, quite likely, in the frequency of their amendment. While the 1974 constitution cut the state's basic law from 255,000 to less than 35,000 words, the voters have added to its length considerably by approving 94 of 137 changes proposed since then.

The current batch of proposals ranges from a one-word addition to a complex, detailed amendment that would add 3,041 words—the equivalent of one-tenth the length of the original 1974 constitution. The Legislature's 128-page publication of the constitution would grow by some twelve pages if all the current proposals were approved.

The concept of the constitution as a relatively permanent statement of basic law for governing the state is rapidly being buried in detailed legal verbiage. Much of this language could be placed in the statutes. However, the Legislature apparently does not trust itself to avoid undoing programs, reforms, exemptions or dedications that it has mustered a two-thirds vote to create in the first place. In addition, special interests and the general public frequently demand constitutional protection for favored provisions.

Too frequently amendments are drafted for a specific situation rather than setting a guiding principle and allowing the Legislature to fill in the details. Then when the situation changes or a slightly different situation arises, a new amendment must be drafted. In some cases very rigid principles are set but numerous exceptions are then added by amendment. Occasionally, the Legislature approves amendment proposals hurriedly without considering all of the potential costs or ramifications.

Each of these problems with Louisiana's amendment practice can be demonstrated with examples from the current proposals:

- Instead of setting a general policy on stock purchases for long-term investments of state funds (or authorizing the Legislature to do so), the constitution is routinely amended to set limits for specific funds. Two current proposals would apply different policies to similar perpetual funds.
- One amendment, proposed initially to benefit several small groups of employees in the state civil service, was generalized to make it sound less specific without

Voter Checklist

October 23, 1999 Ballot

	For	Against	Proposed Amendment
1.	☐	☐	Legislative Sessions
2.	☐	☐	Tobacco Trust Fund
3.	☐	☐	Biennial State Budgeting
4.	☐	☐	Supplemental Pay
5.	☐	☐	Donation of Surplus Property
6.	☐	☐	Donation of Asphalt
7.	☐	☐	Higher Education Funding
8.	☐	☐	First-Time Felon Pardons
9.	☐	☐	North Rapides Parish School District
10.	☐	☐	Orleans Blighted Property

November 20, 1999 Ballot

1.	☐	☐	Board of Pardons Approval
2.	☐	☐	Wildlife Trust Funds
3.	☐	☐	Zachary School District
4.	☐	☐	Workers' Compensation Corporation, No Sale
5.	☐	☐	Workers' Compensation Corporation, Join LIGA
6.	☐	☐	Jury Exemption for Elders

adequately considering the potential impact when other similar groups decide to take action to be included as well.

- Two proposals would add to a lengthening list of exemptions from the broad constitutional prohibition against donating public funds or things of value. Instead of providing a way for the Legislature to grant reasonable exceptions, the two proposals would individually exempt very specific but quite similar types of donations of surplus property among public bodies, thus inviting future exemptions for slightly different donations.

- One proposal would repeal a provision hurriedly tacked on to a previous amendment at the last minute without due consideration--a common legislative courtesy when "local" issues are involved. Unfortunately, local issues often have much broader policy implications. Particularly when proposing constitutional policy, legislators should at least consider why a policy that is good for one area should not be applied statewide.

- In another case, the Legislature proposes undoing a basic constitutional policy which currently grants the Supreme Court authority to provide, by rule, for exemptions from jury duty. Following nationally recognized "best practices," the Supreme Court chose to eliminate all automatic exemptions. The Legislature chose to circumvent the court's rule-making authority by using the amendment process to add its own specific exemption, thus opening the door once again for other special interest exemptions.

Due to the Legislature's willingness to tamper with the constitution, voters are increasingly being required to decide issues that are highly complex, legalistic, specialized, applicable to a single place or time, extremely minor or, in some cases, purely symbolic. With 36 proposals on the ballot in two years, the electorate is being forced to take an extremely active role in the legislative process.

While the idea of seeking voter approval for a wide range of policy issues may appear quite democratic, the practice is less encouraging. Voter participation is often quite low. But even when there is a high turnout, many of those voting for candidates fail to vote on propositions. Over the past 20 years, the percent of registered voters who vote on proposed amendments ranged from a low of 18.1 to a high of 55.7. Thus, a proposal has never needed more than the votes of 28 percent of the registered voters, and as little as nine percent, to amend the state constitution.

Regardless of the number or length of the proposed amendments placed on the ballot, voters must carefully evaluate each proposal individually and make a decision based on its merits. However, a valid consideration is whether or not the proposed language belongs in the constitution.

It might be useful to begin looking at ways to improve the process of proposing amendments. A number of states make amendment a much more difficult and thoughtful process. Some, for example, require legislative approval in two separate sessions before placing a proposal on the ballot. This allows extra time for study and debate.

It may also be time to consider redrafting the entire constitution. However, unless the state is ready to accept the concept of a constitution as basic law and place greater trust and responsibility in the Legislature to deal with the details of government, the proliferation of law by amendment is likely to continue.

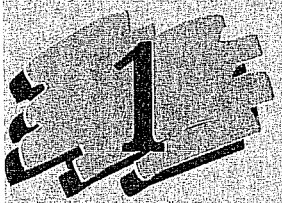
Voting on Louisiana Proposed Constitutional Amendments

	Number of Amendments Proposed	Number of Amendments Approved	Average Percent of Registrants Voting
1921 Constitution	802	536	--
1974 Constitution (Total)	137	94	--
November 7, 1978	1	1	29.9
October 27, 1979	3	3	37.5
November 4, 1980	4	4	55.7
September 11, 1982	8	4	24.9
October 22, 1983	3	3	44.2
November 6, 1984	5	0	53.7
September 27, 1986	7	2	39.3
November 21, 1987	5	5	32.3
October 1, 1988	1	0	27.5
April 29, 1989	1	0	46.8
October 7, 1989	13	5	28.3
October 6, 1990	15	14	46.9
October 19, 1991	8	5	47.1
October 3, 1992	5	2	29.4
November 3, 1992	7	0	53.7
October 16, 1993	6	6	18.1
October 1, 1994	4	4	30.9
October 21, 1995	15	13	46.9
November 18, 1995	1	1	53.2
September 21 1996	2	2	36.1
November 5, 1996	3	3	54.4
October 3, 1998	18	15	19.6
November 3, 1998	2	2	26.4

SOURCE: Official Promulgation, Secretary of State.

Proposed Amendments on the October 23, 1999 Ballot

(In Ballot Number Order)



Legislative Sessions

Current Situation: A 1993 constitutional amendment mandated shorter, fiscal-only legislative sessions (30 legislative days in 45 calendar days) in even-numbered years during which only appropriations and revenue and tax issues could be considered. The amendment also limited to five the number of bills a legislator could introduce once a session begins; set deadlines for bill prefiling and introduction, and final adjournment; and reserved the final days of a session for concurrence and conference committee reports. These changes were first implemented during the 1994 regular session.

Legislators have raised a number of complaints concerning the fiscal-only session. New legislators complain that the fiscal-only session prevents them from introducing legislation in the first session of their term. Many legislators complain that they have little to do until the budget committees report legislation. This is especially true for the Senate since bills appropriating money or raising revenue must first be introduced in the House. Another complaint is that the fiscal-only session format forces the convening of special sessions where the agenda is set by the governor, thus giving the governor too much power. In addition, the legislative staff is said to be overworked in odd-numbered years and underutilized in the fiscal-only years.

Proposals in the 1999 session to deal with legislators' complaints included bills to move the fiscal-only session to odd-numbered years to allow legislators to file non-fiscal legislation in the first year of their term, return to annual general sessions, remove subject matter restrictions for even-numbered years, allow introduction of bills outside the subject matter restriction, and limit the total number of bills legislators could file.

Proposed Change: The amendment would lengthen the regular sessions held in even-numbered years to 45 legislative days in 60 calendar days, allow each legislator to prefile five bills outside the "fiscal-only" subject matter restriction, and remove the subject matter restriction on local and special bills. It would specifically allow fees to be considered in fiscal-only sessions. Certain deadlines for bill prefiling, filing, and final passage would be slightly changed.

For odd-numbered year sessions, the amendment would change certain bill filing and passage deadlines and would allow legislation regarding tax exemptions, exclusions, deductions, or credits if they did not increase a tax liability.

The Legislature would be authorized to change the session schedule, but it could not change the maximum number of legislative days. Legislators could only receive per diem for 85 days in odd-number years and 60 days in even-numbered years for a regular session.

You Decide

☐ A vote *for* would allow legislators to each introduce five non-fiscal bills in fiscal-only sessions, add 15 days to the fiscal-only session, and allow flexibility in scheduling sessions.

☐ A vote *against* would continue to permit consideration of only fiscal issues in regular legislative sessions in even-numbered years.

Comment: The amendment proposes two major changes. The first only affects the fiscal-only session. The purpose of the amendment is to give Legislators some freedom to introduce non-fiscal subject matters in this session. If each legislator filed the five general bills allowed, it would add 720 bills to the session's workload. Removing the limit on special and local bills could add some more. Proponents argue the 15 extra days would be sufficient to handle the added workload.

As seen in Table 1, the enactment of fiscal-only sessions has significantly reduced the number of bills filed in even-numbered years from more than 3,000 to around 400 bills. Proponents argue that adding 720 bills would bring the number of bills back up to

about half of what it once was, may reduce the bill filings in the odd-numbered years, and would likely lessen the need for special sessions.

The second change allows the Legislature to modify certain constitutional provisions concerning the annual general sessions such as date of convening and number of calendar days in the session. In theory, the Legislature could convene January 1st and remain in session until June 30th as long as it did not exceed the legislative day limit during that period. Proponents note that it is highly unlikely the Legislature will extend the session significantly since this would interfere with their full-time jobs. In addition, lengthening the session would give opponents more time to organize opposition against their legislation.

Two other changes are noteworthy. In fiscal-only sessions, legislation concerning fees would be allowed. In odd-numbered years, the Legislature would be allowed to consider tax exemptions, exclusions, deductions, or credits if the change resulted in a tax break and not an increased tax liability. Currently, these cannot be considered in odd-numbered years.

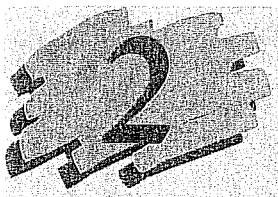
The rationale for going to fiscal-only sessions was to alleviate some of the pressures on lawmakers during regular sessions and allow them to concentrate exclusively on revenue and expenditure issues every other year. The change also separated the budget from other issues to reduce the tendency to "horse trade" support for certain budget issues for support on other issues.

Proponents of this amendment claim that it will increase the efficiency of the Legislature, reduce the workload in odd-numbered years, and reduce the governor's control over legislation in fiscal-only years when he can set the agenda for special sessions. Critics note that the Legislature has failed to properly implement the fiscal-only concept. Instead of having various committees closely scrutinize the budget submissions and performance of the state agencies in their area of oversight, the Legislature generally waits for the budget committees to finish their work and then debates the entire budget in open session.

Legal Citation: Act 1391 (Senator Hines) of the 1999 Regular Session, amending Article III, Section 2 (A).

TABLE 1
Legislature Bill Statistics

Year	Total House and Senate Bills Filed	Number/Type of Sessions
1988	3,024 (2,957 Regular Session)	2 Special 1 Regular
1989	2,844 (2,669 Regular Session)	2 Special 1 Regular
1990	3,294	1 Regular
1991	3,196 (3,138 Regular Session)	3 Special 1 Regular
1992	3,389	1 Regular
1993	3,412 (3,234 Regular Session)	1 Special 1 Regular
1994	1,171 (531 Fiscal-only Session)	4 Special 1 Fiscal Only
1995	3,883	1 Regular
1996	760 (313 Fiscal-only Session)	1 Special 1 Fiscal Only
1997	4,087	1 Regular
1998	819 (440 Fiscal-only Session)	1 Special 1 Fiscal Only
1999	3,397	1 Regular



Tobacco Trust Fund

Current Situation: In November 1998, Louisiana and 45 other states settled suits against the major tobacco companies. As a result, those companies are expected to make payments to Louisiana in perpetuity that will generally range from about $158 million to $180 million a year. This could amount to $4.6 billion over the next 25 years. The state will receive $199 million the first year (FY 1999-2000) of which $43 million was ruled nonrecurring and unavailable to spend for recurring or normal operating purposes. The remainder was budgeted to be spent in the current fiscal year, mostly to fill revenue gaps in the administration's operating budget.

A major issue in the 1999 legislative session was what to do with the new revenue stream. Some 30 bills proposed a variety of trust arrangements, spending dedications and specific program allocations. Because the settlement was ostensibly to reimburse the states for health costs related to smoking, some proposals stressed smoking related health, research and education programs.

Most of the proposals treated the settlement money as a type of "windfall" and stressed placing some portion in a permanent trust with the earnings to be used on new programs or extra spending beyond existing programs. In addition to health programs, many felt that education, at all levels, should be a prime beneficiary. The popular college scholarship program (TOPS), early-childhood programs and separate local school district trusts were among the purposes discussed.

There was also a strong sentiment for spending as much as half of the tobacco money as it is received each year. For example, the administration argued that the state's serious problems could be better served by "investing" in solutions now rather than waiting for trust fund earnings to build up in the future.

Others felt that all of the money should go into a permanent trust to build the largest possible endowment for the future. The state treasurer proposed a plan to place all of the money in a trust for investment and sell bonds to provide money to supplement the earnings that would be available for spending in the early years.

In the final hours of the 1999 session, both houses finally accepted a conference committee compromise combining elements of several proposals.

Proposed Change: The amendment would create the Millennium Trust Fund, a permanent trust fund comprised of three expendable funds (Health Excellence Fund, Education Excellence Fund and TOPS Fund) that would share equally in the trust and in the trust fund earnings. It would also create the Louisiana Fund to receive a portion of the annual tobacco settlement payments that could be spent each year.

The Millennium Trust Fund would receive 75% of the tobacco settlement payments after the third year. The fund would receive 45% in FY 2000-2001, 60% in FY 2001-2002 and 75% each year thereafter. The Legislature could increase the percentage above 75% by two-thirds vote but could not decrease it. The fund would be invested by the treasurer with a 35% limit on stock, but the Legislature could raise the limit to 50%. The investment earnings, less an inflation factor, would go equally to three special funds:

1. The **Health Excellence Fund** to be appropriated for health programs for children or the general public.

You Decide

☐ A vote *for* would put at least 75% of the state's tobacco settlement payments in a permanent trust fund; dedicate the earnings to TOPS, local school districts and health programs; and spend the other 25% annually on health and education. It would also allow the Legislature by two-thirds vote to put 100% of the settlement proceeds in a trust fund with the earnings dedicated to TOPS, local schools and health programs.

☐ A vote ***against*** would allow 100% of the payments to be spent each year subject only to statutory dedications.

2. The **Education Excellence Fund** to be distributed as follows:

- 15% to approved private schools
- $75,000 each plus a per-pupil amount to six special schools
- a per-pupil amount to independent public schools
- the remainder to public school systems with 30% in equal payments and 70% based on the system's share of the Minimum Foundation Program appropriation. After seven years, 100% would be distributed by student count.

The money could not supplant or replace state or local funding for existing programs nor be used for salary increases or capital improvements.

For the first three years, the fund would receive an extra 10% of the tobacco payments.

3. The **TOPS Fund** to be appropriated for financial assistance to students attending Louisiana postsecondary institutions.

The **Louisiana Fund** would receive 45% of the tobacco settlement money in FY 2000-2001, 30% in FY 2001-2002, 15% in FY 2002-2003 and 25% every year thereafter. This fund could be appropriated each year for children's health and education initiatives, health care science research grants, disease management, tobacco-related illness services and anti-smoking programs.

The amendment would also give the Legislature the option, by two-thirds vote, of putting all or some of the tobacco money into the **Millennium Leverage Fund**, a permanent trust fund to be invested with a 50% stock limit. Revenue bonds could then be issued against the tobacco money with the bond proceeds and trust fund earnings being distributed equally among the four expendable funds.

The companion legislation, Act 1295, restates the proposed amendment adding some administrative detail and placing percentage limits on appropriations from the Louisiana Fund. This portion of the act becomes effective July 1, 2000 contingent upon voter approval of the proposed constitutional amendment.

A separate section of the companion act, which was effective immediately, created the Louisiana Fund and allocates to it 100% of the tobacco settlement money beginning in the current fiscal year, thus allowing all of it to be spent the first year. This provision is automatically repealed after the first year if the voters approve the proposed constitutional amendment, otherwise it continues in place.

Comment: Proponents of the amendment argue it is a well-crafted compromise that accomplishes several objectives. It promises to put the bulk of the tobacco money into a permanent trust which could grow to $5.6 billion in 30 years. It targets spending from trust earnings to a number of worthwhile purposes—primarily health and education. It would help underwrite the TOPS program to assure its continuation in future years. It gives local school districts the means and flexibility to attack special needs in their areas. Furthermore, the Louisiana Fund spending dedications are written broadly enough to allow the tobacco money to be tapped for the next couple of years to help balance the operating budget.

Supporters argue that spending a portion of the tobacco settlement money as it is received is appropriate because, unlike a one-time windfall, it is a continuing revenue source.

The option to place 100% of the tobacco money in the leverage fund would allow the Legislature to consider taking advantage of the treasurer's proposed cash-management plan ("LIFT" plan). The Legislature, by resolution, authorized a task force to analyze the plan. If it performed as intended, the LIFT plan could provide the state the same amount of money to spend each year as would be expected under the 75% trust fund plan. More importantly, it could add $3.5 billion to the net balance in the permanent trust fund over 30 years (a projected total $13.2 billion balance less $4 billion in outstanding bonds equals $9.2 billion compared to $5.6 billion). These figures assume that after four years, the fund investments would earn an average 10% return and that 7% taxable bonds would be sold to provide the money for the state to spend in the early years while trust earnings are still small. The difference between the rate of return on the trust fund investments and the interest paid by the state on bonds to fund spending would go to build up the trust fund.

Some critics argue that an average 10% earnings may not be sustainable, that the cost of issuing bonds could rise and that the revenue stream could dry up leaving billions of dollars in unpaid bonds. Proponents counter that historical data supports the

10% earnings estimate and if the interest on bonds were to rise, so would the earnings on the fund. They argue that, even if the rate difference narrows, the trust will still gain something. There is also a possibility that nontaxable bonds could be sold at even lower interest rates to further increase the rate differential and the trust balance.

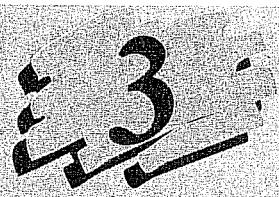
Under the LIFT plan, outstanding bonds would never exceed 50% of the trust fund balance. If the tobacco payments were to stop at any time, the bonds could be paid and the trust balance would still be larger than it would have been under the 75% trust fund plan. While the proposed amendment would not specifically limit the sale of bonds, political and practical constraints would apply. The amount of bonds sold would have to be determined by a two-thirds vote of the Legislature and there would be a popular outcry against any attempt to undermine the fund. More importantly, bond buyers would not allow the outstanding bond balance to become excessive, particularly considering the unreliable long-term prospects of the tobacco payments.

The proposed amendment as a whole has not drawn any organized opposition to date. Most of those who were interested in the tobacco money got something, if not all they wanted, from the compromise. The major criticism of the proposal has been from those who would prefer to see all of the tobacco money placed in a permanent trust with only the investment earnings being spent as they are earned.

Proponents of the amendment argue that, if the proposal is not adopted by the voters in 1999, the trust fund would be postponed, perhaps forever. They suggest that, considering the bleak revenue projections, the Legislature and governor could easily come to rely on the tobacco money to help balance the budget and may not be willing or able to give it up again.

Some aspects of the amendment have been faulted including its length, which would add over 3,000 words to the constitution, and the stock limit (35% to 50%) for the Millennium Fund—low for a long-term investment portfolio.

Legal Citation: Act 1392 (Representative Downer) of the 1999 Regular Session, adding Article VII, Sections 10.8, 10.9 and 10.10. The companion legislation is Act 1295 of the 1999 Regular Session.



Biennial State Budgeting

Current Situation: The Louisiana Constitution requires the Revenue Estimating Conference to issue an official forecast of anticipated revenues and the Legislature to establish an expenditure limit for the next fiscal year in the budgeting process. The governor is then required to submit to the Legislature a budget estimate for the next fiscal year which cannot exceed the expenditure limit or the revenue forecast. The governor also submits a proposed five-year capital outlay program and requests that money be appropriated for the first year of the proposal. Under the constitution, appropriations cannot be made for a period longer than a year and the governor must line-item veto or use other means to ensure that total appropriations for the fiscal year do not exceed anticipated revenues. The Constitution also mandates that adequate annual appropriations be given to specific state agencies, that spending plans or budgets be submitted annually to the Legislature for certain constitutionally created funds, and that certain constitutionally created funds receive appropriations from the Legislature annually.

You Decide

☐ A vote *for* would give the state the option to adopt a two-year budgeting process in the future if desired by the Legislature.

☐ A vote *against* would maintain the requirement that the state budget on an annual basis.

Proposed Change: The proposed amendment would make a number of wording changes that would allow the state to adopt a biennial budgeting process in the future. The Legislature would have to pass additional legislation to change from the current annual budgeting process.

Comment: The amendment specifically allows the state to change from an annual budgeting process to a biennial budgeting process. Passage of this

amendment does not mean that the state will adopt a biennial budgeting process, only that this process would be allowed if desired by the Legislature. In addition, the current constitution may already allow the passage of two annual budgets at one time, but this would still be subject to interpretation.

In 1940, 40 states used biennial budgeting. By 1997, only 20 states used a biennial process. Nine of these states use a budgeting process that biennially enacts a two-year budget. The other 11 states use a budgeting process that biennially enacts two one-year budgets. Several states have switched back and forth between an annual and biennial budgeting process. Research has not found a significant benefit in a state's use of either process, but any benefits are related to a state's implementation of the process.

Advantages cited for biennial budgeting include:

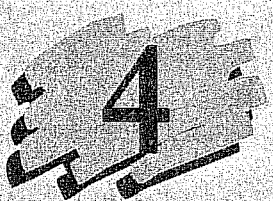
- Promoting better long-range and strategic planning.
- Allowing the state to redeploy the central budget staff to other tasks during the first year of the biennial budget. These tasks may include more in-depth program reviews and evaluations.
- Moving from a detailed line-item approach to a more policy-oriented approach to budgeting.
- Permitting time redistribution of staff and policymakers so that more time is spent developing the biennial budget and less time is needed for the mid-biennium review.

Disadvantages cited include:

- Difficulty of accurately predicting revenues because of changing economic conditions or unstable tax systems.
- Less responsiveness of biennial process to adapt to changing economic and/or programmatic conditions since the process does not typically provide for major changes.
- Expense of reprogramming financial software to allow biennial budgeting.
- Additional workload stress on staff due to conversion to a biennial process.

Louisiana is one of five states that has implemented a comprehensive performance-based budgeting process. Proponents say that biennial budgeting would complement the state's performance-based budgeting process and would stabilize planning over a longer period. They also say that biennial budgeting would limit the exposure of each line item in the budget to the political process and allow for a better state budget. If enactment of the biennial budget was tied to the fiscal-only session, the Legislature would have the capability to enact a biennial budget and adjust taxes to obtain the required revenue. This would also remove the enactment of a budget from an election year.

Legal Citation: Act 1393 (Representative LeBlanc) of the 1999 Regular Session, amending Article III, Section 16 (A); Article IV, Section 5 (G) (2); Article VII, Sections 10 (B) and (C) (1), 10.1 (C) (1), 10.4 (A) (1), 10.5 (C), 11 (A) and (C), and 27 (B); Article VIII, Sections 7.1 (D) and 13 (B); and Article X, Sections 13 (A) and 51. Repeals Act No. 1489 of the 1997 Regular Session.



Supplemental Pay

Current Situation: Until 1990, sworn, commissioned law enforcement officers of the Division of the State Police, Department of Public Safety, and regularly commissioned officers of the Enforcement Division of the Department of Wildlife and Fisheries received state money to supplement their uniform pay plans. Supplemental pay provisions for these officers were removed by a 1990 constitutional amendment, which granted the State Civil Service Commission sole authority over their pay plans. Another 1990 amendment created a civil service system for the state police separate from the state civil service.

While the state no longer supplements the pay of state employees, it continues to pay $300 a month to various local employees including municipal and tribal police officers, deputy sheriffs, firefighters, constables and marshals. A number of state agencies, (port commissions, levee districts and others) provide police type services in local areas, however, their employees are covered by state civil service, which makes them ineligible for supplemental pay.

Proposed Change: The amendment would allow supplemental pay for sworn, full-time, commissioned law enforcement officers who provide police services to the general public while patrolling levees, bridges, waterways and riverfronts. The supplements could be paid from any available funds of the state, the department, the agency or the political subdivision.

Companion legislation, Act 1375, would provide a $300 per month state pay supplement to police officers who patrol levees, waterways and riverfront areas in New Orleans. The act's effective date is July 1, 1999, upon adoption of the amendment.

Act 1305 provides for a state pay supplement of $300 per month to police officers who patrol bridges in New Orleans. The effective date is July 1, 1999 but it is not made contingent on passage of the proposed amendment.

Comment: The proposed amendment was originally drafted for three specific agencies, Orleans Levee District Police, Port of New Orleans Harbor Police, and Crescent City Connection (bridge) Police. The bill was later amended to refer generically to officers who patrol levees, bridges, waterways and riverfronts. A companion act would extend the $300-a-month state payments to the levee district and harbor police in Orleans Parish and the bridge police were amended into another pay supplement bill, Act 1305.

Act 1305, for the bridge police, was pieced together in conference committee the last day of the session and the wording is unclear as to whether the supplement is to be paid from state general funds or from the agency's self-generated funds and whether the act requires adoption of the constitutional amendment to become effective.

Proponents argue that since officers of these agencies meet the same training requirements as New Orleans Police Department officers and perform similar duties, they too should be eligible for supplemental pay. Table 2 shows the pay for levee district and harbor police to be substantially lower than the pay for an officer of similar rank in the New Orleans police department. The Orleans Levee District and Harbor Police departments are primarily funded by self-generated revenues of the agencies and neither is currently paying the full amounts authorized under state civil service. However, even the authorized civil service pay is well below the pay for New Orleans city police and the difference ($3,600) is the amount of state supplemental pay the city police receive.

Table 2
Comparison of Police Officer Pay

	Base Salary	Total Pay
New Orleans Police Department Police Officer II	$26,448	$30,744[a]
State Civil Service Maximum	$21,744	$27,124
Allowable (GS 11)		
Port of New Orleans-Harbor Police (GS 11) Equivalent to NOPD Police Officer II	$18,864	$24,244[b]
Orleans Levee District Police Department (GS 11) Equivalent to NOPD Police Officer II	$17,724	$19,629[c]

a Includes uniform allowance, state supplemental pay and mileage.
b Includes $115 per month uniform allowance and $2 per hour premium pay. (Premium pay equates roughly to $3,900-$4000.)
c Includes 8% of an authorized 14% base supplement of $1,417.92 and a $9.75 per week uniform allowance.

Critics point out that while the statutory acts apply only to three agencies in Orleans Parish, the Legislature could extend supplemental pay at anytime to others who would be made eligible under the amendment. According to the Department of State Civil Service, 161 officers in Orleans Parish (including the 39 bridge police) would be initially affected by the amendment, while another 63 officers employed by four levee boards and two port commissions throughout the state could be added by statute. Depending on how liberally the amendment is interpreted, yet another 813 positions might be made eligible. For example, wildlife agents patrol waterways and even campus police patrol bridges that exist on college campuses.

You Decide

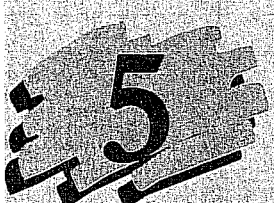
☐ A vote *for* would allow supplemental pay for law enforcement officers of state agencies who patrol levees, bridges, waterways and riverfronts.

☐ A vote *against* would continue to provide for payment of such officers exclusively by their agencies according to the state civil service pay plan.

The $300-per-month pay supplements for the 161 officers initially eligible would cost the state $579,600 a year. Critics expect that once officers in these agencies receive supplemental pay, other eligible groups will seek similar treatment at a cost to the state of well over $3.7 million a year. These groups could either seek their own statutory authority or file an equal protection claim with the courts.

Critics suggest that the affected agencies are seeking supplements from state general funds to avoid using their own self-generated revenue to bring officers pay up to the maximums already authorized by civil service. They suggest that these agencies should first provide the maximum allowable pay under their own budgets and, if salaries are still not competitive, work through civil service to upgrade them.

Legal Citation: Act 1394 (Senator Heitmeier) of the 1999 Regular Session, amending Article X, Section 10 (A)(1). The companion legislation includes Act 1375 and possibly Act 1305.



Donation of Surplus Property

Current Situation: The constitution prohibits the donation of funds, credit, property, or things of value of the state or of any political subdivision to any person, association, or corporation, public or private. Several exceptions are provided.

The constitution defines "political subdivision" to mean a parish, municipality, school board or special district authorized by law to perform governmental functions. These special districts include sheriffs' law enforcement districts and fire districts. Currently, these agencies must pay the fair market value of any surplus property they obtain from each other. If there is no sale between agencies, the surplus property goes to auction where it is sold to the highest bidder—public or private.

You Decide

☐ A vote *for* would allow the donation of movable surplus property among local agencies with public safety functions.

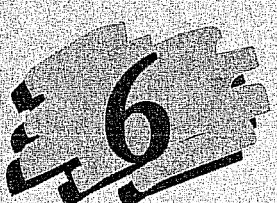
☐ A vote *against* would continue the general prohibition against such donations.

Proposed Change: The amendment would authorize the donation or exchange of movable surplus property between or among political subdivisions whose functions include public safety.

Comment: The purpose of this amendment is to make it legal for public safety agencies to donate property to other public safety agencies. For example, if a large or well-funded agency purchases new cars or radio equipment, it could donate its old equipment to a small or poorly-funded agency that cannot afford to purchase its own. The proposal was promoted by the Louisiana Sheriffs' Association and is supported by those agencies which might benefit from hand-me-down equipment.

Critics note that the anti-donation provision prevents the use of public funds for purposes other than those for which they were intended and any exception raises at least the potential for abuse or misuse.

Legal Citation: Act 1395 (Representative Smith) of the 1999 Regular Session, adding Article VII, Section 14 (E).



Donation of Asphalt

Current Situation: The constitution prohibits the donation of funds, credit, property, or things of value of the state to any person, association, or corporation, public or private. Several exceptions are provided.

Currently, asphalt removed during road construction or repair projects is disposed of in two ways. The contractors are given fifty percent to use as they wish. Generally it is recycled and reused to lay down new roads. The state retains the other fifty percent, most of which is used for maintenance projects such as patching roads and laying down shoulders. It

costs the state $1.50 per yard to have it ground up and taken to a storage area. The asphalt is valued at ten to twenty dollars per cubic yard.

The state eventually uses most of the asphalt that it puts into storage. If the Department of Transportation and Development (DOTD) determines that it has more asphalt in one location than it can use, the excess may be sold to the highest bidder.

Proposed Change: The amendment would allow the state to donate asphalt removed from state roads and highways to the governing authority of the parish or municipality where the asphalt was removed. If it is not needed by that governing authority, then it can go to any other parish or municipal governing authority, but only pursuant to a cooperative endeavor agreement between the state and the governing authority receiving the donated property.

Comment: Parishes and municipalities that are struggling to fund road improvements strongly support this proposal as a way of lowering the cost of their maintenance materials. The proposal would require a local government that wants to receive asphalt to sign a cooperative endeavor agreement specifying how it would be used. Proponents argue that this state oversight would assure the donated asphalt was used appropriately.

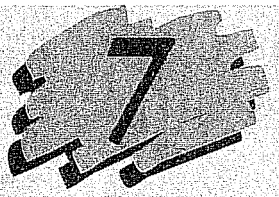
You Decide

☐ A vote *for* would allow the state to donate asphalt removed from state highways to parish and municipal governing authorities.

☐ A vote *against* would continue to prohibit the state from donating things of value.

Critics note that the local governments' gain would be the state's loss and the possibility that political pressure might be brought to bear on the DOTD to declare, as excess, asphalt that it could otherwise use.

Legal Citation: Act 1396 (Senator Cain) of the 1999 Regular Session, amending Article VII, Section 14 (B).



Higher Education Funding

Current Situation: Louisiana has only lately begun to develop a community college system. In its place, the state has relied largely on open-admissions four-year institutions located throughout the state together with a handful of two-year colleges. A flurry of legislation in 1997 created three new community colleges — one to serve seven sites in Acadiana—and requested feasibility studies for colleges in several other locations. To oversee and manage the new development, a 1998 constitutional amendment created the new Community and Technical College System (LCTC). The LCTC, LSU, University of Louisiana and Southern systems each have their own management boards under the Board of Regents.

You Decide

☐ A vote *for* would prohibit the reduction of state funding for a college or university for four years when a community college begins offering classes in the same or neighboring parish.

☐ A vote *against* would protect such institutions from budget cuts due to enrollment losses only through the 2001-2002 school year.

The LCTC system now includes six two-year community colleges, either moved from the other systems or newly created, and the 42 two-year technical college campuses previously under the Board of Elementary and Secondary Education. Three of the community colleges only recently began operations.

The new system is expected to maximize the use of existing facilities in expanding community college course offerings. In doing so, classes could be offered on technical college campuses, in high schools or other public buildings and even at four-year institutions.

The 1998 amendment included hold-harmless protection for all the state's post-secondary education institutions. Through fiscal year 2001-2002, their appropriations cannot be lower than their 1998-1999 levels.

Proposed Change: The amendment would prohibit a reduction in the state general fund appropriations for an institution of higher education when a community college begins holding classes in the parish or a neighboring parish. For the year classes begin and three years thereafter, the state appropriation could not be reduced below the level for fiscal year 1998-1999 or for the year prior to when the classes begin, whichever is greater. An institution protected by this provision could not be funded at more than 100% of the formula promulgated by the Board of Regents.

Comment: The proposal is designed to protect those state colleges and universities whose enrollments and related formula funding might be affected by the community college expansion. The most likely to be affected would be the open-admissions regional universities that have long filled much of the role community colleges play in other states.

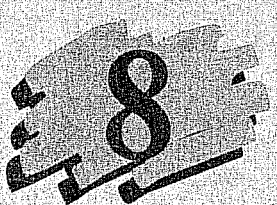
Proponents argue the amendment is needed to prevent sudden cuts in an already underfunded university budget when a new community college cuts into its enrollment by offering less expensive courses in the same area. They cite the need to protect the jobs of professors in those institutions and the communities from the impact of the loss of those jobs.

Critics of the "hold-harmless" proposal argue that an institution's budget should be determined by the enrollment-driven funding formula and that a university should not be rewarded for losing students. They note the amendment would apply, not only where a new community college opens, but also wherever one starts up new classes. Efforts by community colleges to provide courses in a variety of off-campus locations could make most higher education institutions eligible for the protection. Also, while the 1998 amendment already gives institutions hold-harmless protection through fiscal year 2001-2002, this proposal would allow the protection to be used for a four-year period at any time in the future.

The LCTC board objected to the amendment, reasoning that the hold-harmless provision could reduce the state's ability to properly fund the community colleges.

Others suggest the amendment would have little practical effect. Because the institutions are currently funded, on average, at only 68.4% of full formula funding, it has been the practice not to cut the funding of an institution that loses enrollment. It is simply allowed to increase its percentage of formula implementation. Also, because the Legislature ultimately determines the level of funding for each institution, it is unlikely to allow a significant reduction to occur. Furthermore, the effect of new community college programs could be to increase overall college participation without reducing enrollments in nearby institutions.

Legal Citation: Act 1397 (Representative Triche) of the 1999 Regular Session, amending Article VIII, Section 7.1(D).



First-Time Felon Pardons

Current Situation: A first-time offender who has never been previously convicted of a felony is automatically granted a pardon upon completion of his sentence. This pardon is granted without any action by the governor or Board of Pardons. The pardon is issued in a letter from the local probation and parole district office.

Proposed Change: The amendment would limit the automatic granting of a pardon to only those first-time offenders convicted of non-violent crimes or convicted of the less serious crimes of aggravated battery, second degree battery, aggravated assault, mingling harmful substances, aggravated criminal damage to property, purse snatching, extortion, or illegal use of weapons or dangerous instrumentalities. This amendment would retain the current constitutional provisions that only first-time offenders never previously convicted of a felony are eligible for the auto-

matic pardon and the provision that the pardon is granted without the action of the governor or the Board of Pardons.

Comment: The automatic pardon is very limited in effect. The constitution automatically restores the voting rights of felons after release from imprisonment without the pardon. The automatic pardon does not restore the right to bear arms to persons convicted of violent or drug offenses. Federal law also prevents people convicted of domestic violence from carrying firearms. In addition, the automatic pardon does not prevent a professional or governmental agency from denying a license application due to a past criminal conviction. The automatic pardon does allow a person to immediately run for or hold an elected or appointed public office.

Proponents argue that people convicted of serious and violent crimes should not get an automatic pardon. Persons committing such offenses, they believe, should have to undergo a formal review and pardon process.

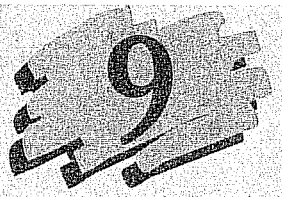
You Decide

☐ A vote *for* would limit the automatic pardon for first-time felons to only persons convicted of non-violent or other less serious crimes.

☐ A vote *against* would continue the practice of giving automatic pardons to all first-time offenders regardless of the crime.

Critics argue that a first-time offender who has completed his sentence has repaid his debt to society and should be given a second chance. The automatic pardon recognizes that people make mistakes and it allows them to rehabilitate themselves and begin a new life. Critics also argue that doing away with pardons and increasing criminal penalties is not the answer to stopping crime.

Legal Citation: Act 1398 (Senator Malone) of the 1999 Regular Session, amending Article IV, Section 5 (E) (1).



North Rapides Parish School District

Current Situation: Wards 9, 10, and 11 are part of the Rapides Parish school district. They comprise the section of Rapides Parish that is northeast of the Red River, including Pineville and Ball. Rapides Parish is under a federal desegregation court order.

Today, 64 of Louisiana's 66 operating school systems are parish districts. Only two municipalities, Bogalusa and Monroe, are currently operating municipal school districts that are separate from the parish school system.

In October 1995, Louisiana voters approved a constitutional amendment that authorized the City of Baker and Wards 9, 10, and 11 of Rapides Parish to form their own school districts separate from the parish school district. Baker is in the process of forming a separate school district and has elected a school board. No action has been taken and no group has been formed to develop a separate school system in Rapides Parish. Companion legislation to the 1995 amendment required the election of school board members for Wards 9, 10, and 11 of Rapides Parish school district to be held at the 1998 congressional election, but this did not occur.

You Decide

☐ A vote *for* would remove from the constitution the authorization for Wards 9, 10, and 11 in Rapides Parish to form its own school district.

☐ A vote *against* would retain in the constitution the authorization for Wards 9, 10, and 11 in Rapides Parish to form a separate school district.

Proposed Change: The amendment would remove from the constitution the authorization for Wards 9, 10, and 11 in Rapides Parish to form a separate school district from the parish school district.

Comment: The provision to form the "North Rapides Parish" school district was added to the con-

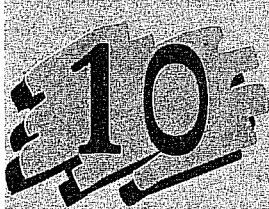
stitutional amendment forming the Baker school district at the last minute. After voter approval of the joint amendment, no group came forward to push for the formation of the "North Rapides Parish" school district, thus no action was taken to establish the new district and this provision was unused.

Companion legislation to the 1995 amendment (Act 973, 1995 Regular Session) required the Rapides Parish School Board to pay the costs for the establishment of the new school district. Before expending funds, the school board asked for a ruling on whether the new district would violate the desegregation order. After several court hearings, the case was returned to the federal district court level for action if there was an attempt to establish a separate school district. However, there is a strong indication that this separate school district would be ruled in violation of the federal desegregation order for Rapides Parish. This amendment was introduced upon the request of the Rapides Parish School Board.

A recent study of the estimated revenues and expenditures for the separate school systems was recently prepared for the Rapides Parish School Board. This study predicted a surplus for the "South" while the "North" system would have to either add a 1.5% sales tax or increase property taxes by 39 mills.

To take effect, the amendment must be approved by voters in Rapides Parish and the state as a whole.

Legal Citation: Act 1399 (Senator Dyess) of the 1999 Regular Session, amending Article VIII, Section 13 (D).



Orleans Blighted Property

Current Situation: The constitution allows the property tax assessment to be frozen on a structure in downtown, historic or economic development areas for five years if the property is rehabilitated or redeveloped. The assessment freeze can be extended for an additional five years for a total of ten years. To qualify for the assessment freeze and any extension, a project must be approved by the affected parish or municipal governing authority, State Board of Commerce and Industry, and governor.

Since 1983 under this program, 320 projects have been approved, totaling over $645 million in investments. As of 1998, the projects had received cumulative tax exemptions totaling $64.3 million. The majority of these projects are in New Orleans and Shreveport with approximately 25% of them consisting of projects renovating residential property or converting commercial into residential property. Statewide, approximately 100 applications for the program are made each year, and about half of those are approved.

You Decide

☐ A vote *for* would expand the property tax assessment freeze program to include officially declared blighted residential property 40 years old or older located anywhere in Orleans Parish that is renovated for residential use.

☐ A vote *against* would continue the current property tax assessment freeze program that applies only to rehabilitated property in a downtown, historic or economic development district.

A 1984 Act created a process whereby the City of New Orleans could certify property as "blighted" and thus eligible to be acquired by what is now the New Orleans Redevelopment Authority. Property is considered "blighted" when the city's Department of Safety and Permits declares it to be vacant, uninhabitable, and hazardous.

Proposed Change: The amendment would expand the eligibility requirements for the current property tax assessment freeze program. Under this change, an owner of a residential structure at least 40 years old, in Orleans Parish only, and officially certified as blighted would be allowed to apply for a property tax assessment freeze if the owner agreed to renovate or rehabilitate the property. A contract would be issued that would freeze the property tax assessment at the amount assessed before the property was renovated for a five year period, extendable for an additional five years. The contract would be termi-

nated if use of the property changed from residential to commercial. In addition, the tax freeze would not be effective until safety and fire inspections are completed and the property is placed in residential use.

Comment: The purpose of this amendment is to reduce the rising number of abandoned or blighted residential properties throughout Orleans Parish and to slow urban blight. New Orleans has an estimated 6,000 blighted properties in the parish, with almost 1,300 of these having completed the process to be officially certified by the local government as blighted property. The majority of these blighted properties are residential properties.

Proponents argue that the current law has been very successful in promoting the renovation of blighted properties in downtown, historic or economic development areas. Extending the tax break to older, residential properties outside these areas would give Orleans Parish an important tool to help clear other problem properties. They suggest that the loss of tax revenue would be made up by increased tax revenues in the future, return of abandoned property to the tax roles in the future, increased property values of other property in the same area, attraction of taxpaying residents to the rehabilitated area, and the clearing of abandoned and/or blighted buildings. Other benefits noted include revitalizing economically depressed areas, reducing crime, and reducing the area residents' property insurance by removing or renovating dangerous structures in the area.

Critics argue the proposal may have little impact in that most property in Orleans Parish is already in districts that make it eligible for the existing tax break. They claim the program would not encourage many families to buy and renovate blighted homes but would mainly benefit developers that would renovate property anyway without this incentive.

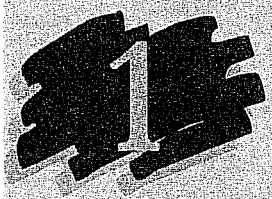
If other parishes want to participate in this program change, the constitution would have to be amended again.

This proposal requires approval by voters both in Orleans Parish and statewide.

Legal Citation: Act 1400 (Representative Murray) of the 1999 Regular Session, amending Article VII, Section 21 (H).

Proposed Amendments on the November 20, 1999 Ballot

(In Ballot Number Order)



Board of Pardons Approval

Current Situation: The governor has the constitutional power to approve requests to commute sentences, pardon persons convicted of state offenses, and remit any fines and forfeitures imposed as punishment for violation of a state law upon recommendation of the Louisiana Board of Pardons.

The Board of Pardons reviews all requests (applications) and either denies a request or grants a hearing. For requests granted a hearing, the Board either denies, delays or approves the request. Those requests approved by the Board are forwarded to the governor for action. The governor does not see requests denied by the Board. From 1992 to July 1999, 7,354 requests (applications) were sent to the Board. Of those, 1,209 (16%) received a favorable recommendation and were sent to the governor. Of the requests forwarded to the governor by the Board of Pardons with a favorable endorsement, 43% (518) were approved, which comprised 7% of all requests submitted during this period.

Proposed Change: The amendment would require a *favorable recommendation* from the Louisiana Board of Pardons before the governor could commute a sentence, grant a pardon, or remit any fines or forfeitures.

Comment: Before the governor could grant a pardon, commutation, or remittance under the provisions of the 1921 Louisiana Constitution, he had to first receive a written recommendation from two of the following: lieutenant governor, attorney general, and/or the presiding judge of the court which handed down the conviction. The 1974 Constitution changed this provision by creating a five-member Board of Pardons that was appointed by the governor and confirmed by the Senate. During the constitutional convention debate on this issue, it was stated that the intent of the original and revised constitu-

tional provision was that a positive recommendation was required before gubernatorial action.

Under the current process, the Board of Pardons only forwards to the governor those requests that have received a favorable recommendation.

Proponents argue that the amendment is needed to clarify that a *favorable* recommendation is required before the governor can approve a request. This would prevent him from granting a request that was denied or delayed by the Board.

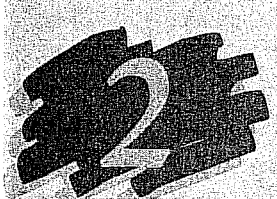
Critics claim the amendment will have very little effect and is unnecessary. Since at least 1992, no governor has approved a pardon request that was previously denied by the Board of Pardons, and for a governor to do so would subject him to criticism.

You Decide

☐ A vote *for* would require a "favorable recommendation" by the Louisiana Board of Pardons before the governor could grant a pardon, commutation, or remittance.

☐ A vote *against* would continue to require a "recommendation" by the Louisiana Board of Pardons before the governor could grant a pardon, commutation, or remittance.

Legal Citation: Act 1401 (Senator Windhorst) of the 1999 Regular Session, amending Article IV, Section 5 (E) (1).



Wildlife Trust Funds

Current Situation: Years ago, Louisiana received two major donations of coastal marshland. In 1913, the Russell Sage Foundation conveyed 82,000 acres in Vermilion Parish. In 1919, the Rockefeller Foundation added 84,000 acres in Cameron and Vermilion Parishes. Both donations required the state to maintain these areas as wildlife refuges forever. In each case, the constitution requires that any income derived from the use of the land be used to operate the refuge. Once these needs are met, the remaining money, up to a certain amount, must be placed in perpetual funds. The Russell Sage or Marsh Island Refuge Fund (Marsh Island Trust) has a cap of $10 million but with an annual adjustment for inflation. The Rockefeller Wildlife Refuge Trust and Protection Fund (Rockefeller Trust) has a $50 million cap. When these trusts are fully funded, the revenue can be used for designated wildlife related purposes. Development of oil and gas deposits on both properties had, by mid-1998, produced balances of $11 million in the Marsh Island Trust and nearly $39 million in the Rockefeller Trust.

With a few exceptions, the constitution prohibits the state or a political subdivision from subscribing to or purchasing the stock of a corporation, association or other private enterprise. One exception is for the Louisiana Education Quality Trust Fund better known as the "8(g)" trust fund. The state treasurer may invest up to 35% of this fund in stocks.

Without a similar exception, the state treasurer is limited to investing the Marsh Island and Rockefeller trust funds in the same way general funds are invested—in low-risk and relatively low-yield investments. The statutes specify only U.S. treasuries, U.S. government agencies, repurchase agreements for the preceding, bank certificates of deposit, investment-grade commercial paper and investment-grade corporate notes and bonds. General fund investments cannot exceed five year maturities but special funds, like these two wildlife refuge trust funds, can be invested in maturities of up to 10 years.

Proposed Change: The amendment would authorize the state treasurer to invest in stocks up to 35% of the monies in the Rockefeller Wildlife Refuge Trust and Protection Fund and the Russell Sage or Marsh Island Refuge Fund.

Companion legislation, Act 1041, requires that any equities purchased be listed on the three major stock exchanges and permits the treasurer to hire or contract with investment managers.

Comment: Professional investment advisors strongly recommend including stocks as a significant part of any long-term investment portfolio. A perpetual trust fund can take optimum advantage of

You Decide

☐ A vote *for* would allow up to 35% of two wildlife refuge trust funds to be invested in stocks.

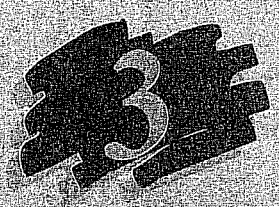
☐ A vote *against* would continue the prohibition against investing any of this money in stocks.

a long-term investment strategy. Historically, stocks have outperformed any other type of investment over the long run.

The Department of Wildlife and Fisheries is responsible for spending the earnings of these wildlife refuge trust funds and initiated this amendment to maximize their potential. The amendment essentially provides these funds the same investment authority that applies to the "8(g)" trust fund.

In 1998, the Marsh Island and Rockefeller Trust Funds earned their highest rates of return in the last five years—4.46% and 5.74% respectively. The same year, investments in the "8(g)" trust fund earned 11.4%. Had the wildlife refuge trust funds been invested the same as the "8(g)" trust fund, they would have earned an additional $6.4 million over the last five years, even though the "8(g)" trust fund actually lost money in one of those years.

Legal Citation: Act 1402 (Representative John Smith) of the 1999 Regular Session, amending Article VII, Section 14(A) and (B). The companion legislation is Act 1041 of the 1999 Regular Session.



Zachary School District

Current Situation: Zachary is part of the East Baton Rouge Parish school district, which is under a federal desegregation court order.

Today, 64 of Louisiana's 66 operating school systems are parish districts, with only Bogalusa and Monroe operating separate municipal school systems. In October 1995, Louisiana voters approved a constitutional amendment that authorized the City of Baker to break away from the East Baton Rouge Parish school district and form its own school district. This will be the state's 67th school system and 3rd municipal school district when it becomes fully operational next year.

Proposed Change: The amendment would allow the City of Zachary to form its own school district separate from the East Baton Rouge Parish and Baker school districts. The new district would have the same authority as parish school districts, including the ability to raise certain local revenues.

Companion legislation, Act 1027, would define the area of the Zachary school district, calls for the reapportionment of the East Baton Rouge Parish school district, and sets the interim appointment and subsequent election of the Zachary School Board. The Act also prohibits the state from appropriating funds to help pay start-up costs of the new system.

Comment: The state has had a long tradition of mandating parish school systems except for a few exceptions. Louisiana's parish-wide school districts are considered by many to be a positive force in achieving more equitable distribution of financial resources, in providing specialized programs and comprehensive high schools, and in easing desegregation. Only two municipal school systems are currently in operation (Bogalusa and Monroe), one (Lake Charles) was consolidated into the parish system in 1967, one new municipal system was authorized and is scheduled to operate next year (Baker), and one local system was authorized but failed to organize (North Rapides Parish).

Those seeking separate school districts do so to achieve greater local control, neighborhood schools, less busing of students and more parental involvement. They argue smaller, more local school districts also foster a greater sense of ownership by local voters, which may translate into greater financial support. In the case of Zachary schools, supporters also note that the schools are at capacity and 22 classes are held in 21 temporary buildings. A federal consent decree caps enrollments at these schools which may limit their future growth as neighborhood schools. The consent decree also limits the ability of the school system to build additional facilities at the Zachary schools to increase capacity or replace temporary buildings.

Because the companion legislation prohibits state funding for start-up expenses, the City of Zachary and/or other organizations will have to pay for the estimated $1.5 million start-up. In addition, local funds will have to pay for administrative costs to run the new system, estimated at $942,000 annually. Proponents disagree with the cost

You Decide

☐ A vote *for* would allow the City of Zachary to form its own school district.

☐ A vote *against* would retain Zachary's schools in the East Baton Rouge Parish school district.

estimates and state that there is strong local support that will pay for the start-up costs. In addition, proponents state that the local tax base is sufficient to cover the costs of the new school system. Critics claim that these expenses are too high to justify the formation of a separate school district.

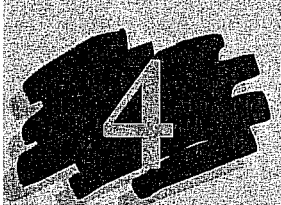
The issue of ownership of the current school buildings and property may have been solved by the passage of Act 2252, 1999 Regular Session. This act states that all school buildings and property belong to the school board in whose geographic boundaries they are located. In addition, a state district court has ruled that the Baker School District owns the buildings and equipment within their new district.

Since the East Baton Rouge Parish school system is under a federal desegregation order, the Zachary school district would require the approval of the federal judge who oversees the case. In addition, the U.S. Justice Department would have to approve the new voting districts for school board members to ensure compliance with the Voting Rights Act.

Critics claim that allowing more local systems to break off from the parish school systems will eventually lead to an inefficient and fragmented state school system. They claim that this piecemeal approach without a study of what is best for the educational system of the state will hurt some groups while benefitting only a small portion of the state's population.

To take effect, the amendment must be approved by voters in East Baton Rouge Parish and the state as a whole.

Legal Citation: Act 1403 (Representative Travis) of the 1999 Regular Session, amending Article VIII, Section 13 (D). The companion legislation is Act 1027 of the 1999 Regular Session.



Workers' Compensation Corporation, No Sale

Current Situation: The Louisiana Workers' Compensation Corporation (LWCC) was created by constitutional amendment in 1991 in an attempt to solve a crisis in the workers' compensation system. At the time, Louisiana employers were having great difficulty obtaining workers' compensation insurance and all but a few insurers had quit writing policies in the state. The LWCC was set up as a private, non-profit mutual insurance company designed to help rebuild a competitive insurance market in the state and to serve as insurer of the last resort.

Although created by state law, the LWCC is not a state agency and has never received any state money. However, the constitution grants the LWCC the full faith and credit guarantee of the state for five years or until the United States Department of Labor approves United States Longshore and Harbor Workers' Compensation Act coverage by the LWCC without the state backing. As a new entity, the LWCC did not have the experience or reserves required to write maritime policies—an important part of the Louisiana market. In lieu of that, the Department of Labor accepted the state's backing.

With assets now exceeding $600 million to back its policies, the LWCC expects to be released from the state backing requirement within about two years.

Proposed Change: The amendment would hold the state harmless for any LWCC obligations once the state's full faith and credit is removed and the LWCC has provided security to protect the state from further liability. The Legislature would be prohibited from terminating the corporation, only the commissioner of insurance or the corporation's policyholders could dissolve the corporation as provided by law. The corporation could not be sold or converted to a domestic stock insurance company, nor could its ownership be transferred. The amendment would also prohibit the enactment of any legislation directed exclusively at the LWCC that would impair its competitiveness.

You Decide

☐ A vote *for* would prevent the sale or dissolution of the Louisiana Workers' Compensation Corporation (LWCC) once its backing by the full faith and credit of the state expires.

☐ A vote *against* would allow the LWCC to be dissolved or sold to another insurance company.

The prohibitions against dissolution, termination, sale or conversion and special legislation would be void if the LWCC failed to maintain its security.

Comment: The amendment is part of a legislative package, requested by the LWCC, designed to free the state from its obligation to the company and clear the way for it to stand on its own in a competi-

tive market place. The LWCC would also be protected from legislation that might make it less competitive and gives other insurers some protection as well.

Using the security of the state's backing, the LWCC has become the leading commercial workers' compensation insurer in the state holding a 37% market share. Its sale to a competing insurance company could be viewed as giving the buyer an unfair advantage. It would also jeopardize the LWCC's role as insurer of last resort.

Proponents argue the amendment would simply preserve the LWCC as a fully private insurance company. Some legislators were apparently concerned that the proposed changes in the LWCC might be designed to enrich someone. The LWCC stresses that the point of the amendment is to avoid that possibility by prohibiting its sale or conversion to a stock company and by preventing future legislative involvement. The corporation's policy holders are its only stockholders and any corporation gains can only be distributed in the form of lower premiums.

Legal Citation: Act 1404 (Representative DeWitt) of the 1999 Regular Session, amending Article XII, Section 8.1 (A).

Workers' Compensation Corporation, Join LIGA

Current Situation: The Louisiana Insurance Guaranty Association (LIGA) was created by law in 1970 to pay claims of insolvent insurers. Insurance companies selling certain policies are required to be members and pay assessments to fund LIGA operations. When the Louisiana Workers' Compensation Corporation (LWCC) was created by state law in 1991 (see discussion under proposal No. 4), it was given full faith and credit backing of the state and exempted from having to join LIGA or any other pool arrangement. This was done to protect members of LIGA from having their fund drained if the LWCC were to fail.

Proposed Change: The amendment would, upon removal of the state's full faith and credit guarantee, no longer exempt or prohibit the LWCC from participating in a plan, pool, association, guaranty fund or insolvency fund authorized or required by the Insurance Code.

Act 855 is companion legislation implementing the amendment and providing detail on the transition from full faith and credit backing to LIGA participation. The statute, effective January 1, 2001, requires the LWCC to maintain special security to protect the state against claims for injuries occurring prior to its joining LIGA.

You Decide

☐ A vote *for* would permit the Louisiana Workers' Compensation Corporation (LWCC) to participate in the Louisiana Insurance Guarantee Association (LIGA).

☐ A vote *against* would continue to prohibit such participation.

Comment: The proposed amendment is part of the LWCC legislative package contemplating the expiration of the full faith and credit guarantee of the state in the next few years and the need to then operate as any other private insurance company. This entails providing replacement security to protect claimants in the case of insolvency.

The LIGA protection would be prospective only. The insurance companies that are currently members of LIGA were concerned that the LWCC might be allowed to bring with it existing liabilities. The proposal makes it clear that LIGA would only have an exposure for liabilities related to workers injured after LWCC becomes a member.

Legal Citation: Act 1405 (Representative DeWitt) of the 1999 Regular Session, amending Article XII, Section 8.1(F). The companion legislation is Act 855 of the 1999 Regular Session.

Jury Exemption For Elders

Current Situation: The 1974 constitution authorized the Supreme Court to provide by rule for exemptions from jury duty. At that time, a long list of automatic exemptions covered many public officials, armed services personnel, fire and policemen, a variety of occupations (including lawyers and most medical professionals), and persons 70 years of age and older.

costs the state $1.50 per yard to have it ground up and taken to a storage area. The asphalt is valued at ten to twenty dollars per cubic yard.

The state eventually uses most of the asphalt that it puts into storage. If the Department of Transportation and Development (DOTD) determines that it has more asphalt in one location than it can use, the excess may be sold to the highest bidder.

Proposed Change: The amendment would allow the state to donate asphalt removed from state roads and highways to the governing authority of the parish or municipality where the asphalt was removed. If it is not needed by that governing authority, then it can go to any other parish or municipal governing authority, but only pursuant to a cooperative endeavor agreement between the state and the governing authority receiving the donated property.

Comment: Parishes and municipalities that are struggling to fund road improvements strongly support this proposal as a way of lowering the cost of their maintenance materials. The proposal would require a local government that wants to receive asphalt to sign a cooperative endeavor agreement specifying how it would be used. Proponents argue that this state oversight would assure the donated asphalt was used appropriately.

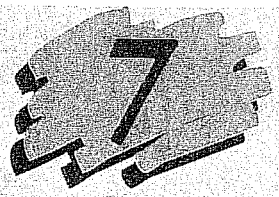
You Decide

☐ A vote *for* would allow the state to donate asphalt removed from state highways to parish and municipal governing authorities.

☐ A vote *against* would continue to prohibit the state from donating things of value.

Critics note that the local governments' gain would be the state's loss and the possibility that political pressure might be brought to bear on the DOTD to declare, as excess, asphalt that it could otherwise use.

Legal Citation: Act 1396 (Senator Cain) of the 1999 Regular Session, amending Article VII, Section 14 (B).



Higher Education Funding

Current Situation: Louisiana has only lately begun to develop a community college system. In its place, the state has relied largely on open-admissions four-year institutions located throughout the state together with a handful of two-year colleges. A flurry of legislation in 1997 created three new community colleges — one to serve seven sites in Acadiana—and requested feasibility studies for colleges in several other locations. To oversee and manage the new development, a 1998 constitutional amendment created the new Community and Technical College System (LCTC). The LCTC, LSU, University of Louisiana and Southern systems each have their own management boards under the Board of Regents.

You Decide

☐ A vote *for* would prohibit the reduction of state funding for a college or university for four years when a community college begins offering classes in the same or neighboring parish.

☐ A vote *against* would protect such institutions from budget cuts due to enrollment losses only through the 2001-2002 school year.

The LCTC system now includes six two-year community colleges, either moved from the other systems or newly created, and the 42 two-year technical college campuses previously under the Board of Elementary and Secondary Education. Three of the community colleges only recently began operations.

The new system is expected to maximize the use of existing facilities in expanding community college course offerings. In doing so, classes could be offered on technical college campuses, in high schools or other public buildings and even at four-year institutions.

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In 1983, following a major national study of jury use, the American Bar Association (ABA) recommended that all automatic exemptions or excuses from jury duty be eliminated to improve the representative makeup of juries. A Louisiana court-appointed study committee adopted the ABA recommendation in 1992. In 1994, the Louisiana Supreme Court eliminated all automatic exemptions. Under the current rules, all qualified citizens have an opportunity and responsibility to serve on juries unless they have served within two years of being called. However, a person may be excused if the court determines that jury service would result in undue hardship or extreme inconvenience.

Proposed Change: The amendment would grant persons who are seventy years of age or older an exemption from jury service and allow them to decline to serve. It would also allow such persons to elect to serve if they meet all other qualifications for jury service.

Comment: This amendment would allow persons seventy years of age or older to exercise the same option in state courts as they have in the federal courts to decline or serve as a juror. This elderly group makes up about 11 percent of the Louisiana population that is eligible for jury service. Jury officials for several district courts report that most individuals seventy or older request to be excused either because of health problems, or because they assume that they are automatically excused because of age. These officials also note, however, that the older citizens make very good jurors, because of their experience, sense of civic responsibility, and freedom from other responsibilities.

Proponents argue that persons over seventy should not have to demonstrate any hardship other than age alone to get an exemption from jury duty. While this proposed amendment would reduce the pool of potential jurors, it would also simplify the current process of excusing those that claim hardships such as mental and physical health problems, insufficient transportation and other age-related hardships.

You Decide

☐ A vote *for* would give persons who are seventy years of age or older the option to accept or decline jury service.

☐ A vote *against* would continue to require such persons to serve unless excused for hardship.

Critics point out that in proposing this amendment, the Legislature has circumvented the Supreme Court's constitutional rule making authority and reintroduced an exemption which has been tried and eliminated. They also note that the ABA continues to recommend a general policy of no automatic exemptions from jury duty because of the tendency of people to avoid jury duty if they have the option. Allowing an exemption for the elderly would reduce the jury pool, diminish representativeness and cause many otherwise good jurors to opt out of service

Legal Citation: Act 1406 (Representative LeBlanc) of the 1999 Regular Session, amending Article V, Section 33 (B).