

# Final Edition of 2005 Regular Session Highlights

## Agriculture/Rural Development

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### ANIMAL WELFARE FUND

**House Bill 572 by Representative Triche (Act 248)** permits the transfer of monies from the Louisiana Animal Welfare Fund to a checking account held by the Louisiana Animal Welfare Commission and requires the commission to maintain a checking account in a Louisiana licensed bank to hold and distribute money that may be transferred from the fund.

### BEEF CHECKOFF

Louisiana law authorizes the Louisiana Beef Industry Council to collect any assessment in accordance with the Federal Beef Promotion and Research Act of 1985 on all Louisiana cattle purchased or sold within or outside the state. This assessment is known as the "federal assessment" and is \$1. Moreover, the council is authorized to levy an additional assessment of \$.50 per head on all cattle marketed within or outside the state. This is known as the "state assessment" and it is refundable, unlike the federal assessment.

In response to a case before the United States Supreme Court centered around the constitutionality of the federal Beef Checkoff Program, **Senate Bill 109 by Senator Smith (pending House Agriculture)** and **House Bill 503 by Representative Durand (pending House Agriculture)**

were introduced. The bills would have changed the state assessment authorized to be levied from \$.50 to \$1.50, subject to the limitation in the law that no more than \$1.50 be paid or collected for the federal and state beef promotion and research programs. Thus, if the federal program was discontinued or reduced, the state could have levied the difference up to a limit of \$1.50 per head. However, the Supreme Court, on May 23, 2005, ruled that the federal program is constitutional, making the bills unnecessary.

## **BROADBAND ADVISORY COUNCIL**

Last year, the legislature created the Louisiana Broadband Advisory Council (council), which is charged with developing a coordinated statewide broadband access and usage policy. Several instruments were introduced this session aimed at assisting the council and furthering the state's goal of getting high-speed Internet into rural and underserved areas.

**House Bill 531 by Representative Thompson (Act 372)** creates the Broadband Infrastructure and Information Technology Fund to be administered by the governor's Office of Rural Development, with monies available for the purpose of carrying out the duties and goals of the council.

**Senate Concurrent Resolution 39 by Senator Ellington (enrolled)** requests the council to conduct public hearings in various locations across the state to ascertain supply and demand issues relative to broadband deployment. This will allow consumers, business, and local government an opportunity to voice their concerns and needs and provide the members of the council a greater understanding of available services.

The federal E-Rate program was created as part of the Telecommunications Act of 1996 and ensures that all eligible schools, libraries, and rural healthcare providers in the United States have affordable access to modern telecommunications and Internet services. Each year, more than \$2 billion is available through this program. The money comes from the federal Universal Service Fee that most everyone sees on their phone bill. **Senate Concurrent Resolution 46 by Senator Ellington (enrolled)** requests the council to convene a task force to develop a statewide E-Rate strategy to capture all possible E-Rate funds available to the state.

There are various high-speed Internet technologies available that deserve to be looked at to determine their true functionality and affordability. **House Concurrent Resolution 97 by Representative Thompson (enrolled)** requests the council to conduct any necessary pilot project relative to determining the true functionality and affordability of current and future broadband delivery technologies.

**DEPARTMENT OF AGRICULTURE AND FORESTRY/COMMISSIONER**

Several bills were introduced this session aimed at limiting the powers of the commissioner of agriculture, changing how the Department of Agriculture and Forestry operates, and proposing the reallocation of the annual \$12 million slots at the tracks revenues that currently goes to the Louisiana Agricultural Finance Authority (LAFA). None of these bills passed.

**House Bill 232 by Representative Bowler (involuntarily deferred, House Agriculture)** proposed to amend the Constitution to remove the specific authority of the commissioner to exercise all functions of the state relating to the promotion, protection, and advancement of agriculture. Thus, the commissioner's powers would only be those set forth by the legislature in statute.

**Senate Bill 43 by Senator Cain (pending Senate and Governmental Affairs)** would require LAFA to comply with the public bid law, which is normally required for public contracts.

**House Bill 435 by Representative Katz (pending House and Governmental Affairs)** would remove the exemption for the department from the provisions of law requiring adjudications under the Administrative Procedure Act to be conducted by the division of administrative law.

Currently, \$12 million dollars is deposited annually from the slots at the tracks revenues to the LAFA Fund, used exclusively for the boll weevil eradication program and other agricultural, agronomic, horticultural, silvicultural, or aquacultural industrial or economic development programs. Three bills were introduced to allocate this money elsewhere. Each would require that the amount to be transferred to the LAFA Fund only be an amount necessary to pay the annual principal and interest due on the bonds for the Lacassine syrup mill project. However, where the excess money would be allocated differed.

**House Bill 407 by Representative Tucker (pending House Appropriations)** would create the Rural Road Fund. It provides that any portion of the \$12 million remaining after the payment and satisfaction of all obligations of LAFA under the terms of any resolution authorizing the issuance of the bonds would be considered surplus and deposited into the Rural Road Fund. Upon the bonds being paid in full or defeased, \$12 million would be credited each year from the slots at the tracks to the Rural Road Fund.

**House Bill 833 by Representative Montgomery (pending House Appropriations)** would create the I-49 Fund. It provides that any portion of the \$12 million remaining after the payment and satisfaction of all obligations of LAFA under the terms of any resolution authorizing the issuance of the bonds would be considered surplus and deposited into the I-49 Fund. Upon the bonds being paid in full or defeased, \$12 million would be credited each year from the slots at the tracks to the I-49 Fund.

**Senate Bill 345 by Senator Jackson (pending Senate Revenue & Fiscal Affairs)** would create the Solutions to Poverty Fund. It provides that any portion of the \$12 million remaining after the payment and satisfaction of all obligations of LAFA under the terms of any resolution authorizing the issuance of the bonds would be considered surplus and deposited into the Solutions to Poverty Fund. Upon the bonds being paid in full or defeased, \$12 million would be credited each year from the slots at the tracks to the Solutions to Poverty Fund.

## **FORESTRY**

**Senate Concurrent Resolution 71 by Senator Smith (enrolled)** memorializes Congress to direct the New Orleans District of the United States Army Corps Engineers to cease using Section 10 of the Rivers and Harbors Act to stop sustainable forestry practices in areas that have no impact on actual navigation, except in the parishes of Terrebonne, Lafourche, and St. Charles. The Resolution caused a stir because some felt that its passage would adversely impact the passage of the Water Resources Development Act in Congress.

## **SOIL AND WATER CONSERVATION DISTRICTS**

**Senate Concurrent Resolution 70 by Senator Barham (enrolled)** requests the Senate and House agriculture, forestry, aquaculture, and rural development committees to jointly study the operational structure and procedures, including expenditures for management and operation, of the soil and water conservation districts in the state.

## **SURPLUS FOOD**

**Senate Concurrent Resolution 76 by Senator Dardenne (enrolled)** requests the Senate and House agriculture, forestry, aquaculture, and rural development committees to jointly study the feasibility of creating a Louisiana agricultural and seafood surplus products purchase program and the creation of a purchasing board to oversee the program. Creating such a program is envisioned by many in the food bank community as a program whereby public money will be used to purchase surplus Louisiana agricultural and seafood products from farmers, fishermen, and processors for distribution by food banks.

# Budget Summary

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## OVERVIEW OF THE FISCAL YEAR 2006 BUDGET

### TOTAL FISCAL YEAR 2006 STATE BUDGET

As passed by the Legislature, the FY06 total budget is approximately \$18.7 billion, including \$7.3 billion in State General Fund.

The budget increased approximately \$864.6 million from the FY05 existing operating budget (EOB) of \$17.8 billion. Almost one-half of the increase is in state general fund in the amount of \$406.5 million. The second largest increase is in federal funds in the amount of \$244.2 million.

Federal funding increased in FY06 as compared to FY05. The increase occurred even with the loss of the excess 75 percent Disproportionate Share payments that were used to finance the provision of health care services totaling approximately \$256.7 million in FY05. Conversely, the FY05 budget had experienced a decrease in federal funding compared to the FY04 budget. In FY04, the state had received a large influx of federal dollars when Congress provided the states with general and Medicaid fiscal relief packages. Such funding was not continued for FY05.

### THE FISCAL YEAR 2006 EXECUTIVE BUDGET AS PROPOSED

The challenge in constructing the FY06 budget was replacing nearly \$600 million in federal and one-time money supporting services in the FY05 budget.

#### Multiple Supplemental Sections

As proposed, House Bill No. 1 (HB 1), the General Appropriation Bill, contained three supplemental sections.

1. One supplementary section was tied to the passage of a provider fee on non-state, non-rural hospitals estimated to generate \$75.0 million in state revenues and finance \$250.8 million in Medicaid expenditures. As the session ended, the structure of the provider fee was altered resulting in the generation of \$89.1 million in state revenues.
2. Another supplemental section was contingent on a \$64.6 million defeasance plan financed with the

FY04 year-end surplus (\$32.9 million) and a mineral audit settlement (\$31.7 million).

3. A third supplemental section was contingent on the proceeds realized from the mid-year 1.75 percent reduction to state agencies' budget in FY05 and carried forward into FY06.

#### Contingent Teacher Pay Raises

A teacher pay raise proposal that was contingent on an increase in tobacco taxes (House Bill 437 of the 2005 Regular Session of the Legislature) never materialized. The proposal contained a salary increase for teachers, college faculty and support workers. The House Appropriations Committee added the contingency appropriation to HB 1 when the possibility for passage of HB 437 - the tobacco tax - seemed possible.

However, prior to the movement of House Bill 1 out of the Senate Finance Committee, a vote on the tobacco tax had not been taken and, subsequently, the bill was never called from the House calendar for a vote.

#### "Unmet Needs"

Despite all of the supplemental funding mechanisms proposed, there were still major budget areas that remained unfunded. In essence, the Medicaid program still contained a shortfall in total funding of \$150.0 million when the Executive Budget was proposed. Further, other budget items still required funding sources. Such expenditure items are typically referred to as "unmet needs." The table below highlights some of the unmet needs remaining after the FY06 Executive Budget was introduced.

#### Total Funding Required for Unmet Needs

Medicaid Program	\$150.0 million
Charity Hospitals	\$49.0 million
Final Judgments against the State	\$20.0 million
State Police Information Technology	\$4.8 million
TOPS Tuition Increase Match	\$3.2 million

When the Revenue Estimating Conference met and recognized additional revenues for FY06 (see following section), the state was able to provide adequate funding for the "unmet" needs outstanding from the Governor's Executive Budget Recommendations.

#### **INCREASES IN REVENUE ESTIMATES FOR FISCAL YEAR 2005 AND FISCAL YEAR 2006**

The Revenue Estimating Conference (REC), at its December 2004 and May 2005 meetings, increased revenue estimates for both FY05 and FY06. The estimate increases were primarily attributable to greater

corporate income taxes and mineral revenues associated with higher oil prices for both FY05 and FY06. The average price per barrel of oil is estimated to be \$47.42 for FY05 and \$40.44 for FY06.

#### Fiscal Year 2005

For FY05, the Revenue Estimating Conference increased the revenue forecast by \$150.0 million at the December 2004 meeting. At the May 2005 REC meeting, the conference increased the FY05 estimate by an additional \$192.0 million.

#### Fiscal Year 2006

For FY06, the Revenue Estimating Conference, at its December 2004 meeting, increased the revenue forecast by \$250.0 million. This number represents an increase over the Long-Range Forecast utilized to initially develop the FY06 Continuation Budget and subsequently develop the proposed Executive Budget. At the May 2005 REC meeting, the conference increased the FY06 estimate by an additional \$169.0 million.

#### Budget Stabilization Fund and the Impact of Changes in Mineral Revenue Collections

The balance in the Budget Stabilization Fund at the end of FY04 was approximately \$253.0 million.

At the May 2005 Revenue Estimating Conference meeting, the conference recognized an *additional* \$75.1 million in mineral revenue for FY05. This amount is above and beyond both the earlier deposits of \$137.1 million in excess mineral revenues and the \$850.0 million already incorporated into the general fund balance for FY05. This action brought the total for deposit in FY05 from mineral revenue to \$212.3 million. When the fund balance is adjusted to reflect the additional mineral revenues for FY05, the Budget Stabilization Fund will grow to \$465.3 million. This projected fund balance does not include any deposits from other revenue sources for FY05.

Also at its May 2005 meeting, the conference recognized an *additional* \$181.0 million in mineral revenue for FY06. This amount is above and beyond both the earlier projected deposits into the Budget Stabilization Fund in the amount of \$3.5 million and the \$850 million already incorporated into the general fund balance for FY06. The newly recognized amounts, when added to the projected FY05 balance explained above of \$465.3 million, brings the balance in the fund to \$649.8 million [\$465.3 million from the FY05 year-end projected balance (again, this balance does not include deposits from other revenue sources) plus the FY06 mineral revenue deposits of \$184.5 million].

In summary, as provided by law, the maximum amount allowable (\$850 million) in mineral revenue has already been incorporated into the State General Fund for the FY06 budget. Therefore, any additional mineral revenue generated during the course of FY06 by higher than estimated oil prices will be deposited into the Budget Stabilization Fund.



## LEGISLATIVE ACTION ON THE BUDGET

As a result of the increase in revenues recognized at the May REC meeting, significant restorations and some enhancements were made to the proposed FY06 budget by the legislature.

Major items restored or enhanced by the legislature in the FY06 budget include the following adjustments *(the amounts below do not represent total funding for any one program; instead, the amounts represent the total funding restored or enhanced by the legislature during the process):*

Department of Health and Hospitals	\$526.1 million
Including \$499.1 million for the Medicaid administrative and services programs,	
\$8.3 million for Public Health Services,	
\$9.4 million for Mental Health Services,	
\$2.3 million for Developmental Disabilities Services,	
and \$1.0 million for Addictive Disorders Services.	
Higher Education	\$55.0 million
LSU Health Sciences Center - Health Care Services Division	\$51.0 million
LSU Health Sciences Center – Shreveport	\$21.9 million
LSU Health Sciences Center - E. A. Conway Medical Center	\$9.4 million
TOPS Full Funding	\$5.6 million
Including \$1.0 million for TOPS Tech Awards	
Restoration of Full Funding for the Truancy Program	\$1.3 million
City of New Orleans Public Services Support due to Casino	\$1.0 million

## OVERVIEW OF FUNDING IN FISCAL YEAR 2006 - FOR HEALTH CARE SERVICES

### Medicaid Program

- C Overall, the Medicaid program is funded in FY06 at \$5.607 billion for reimbursements to health care providers of medical services to Medicaid clientele and the uninsured, with \$371.3 million in growth over the FY05 budget.
- C In response to projected increases in both costs and utilization of Medicaid services, the FY06 budget includes an addition of roughly \$313.3 million for Medicaid payments to various health care providers of medical services to Medicaid clientele.
- C Due to increases in Medicare premium costs, \$31.1 million has been added to fully fund the

anticipated costs of buying dual Medicaid/Medicare eligible individuals into the Medicare program.

- C Uncompensated Care Costs payments to small rural hospitals and rural health clinics will increase by \$9.7 million in FY06 to total \$68.5 million.
- C Specific services were targeted for reimbursement rate enhancements or programmatic augmentation in FY06.
  - o The amount of \$2.7 million was added to annualize the costs of the LaChoice program for its first full year of operation in FY06.
  - o An increase of \$2.6 million was amended into the FY06 budget for an additional 100 slots in the New Opportunities Waiver program.
  - o A total of \$2.4 million was added to fund an additional 74 slots in the various Medicaid Home and Community-based Services Waiver programs that provide alternative services to placement in a nursing home per the settlement agreement in the *Barthelemy v. Hood* lawsuit. In addition, \$8.2 million was added to the budget for FY06 to annualize the FY05 increase in these slots also resulting from this agreement.
  - o Amendments totaling \$1.3 million were adopted for increases in the reimbursement rates for pediatric dental services.
- C A substantial component of the Medicaid program's financing for FY06 (and future fiscal years) is the passage of a hospital provider fee during the 2005 Session. Act 182 (HB 887) of the 2005 Regular Session of the Legislature, also referred to as the Healthcare Affordability Act, assesses a 1.5 percent fee on total net patient revenue of non-state, non-federal, non-rural, non-rehabilitation, non-psychiatric, and non-long-term-acute-care hospitals.
- C In FY06, the provider fee on hospitals will generate \$89.1 million in revenues for the state that will be matched with \$208.1 million in federal funds to produce a total of \$297.2 million in funding for Medicaid and Uncompensated Care Costs payments to hospitals and other health care providers.
  - o The hospital provider fee helps finance a total of \$120.4 million in funding for the continued operation of the Medicaid program in FY06.
  - o In addition to the general support of the Medicaid program, the hospital provider fee results in two increases specifically for hospitals.

- C The first increase funds an augmentation of the Medicaid reimbursement rates for acute care inpatient hospital, psychiatric hospital, and outpatient hospital services at a total cost of \$101.1 million in FY06.
- C The second increase adds \$75.7 million for payments of 75 percent of the uncompensated care costs of non-rural, non-state hospitals for healthcare services provided to uninsured or medically indigent individuals.
- C The two additions result in a net gain by hospitals of \$82.7 million, once the increased payments are discounted for the taxes paid and a shift of annual uncompensated care costs payments.

### **Charity Hospitals**

#### LSU Health Sciences Center – Health Care Service Division

- C The Health Care Services Division (HCSD) faced a \$20.1 million shortfall in revenues for projected expenditures in FY06 in the original version of the budget. The House and Senate both acted to ensure that HCSD would not have to downsize in FY06.
  - o The House added \$16.7 million in additional uncompensated care costs payments.
  - o The Senate added the remaining \$3.4 million in needed uncompensated care costs payments to ensure continuity in service provision in FY06.
- C In addition, the Senate also funded \$24.75 million for additional Medicaid claims payments to HCSD in FY06 based on the most recent projections of needed service provision in FY06.
- C These actions, in conjunction with all actions taken by the legislature on HCSD's FY06 budget, result in estimated total financing for the eight hospitals of \$916.1 million.

#### LSU Health Sciences Center – Shreveport – University Hospital and E. A. Conway Medical Center

- C University Hospital in Shreveport and E. A. Conway Medical Center in Monroe also faced shortfalls as the budget was presented to the legislature.
- C The legislature added \$19.6 million in additional uncompensated care costs payments to University Hospital to continue FY05 service levels into FY06.

- C The additional payments bring the total budgeted revenues for University Hospital to \$279.2 million in FY06. Based on past experience, roughly \$30 million to \$40 million of these revenues will be used to support the LSU Medical School in Shreveport.
- C The legislature added \$9.1 million in additional uncompensated care costs payments to E. A. Conway Medical Center to continue FY05 service levels into FY06.
- C The additional payments bring the total budget for E. A. Conway Medical Center to \$77.6 million in FY06.

## **OVERVIEW OF FUNDING IN FISCAL YEAR 2006 - FOR SOCIAL SERVICES**

### **Family Support**

- C Unlike prior years, when initiative programs have been added or removed and allocation amounts have been altered, there were very few changes to funding for Temporary Assistance to Needy Families (TANF) initiatives for FY06. The only major fiscal change was the addition of \$500,000 for abortion alternatives placed in HB 1 by the House.
- C A total of \$52.1 million has been allocated from the TANF block grant for initiatives for FY06. The following chart outlines these programs.

<b>FY06 TANF Initiatives</b>	
<b>Initiatives</b>	<b>Amount</b>
<b>Literacy</b>	
Public Pre-K (LA4)	\$ 17,000,000
Private Pre-K	\$ 8,500,000
After-school programs	\$ 9,500,000
Truancy and assessment services	\$ 700,000
<b>Sub-total:</b>	<b>\$ 35,700,000</b>
<b>Employment</b>	
Micro-enterprise development	\$ 750,000
Teen pregnancy	\$ 5,500,000
CASA	\$ 3,000,000
Drug courts	\$ 5,000,000
<b>Sub-total:</b>	<b>\$ 14,250,000</b>
<b>Other</b>	
Individual Development Accounts (IDA's)	\$ 1,000,000
Earned Income Tax Credit (EITC)	\$ 315,000
Foster Care Developmental and Socialization Activities Program	\$ 325,000
Abortion Alternatives	\$ 500,000
<b>Sub-total:</b>	<b>\$ 2,140,000</b>
<b>GRAND TOTAL:</b>	<b>\$ 52,090,000</b>

- C The Senate also amended the bill to move Teen Pregnancy Prevention from the Department of Education back to the Department of Social Services for administration and monitoring of the program.
- C There were a few other amendments with significant fiscal impact to the Office of Family Support.
- o A total of \$4.2 million was added to the Client Services Program for the activities of Support Enforcement Services, which is responsible for administering and monitoring the state's child support efforts.
  - o A total of \$2.6 million was provided for 50 positions and the related expenditures for

Support Enforcement Services activities in the Administrative and Client Services Programs.

### **Community Services**

- C A total of \$3.5 million was added to the Child Welfare Services program for residential care. The State General Fund portion of this amount was \$2.0 million, which was used to draw down additional Federal dollars of \$1.5 million.
- C The Senate added an amendment for \$0.25 million in Federal Title IV-E Funds to the Child Welfare Services Program for the Jefferson Parish Juvenile Court. The funding will be used for pre-placement activities to reduce the number of children who would otherwise be placed into out-of-home foster care and to enable reasonable candidates for foster care to remain at home. The court will supply the matching funds required for this program.

### **Rehabilitation Services**

- C A total of \$0.2 million was added for additional collections in the Blind Vendors Trust Fund to cover insurance premiums for blind vendors working in, or retired from, the Randolph-Sheppard program, which provides career opportunities for qualified visually impaired individuals in the food service fields.

## **OVERVIEW OF FUNDING IN FISCAL YEAR 2006 - FOR EDUCATIONAL SERVICES**

### **K-12 Education**

- C The legislature fully funded the Minimum Foundation Program (MFP) formula for providing basic state aid to local schools.
  - o The MFP is funded at \$2.7 billion for FY06, an increase of about \$51.0 million over the budget for FY05, due mainly to a built-in 2.75 percent increase.
  - o The MFP provides \$31.4 million for teacher pay raises in 54 of the state's 68 parish and city school districts, but there is a wide variance in the amount available for each school system. The proposed raises range from \$0 to \$1,791 for the 59,000 school employees who hold teaching certificates. The average is \$530.
  - o Teachers in 14 school systems will receive no raises through the MFP formula because their respective school systems will receive either the same funding or less funding than they received

in FY05 due to student enrollment declines and/or a calculation of the systems' capabilities and efforts to raise local revenues that can be spent on public schools.

- o Act 138 (HB 842) of the 2005 Regular Session of the Legislature, the FY05 Supplemental Appropriation Act, provides \$12.5 million outside of the MFP formula for a one-time salary supplement to all certificated school employees who otherwise would not receive the average \$530 raise.
- C House Bill 1 also provides for a \$20 million increase to expand the LA4 Program's public school classes for at-risk 4-year-olds. With this increase, LA4 is funded at \$69 million in FY06, serving a total of 36,400 at-risk 4-year-olds. This represents 91.4 percent of the state's at-risk Pre-K population.
- C An additional \$2.3 million has been appropriated for Type 2 Charter Schools in order to provide for increased enrollment in FY06. It is anticipated that nearly 3,800 students will attend eight Type 2 Charter Schools in FY06, at a total cost of \$24.5 million.
- C The legislature appropriated an additional \$1.0 million to implement two new assessment programs in FY06: the English Language Development Assessment (ELDA) to assess proficiency in English; and the Online Diagnosis Test to target student mastery of the state's Grade Level Expectations (GLE).
- C House Bill 1 provides \$0.8 million in new funding for nationally certified teachers, school psychologists and school counselors.
- C The legislature appropriated an additional \$0.5 million for the Jobs for America's Graduates – Louisiana (JAG-LA) Program, a dropout prevention and workforce preparation program for at-risk youth. This increases the funding for this program to \$1.0 million.

### **TOPS, Tuition and Fees**

- C The Tuition Opportunity Program for Students (TOPS) is fully funded at \$122.6 million for 42,567 students in FY06, enough to cover the 3-percent tuition increase at the state's public colleges and universities approved by the Joint Legislative Committee on the Budget in March 2005.
- C The legislature appropriated \$1.0 million in HB 1 to fund the new TOPS Tech – Early Start Program, pursuant to Act 348 (SB 355) of the 2005 Regular Session of the Legislature. The new law allows high school students to enroll in community and technical colleges before they get their high school diploma. They will be able to get their tuition paid through TOPS.

### **Higher Education**

- C The legislature appropriated an additional \$23.9 million to Higher Education to fund mandated



costs including merit increases, group insurance, and retirement costs.

- C House Bill 1 provides \$10.0 million in new funding from the Higher Education Initiatives Fund for operational expenses to be distributed to colleges and universities. The appropriation is also intended to fund the continued growth and development of community and technical colleges and learning centers.
- C The Higher Education Initiatives Fund will also provide \$12.0 million in funding to the Board of Regents for Endowed Chairs and Professorships in FY06. This additional funding will be used to match \$18.6 million in donations to create a funding pool of \$30.6 million for the endowed chairs and professorships.
- C House Bill 1 appropriates an additional \$3.0 million in funding, for a total of \$6.6 million, to the Board of Regents for the Health Care Workforce Development initiative to support a new class of nursing and allied health students.
- C The FY06 budget for the Board of Regents includes a total of \$4.0 million in State General Fund, an increase of \$0.8 million over the FY05 appropriation, for the Louisiana Optical Network Initiative (LONI). LONI is a statewide optical fiber network that will allow the networking of computers with other research universities. House Bill 2, the capital outlay bill, contains \$6.5 million in general obligation bonds for library and scientific acquisitions that may be expended on LONI.
- C The 3-percent tuition increase approved by the Joint Legislative Committee on the Budget in March 2005 totals \$17.6 million in FY06 and is appropriated to the various higher education systems for general operating expenses.
- C The Center for Computation and Technology at Louisiana State University-Baton Rouge is appropriated an additional \$2 million for the Governor's Information Technology Initiative at the campus.
- C The budget for the School of Pharmacy at the University of Louisiana at Monroe has been increased by \$2 million for expenditures necessary in FY06 to assist in the maintenance of the accreditation of the school. Further, HB 2 contains an appropriation for \$10.75 million for the renovation of the Bienville Building in Monroe that will house the School of Pharmacy.
- C The legislature appropriated \$2.0 million in funding for the LSU Agricultural Center. The \$2.0 million is split between \$1.85 million for operational expenses and \$0.15 million for vocational agricultural education.

## **OVERVIEW OF FUNDING IN FISCAL YEAR 2006 - PUBLIC SAFETY AND CORRECTIONS SERVICES**

### **Corrections Services**

- C The most significant changes in the Department of Corrections for FY06 are two expansion projects at Dixon Correctional Institute and Wade Correctional Center.
  - o The project at Dixon is a 220-bed trustee dormitory scheduled to be completed by August 2005. This project costs approximately \$0.9 million and requires an additional 11 positions.
  - o The project at Wade is a 50-bed skilled nursing unit scheduled to be completed by January 2006. This project costs approximately \$1.5 million and adds 53 positions.
- C During deliberation on the budget in House Appropriations Committee, a construction project for a new deathrow cellblock at Louisiana State Penitentiary was put on hold due to anticipated construction delays. The \$1.5 million-project had been scheduled for completion by January 2006, but will likely be delayed until later in FY07.

### **Public Safety Services**

- C A total of \$7.8 million has been added to the Office of State Police for information technology upgrades to the AFIS system, the automated fingerprinting system for the department.
- C A total of \$2.9 million was provided for acquisition of a new video poker computer monitoring system in the Office of State Police.
- C Also in the Office of State Police, 21 intoxilyzers were replaced at a cost of \$0.1 million. These units are approximately 10 percent of the statewide total of 212.
- C Fifteen (15) positions were added in State Police for placement and training of a new cadet class. Nine positions were added in Traffic Enforcement; two positions in Criminal Investigation; and four positions in Gaming Enforcement. The total cost for these positions is \$0.9 million.
- C A total of \$3.3 million is provided for DNA sampling of convicted offenders and felony arrestees out of the Criminal Identification and Information Fund.
- C Also in Public Safety, the Office of Motor Vehicles received an appropriation of \$0.1 million for the Organ Donor Awareness Initiative.

## Youth Services

- C A total of \$0.2 million was added to Youth Services based on increased collections from the Social Security Administration for reimbursement of the cost of care for eligible youth.
- C An addition of \$0.9 million was provided to Youth Services due to an increase in the anticipated fund balance of the Youthful Offender Management Fund. The funding will be used for community-based services for juvenile offenders.

## OVERVIEW OF FUNDING IN FISCAL YEAR 2006 - FOR GENERAL GOVERNMENT SERVICES

### Executive

- C The FY06 Executive Office budget contains an additional \$1.0 million to enhance support for the Louisiana Indigent Defense Assistance Board.
- C Nearly \$1.0 million is provided to the Division of Administration in FY06 for the Tournament Players Club (TPC) Golf Facility Cooperative Endeavor Agreement due to a shortfall in the number of golf rounds booked through New Orleans area hotels.
- C New funding totaling \$0.5 million is provided to the Emergency Preparedness Program in the Department of Military Affairs for the Southern Anti-terrorist Regional Training Academy.
- C The Office on Women's Policy received an increase of \$0.2 million in FY06 for additional funding for domestic violence programs, for the Louisiana Coalition Against Domestic Violence, and family violence programs throughout the state.
- C The \$49.4 million appropriation to the Louisiana Stadium and Exposition District (LSED) is estimated to be about \$9.5 million short of the amount needed to meet district obligations in FY06. Of that shortfall, \$7.8 million may be attributed to contractual obligations with the New Orleans Saints.
  - o The State Bond Commission approved the issuance of \$10.5 million in revenue anticipation notes to address the FY05 revenue shortfall experienced by the District. The funds were used to make payments on the Saints retention guarantee (about \$7.8 million), the Hornets attendance guarantee (about \$0.7 million), and to address general operating expenditures (\$1.8 million).

- House Bill 393 of the 2005 Regular Session of the Legislature provides a future funding stream to assist the state in meeting future contractual obligations with NFL and NBA franchises.
  - Ⓒ After net slot machine proceeds at the New Orleans racetrack are provided to various entities at specific rates, the remainder of the revenues generated will be deposited into the New Orleans Sports Franchise Assistance Fund (NOSFAF).
  - Ⓒ The sole use of monies from NOSFAF is to meet contractual obligations made with NFL and NBA teams located in Orleans Parish.

### **Elected Officials**

- Ⓒ House Bill 1 provides an additional \$1.1 million to the Secretary of State's Museum and Other Operations Program to enhance and expand the operations of various state and local museums across Louisiana.
- Ⓒ The legislature appropriated an additional \$0.7 million to the Secretary of State's Elections Program to provide for merit increases for employees of the Registrars of Voters throughout the state.
- Ⓒ The Attorney General's Medicaid Fraud Control Unit is slated to receive an additional \$2.1 million and 25 positions in an effort to enhance fraud and abuse detection and fraud prevention activities. Further, the funding will allow the Attorney General to better pursue collections on judgments previously awarded.
- Ⓒ House Bill 1 provides an additional \$1.9 million and 28 positions to expand the Department of Justice's Risk Litigation offices in New Orleans and Shreveport. Increasing the legal staffs in these regional offices will allow the Attorney General to handle more risk litigation cases in-house and give staff the opportunity to specialize in key types of risk litigation within geographic areas.
- Ⓒ The Department of Justice has been appropriated an additional \$1.4 million for salary increases for its Assistant Attorneys General in an attempt to reduce staff turnover.
- Ⓒ The legislature appropriated \$0.46 million for civil legal services for the poor for FY06. This represents a \$0.16 million increase for these services over the FY05 level. The funds will be divided equally among four (4) regional legal services corporations across the state.

## Economic Development

- C House Bill 1 contains language and appropriations necessary for the means of financing swap required to accomplish the establishment of the Rapid Response Fund upon enactment pursuant to Act 398 (HB 460) of the 2005 Regular Session of the Legislature.
  - o The new law establishes the Rapid Response Fund in the state treasury for the purpose of economic development and requires future deposits of State General Fund to maintain the fund's unencumbered balance at \$10 million at the beginning of each fiscal year.
  - o The bill further requires reporting to the Joint Legislative Committee on the Budget regarding the department's use of monies in the fund each October and April.
- C The Department of Economic Development (DED) received one-time funding for advertising and marketing purposes as a result of the deposit of \$3.6 million in unspent FY05 State General Fund from the Governor's Economic Development Rapid Response Program into the Marketing Fund in Act 138 (HB 842) of the 2005 Regular Session of the Legislature, the FY05 Supplemental Appropriation Act.
- C DED received \$1.5 million in new funding for the England Economic and Industrial Development District for the first year of a 15-year commitment for debt service on public infrastructure construction for the Union Tank Car manufacturing facility.
- C The FY06 budget includes \$0.75 million in TANF funds from DSS for the Microenterprise Initiative to build economic self-sufficiency by enhancing access to capital, technical assistance and training.

## Transportation and Development

- C The total FY06 appropriation to the Department of Transportation and Development is \$440.3 million or 1.2 percent greater than the prior fiscal year. The changes in the budget result from multiple actions.
  - o An increase of \$19.2 million was included for expenditures that were transferred to the operating budget from the capital outlay budget. These include certain activities that the Division of Administration considered to be operating expenditures.
  - o A net increase of \$11.5 million stemmed from a series of adjustments in personnel related costs including merit increases, retirement, group insurance, attrition adjustments and the elimination of 74 unfilled vacancies.

- An increase of \$1.0 million in State General Fund pass-through projects administered by the department produced a total of \$1.8 million in local projects.
  - Reductions totaling \$7.0 million from the Transportation Trust Fund-Regular were made in the operating budget to balance expenditures with official revenue estimates.
  - The elimination of non-recurring items from the budget for FY06 resulted in a \$19.4 million reduction (\$17.2 million in non-recurring carry forwards and \$2.2 million in other non-recurring adjustments).
- C The budget transferred funding and positions between Administration and the Office of Engineering and Operations to facilitate communication between management and operations. There was no net impact to the total operating budget from this action.

### **Natural Resources**

- C With the enactment of Act 298 (SB 182) of the 2005 Regular Session of the Legislature, three positions and \$0.3 million were added to the Office of Mineral Resources for the Louisiana Royalty Relief Dry Hole Credit Program established by the new law that would be applicable for certain drilling in mineral leases on Louisiana offshore state lands and state-owned water bottoms.
- C A total of \$75,000 is in the department's base budget for hydrilla control in Henderson Lake.

### **Wildlife and Fisheries**

- C A total of \$1.0 million was added to the Office of Wildlife from a federal North American Waterfowl Conservation Act grant for the protection and restoration of the wetland habitat on the Manchac Wildlife Management Area.
- C Statutory Dedications out of the White Lake Property Fund in the amount of \$0.8 million were added to the Office of Wildlife for transfer of ownership of the White Lake Wildlife Management Area. This transfer is pursuant to Act 613 of the 2004 Regular Session, which, among other things, established the White Lake Property Advisory Board within the Department of Wildlife and Fisheries.

## **OVERVIEW OF FUNDING IN FISCAL YEAR 2006 - FOR OTHER GOVERNMENT SERVICES**

### **Retirement Systems**

- C Act 138 (HB 842) of the 2005 Regular Session of the Legislature, the FY05 Supplemental Appropriation Act, provided an additional \$20 million to local school boards to help them defray the rising costs of pension benefits for their employees.

### **Sheriffs' Housing of State Inmates**

- C Sheriffs' Housing has been funded at \$156.2 million for FY06 to provide per diem for approximately 18,000 state inmates housed in local jails and detention centers.
- C This is an increase of \$4.4 million over the FY05 budget of \$151.8 million.
- C These inmates account for about 48.5 percent of the total state adult offender population.

### **Supplemental Payments to Law Enforcement Personnel**

- C The total level of Supplemental Pay was provided at \$69.9 million for FY06. Of this amount, \$22.6 million is paid to municipal police; \$18.0 million to local firefighters; \$0.7 million to constables and justices of the peace; and \$28.6 million to deputy sheriffs.
- C This is a decrease of \$1.5 million from the FY05 budget of \$71.4 million due largely to an anticipated decline in the number of eligible municipal police officers participating.
- C On a monthly basis, eligible police officers, firefighters, and deputy sheriffs receive \$300, while constables and justices of the peace receive \$75.
- C The program currently serves approximately 6,280 police officers; 5,005 firefighters; 7,930 deputy sheriffs; and 790 constables and justices of the peace.

## Capital Outlay

by: *Frankie King*  
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**House Bill 2 by Representative Hammett (Act 26)**, provides for the comprehensive capital outlay budget, the development and expansion, for Fiscal Year 2005 - 2006, including funding from the following sources of monies:

(1)	State General Fund (Direct)	\$ 13,392,500
(2)	Federal Funds	\$ 45,930,124
(3)	Federal Funds - TTF	\$ 566,287,500
(4)	Transportation Trust Fund (TTF) - Regular	\$ 163,512,465
(5)	TIMED Funds	\$ 66,157,674
(6)	Interagency Transfers	\$ 13,100,000
(7)	Misc. Statutory Dedications	\$ 11,240,000
(8)	Fees and Self-Generated Revenues	\$ 120,204,249
(9)	Reappropriated Cash	\$ 1,434,158
(10)	Reappropriated Interest Earnings	\$ 294,900
(11)	Revenue Bonds	\$ 1,065,195,890

**TOTAL CASH PORTION** **\$ 2,066,749,460**

Authorizes the funding of certain capital outlay projects from the sale of general obligation bonds for the projects delineated as follows:

Priority 1	\$ 634,205,000
Priority 2	\$ 256,217,000
Priority 3	\$ 375,149,736
Priority 4	\$ 289,422,000
Priority 5	\$ 902,390,000

**TOTAL GENERAL OBLIGATION BONDS** **\$ 2,457,383,736**

**BONDS NRP/RBP** **\$ 3,615,088**

**GRAND TOTAL ALL MEANS OF FINANCING** **\$ 4,527,748,284**



BONDS NRP is the reallocation of previously sold bonds.

BONDS RBP is the appropriation of funding made available from prepayments of reimbursement bond contracts.

Effective upon signature of governor or lapse of time for gubernatorial action.

Section 16 limits cash lines of credit or authorization or issuance of general obligation bonds to \$714,475,000. After fulfilling the Priority 1 cash lines of credit, there will be approximately \$80,270,000 available for cash lines of credit/bond sale amount for Priority 2 projects.

# Civil Law & Procedure

by: *Peggy Russell*  
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## WILLS AND TESTAMENTS

In response to court decisions and the public concern relative to life sustaining procedures, the most notable being the Terri Schiavo case in Florida, **Senate Bill 40 by Senator Cain (pending Senate Finance on recommitment)** would have created the Human Dignity Act. Presently, under law, an individual may sign a living will which authorizes the discontinuation of life sustaining procedures, including food and nutrition, when the individual's condition is terminal and irreversible. The proposed Human Dignity Act would authorize that nutrition and hydration may be withheld by either an oral or written declaration, but would establish a presumption that every qualified patient legally incapable of making health care decisions desires to be provided with nutrition or hydration to a degree that is sufficient within reasonable medical judgment to sustain life. Therefore, the proposed legislation would provide that nutrition and hydration are not considered a life sustaining procedure under proposed provisions, and, in the absence of such a declaration, would provide that nutrition and hydration shall not be withheld except under the following circumstances:

1. Provision of nutrition or hydration is not medically possible.
2. Provision of nutrition or hydration would hasten death.
3. Provision of nutrition or hydration would make the condition worse or cause acute pain or would diminish comfort care.

The proposed legislation would also establish two policy positions of the legislature. First, because human life is sacred and should be afforded dignity, any ambiguity should be interpreted to preserve human life when a condition is terminal and irreversibly,. Secondly, all citizens of the state should be encouraged to make written declarations as to their desires, with respect to the withdrawal of nutrition and hydration, should they suffer from a terminal and irreversible condition.

During the Senate Judiciary A Committee hearing, amendments were adopted to the proposed legislation which would require that the cost of continuing nutrition and hydration to a degree to sustain life when a such a declaration has been made and the immediate family is financially unable to pay the subsequent costs or when no such declaration has been made but life-sustaining nutrition and hydration are provided and the immediate family is financially unable to pay the costs.

**House Bill 675 by Representative Beard (Act 447)** also addresses the issues surrounding life-sustaining declarations. Presently, the law provides for an illustrative form (living will) which an adult may use at any time to make a declaration withholding or withdrawal of life-sustaining procedures in the event the person should have a terminal and irreversible condition. The Act retains the form and further specifies in the form that life-sustaining procedures specifically include or exclude nutrition and hydration by giving the declarant the opportunity to check one choice or the other.

Present law authorizes the spouse of a patient who is qualified with a terminal and irreversible condition to make such a declaration for the patient if such patient has not previously made a declaration; however, present law did not define "spouse." **Act 447** defines "spouse" as a person who is legally married to the qualified person but specifically does not include a spouse in any of the following circumstances:

1. Who is judicially separated from the qualified spouse.
2. Who is cohabited with another person in the manner of married persons.
3. Who has been convicted of a crime of violence as defined by law against the other spouse when the crime has resulted in the terminal and irreversible condition from which the person is suffering.
4. Who has violated any domestic abuse protective order affecting the other spouse.

The Act additionally provides that any declaration executed prior to August 15, 2005, in which a declarant does not specifically indicate with respect to nutrition and hydration shall not be held invalid for that reason nor presumed to mean that the declarant desires the invasive administration of nutrition and hydration. The Act also provides that it is the policy of the state that human life is of the highest and inestimable value through natural death and, as in **Senate Bill 40**, provides that any ambiguity relative to life-sustaining procedures shall be interpreted to preserve human life.

## **CHILDREN**

Custody. **House Bill 92 by Representative Bowler (pending Senate Judiciary A)**, attempted to clarify the presumptions of physical custody orders. The proposed provisions would have defined "shared custody" as a special type of "joint custody." The bill would further have provided that, although a child should be assured of as frequent and continuing contact as is feasible with each parent, shared custody is neither mandated nor presumed to be in the best interest of the child and would authorize the court to require a six-month trial period before issuing a shared custody order.

## LIABILITY

Liability of the state. *Lockett v. the State of Louisiana, Department of Transportation* addressed the legal questions as to whether multiple \$500,000 caps are allowed under present law in wrongful death actions brought against the State. The Supreme Court found that the cap is to be applied "per plaintiff" for the wrongful death of any one person. **Senate Bill 258 by Senator Kostelka (Act 1)** is intended to explain the original intent of present law which is contrary to the decision of the Supreme Court. **Senate Bill 258** provides that in all suits for personal injury or a wrongful death of any one person, the total amount recoverable, including all claims and derivative claims, exclusive of property damages, medical care and related benefits and loss of earnings and loss of future earnings, shall not exceed \$500,000, regardless of the number of suits filed or claims made for the personal injury or wrongful death of that person.

Anti-trust. Louisiana anti-trust laws prohibit monopolizing trade or commerce to avoid the restraint of trade or commerce in the state. **House Bill 381 by Representative Johns (pending Senate Judiciary A)** would have provided for an exemption from such provisions for electric or gas utility companies which are subject to the jurisdiction of the Louisiana Public Service Commission, the City Council of the city of New Orleans, the Federal Energy Regulatory Commission, or any other public utility regulatory body with ratemaking or other general regulatory authority.

Fuels. **House Bill 618 by Representative Fannin (Act 71)** limits the liability of retailers, suppliers, handlers, and transporters of liquefied petroleum gas (LPG) in two specified conditions - if damages result from alteration, modification, or repair of LPG equipment or appliances without the knowledge and consent of the retailer, supplier, handler or transporter or if the equipment or appliance was used in an unintended or unforeseeable manner. However, the bill further provides that a person who follows the standard and rules of the LPG Commission shall not be deemed to be grossly negligent or willful and wanton and a person who follows the applicable procedures established by the commission and the information and directions on the equipment or appliance shall not be deemed to be solely negligent.

## MILITARY AFFAIRS

**Senate Bill 151 by Senator N. Gautreaux (Act 296)** provides for benefits for a person on active military duty or his spouse by creating exemptions from terms and conditions of various contracts during a period of active duty as follows:

1. Prohibits a creditor from charging or collecting from interest or finance charges exceeding 6% per annum during the period of active duty in connects with any retail installment sales contract, other contract for the purchase of goods or services, or bond, bill, note, or other instrument fo writing for the payment of money arising out of a contract or other transaction for the purchase of goods or services.
2. Forgives interest or finance charges in excess of 6% per annum that otherwise would be incurred but

for the interest and finance charges limitations.

3. Requires that the amount of any periodic payment must be reduced by the amount of the interest and finance charges forgiven that is allocable to the period for which the periodic payment is made.
4. Authorizes the termination of any motor vehicle lease that is executed by or on behalf of a person who is on active duty for not less than 180 days when the lessor is notified and the vehicle is returned to the lessor's custody or control not later than 15 days after the delivery of the notice and requires that lease amounts unpaid for the period preceding the effective date of the lease's termination be paid on a prorated basis. The lessor may not impose an early termination charge, but the lessee shall be responsible for any taxes, costs of summons, title or registration fees, and any other obligation and liability of the lessees which are unpaid at the time of the lease's termination
5. Authorizes termination of a cellular phone contract executed by or on behalf of the person on active duty, but provides that the termination is not effective until 30 days after notice is given to the telephone company and, if the phone is not owned by the person, it is returned to the company or a written agreement is made to return the phone as soon as practicable after the service is completed.
6. Authorizes the court to adjust a rental agreement or to stay the proceedings for a period of 90 days, if equitable in the opinion of the court, when an action is brought for possession of a residential premises of a tenant or resident of a manufactured home park by a landlord or operator of at least four residential premises, if the tenant's or resident's ability to pay the agreed rent is materially affected by his active duty. If a stay is granted, authorizes the landlord or park operation such relief as equity may require.
7. Prohibits the lapse or forfeiture for nonpayment of premiums of an individual life insurance policy insuring the life of person on active duty during the period of active duty of the person or during the two- year period after the duty ends if the policy is within the provisions of the Federal Service Members Civil Relief Act and if it was not cancelled or has not lapsed for nonpayment prior to the commencement of active service.
8. Prohibits a natural gas provider or an electricity provider from discontinuing service to a residential consumer or charging any late fees or interest to a residential consumer during active duty and requires that, upon the return from active duty of the consumer, the provider offers the consumer a period equal to at least the period of service of active duty to pay arrearages and authorizes such a utility or company to apply with the PSC to recover such amounts it feels are uncollectible.

9. Prohibits a water or sewage provider from discontinuing service to a consumer who is on active duty and authorizes a provider that is a public utility to file an application with the PSC to remove amounts owed that is uncollectible from such consumer.

The proposed legislation provides for relief from the interest and finance charges limitation when, in the opinion of a court, such interest or charges at a rate in excess of 6% is not materially affected by reason of the person's active duty service.

## Coastal Restoration

*by: Jerry Jones*  
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Should proposed legislation be adopted by Congress, certain federal monies generated from Outer Continental Shelf oil and gas activity will go to Louisiana and other coastal states. In anticipation of the passage of such federal legislation, **Senate Bill 187 by Senator Dupre (Act 513)** is a constitutional amendment that would add language crediting the first six hundred million dollars of these monies to the state Wetlands Conservation and Restoration Fund and specifying their use for the purposes of coastal wetlands conservation, coastal restoration, and infrastructure directly impacted by coastal wetland losses. **Senate Bill 195 by Senator Dupre (Act 300)** is companion legislation to the constitutional amendment providing similar changes to statutory language, effective upon adoption of the constitutional amendment. The proposed constitutional amendment will be placed upon the ballot for consideration in the November 2006 statewide election.

The Louisiana Coastal Wetlands Conservation and Restoration Plan for Fiscal Year 2005-2006 was approved by **Senate Concurrent Resolution 49 by Senator Dupre (enrolled)**.

**House Bill 197 by Representative Dove (Act 202)** creates the Coastal Passes Stabilization and Restoration Program and Fund. The program authorizes the Department of Natural Resources to require coastal restoration or preservation projects subject to public bid to include provisions for the use of dredge material, rocks or other hard materials to stabilize and restore coastal passes. **Senate Bill 182 by Senator Dupre (Act 298)** creates the Louisiana Royalty Relief Dry Hole Credit Program concerning drilling on state-owned lands and state-owned water bottoms in the coastal zone. It includes certain enhanced mitigation requirements.

Through concurrent resolutions, the Legislature expresses legislative sentiment to Congress desiring it to take certain action. **Senate Concurrent Resolution 61 by Senator Butch Gautreaux (enrolled)** memorializes Congress to enact the Coastal Restoration Tax Credit Act of 2005. **House Concurrent Resolution 84 by Representative Dove (enrolled)** memorializes Congress to approve funding for deepening of the Houma Navigation Canal. **Senate Concurrent Resolution 117 by Senator Boasso (enrolled)** memorializes Congress to protect and ensure the right of state and local governmental entities to comment on applications for new offshore liquefied natural gas facilities and the right of the governor to the extent authorized by federal law to veto the approval of such facilities, and to direct the U.S. Maritime Administration to require that the environmental impacts of offshore liquefied natural gas terminals be fully investigated and considered before such facilities are licensed, especially in regards to the individual and cumulative impacts of open rack vaporization systems on marine species and marine habitat. Concerns over proposed "open loop" LNG terminals in the Gulf had been expressed in a joint hearing held by the House and Senate natural resources committees to receive informational testimony and testimony from

proponents and opponents of the terminals.

**Senate Concurrence Resolution 127 by Senator Dupre (enrolled)** requests the President and his administration to acknowledge the urgent need to restore and conserve the Louisiana coast, and to support payments to the coastal oil and gas states through sharing of outer continental shelf production revenues.

Certain legislation affecting coastal areas was introduced but failed to pass. **House Bill 180 by Representative Dove (pending House committee)** would have dedicated to barrier island restoration certain monies from the Mineral Revenue Audit and Settlement Fund dedicated to the Wetlands Conservation and Restoration Fund. Although the bill failed to pass, the secretary of the Department of Natural Resources has advised that he is considering a pilot program for maintenance of barrier islands. **Senate Bill 276 by Senator Butch Gautreaux (pending Senate committee)** would have provided relative to coastal wetland areas and remediation.



## Commerce & Consumer Protection

by: *Jeff Oblesbee*  
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Despite the focus of the 2005 Regular Session on addressing the state's fiscal matters, the legislature nevertheless addressed several important issues in the area of commerce and consumer protection.

### UNFAIR SALES

The astronomical rise in gas prices across the country prompted the legislature to address provisions of the Louisiana Unfair Sales law which require retailers to mark up the sale of gasoline a minimum of 6% above their actual cost. Historically, this law was written to provide protections against a retailer selling items at below cost in order to drive out their competition. An exception in the law allowed manufacturers of a product, including gasoline, to sell their product at any cost.

The legislature chose to address this troublesome issue in two similar, yet somewhat different ways. **House Bill 763 by Representative Townsend (Act 263)** eliminated the mandatory 6% mark-up for gasoline, while providing that no one could sell gas at below their actual cost, unless they were doing so to meet the legal cost of a competitor. An alternative proposal was offered by **House Bill 183 by Representative Daniel (Pending House Commerce)** which would have removed the mandatory mark-up, as well as the provisions which required gas to be sold at the actual cost, as long as the intent was not to impair or injure competition. With the elimination of the mandatory 6% mark-up, it is anticipated that Louisiana citizens will see some reduction in the price they pay at the pump.

### CONSUMER PROTECTION

Continuing to address the emerging threat of electronic identity theft, **Senate Bill 205 by Senator Duplessis (Act 499)** provides for the Database Security Breach Notification Law. Adding to Louisiana's already aggressive stance towards preventing identity theft, the Database Security Breach Notification Law would require any person that conducts business in the state that includes personal information must, following discovery of a breach in the security of the system containing such data, notify any resident whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

Following the devastation caused by numerous hurricanes and tropical storms which battered the United States last year, **Senate Bill 162 by Senator Heitmeier (Act 149)** will add to Louisiana's existing prohibition against price gouging by extending the prohibition during any period when a named tropical storm or hurricane is threatening the Gulf of Mexico.

### TELECOMMUNICATIONS/UTILITIES

**Senate Bill 126 by Senator Broome (Act 406)** adds to the provisions of the Local Government Fair Competition Act which was passed during the 2004 Regular Session and which established procedures for a local government who chooses to offer certain "covered" telecommunication services. Under the proposed law, the local government would be required to call a local election for the purpose of authorizing the issuing of bonds which would assist in providing the covered services. In the event a local government choose to offer the covered telecommunication services, certain provisions of existing contracts with private companies who also offered the covered telecommunication services would be suspended. The provisions of the proposed law would not effect any local government which has already begun the process of offering the covered telecommunication services.

**House Bill 381 by Representative Johns (Pending Senate Jud A)** would have provided an exemption from the provisions regulating monopolies for electric or gas utility companies which are subject to the jurisdiction of the Louisiana Public Service Commission, the City Council of the city of New Orleans, the Federal Energy Regulatory Commission, or any other public utility regulatory body with rate making or other general regulatory authority. Under the current law, the gas or utility company is subject to the jurisdiction of the district court for violation of the state's anti-monopoly law, and if found guilty would liable for treble damages and attorney fees.

In an effort to assist Louisiana's military personnel who are called to active duty, **House Bill 7 by Representative Gary Smith (Act 349)** will enable those activity duty military personnel to either suspend or terminate their existing cell phone contracts without a penalty. Further providing relief to Louisiana's active duty military personnel, **Senate Bill 151 by Senator Nick Gautreaux (Act 296)** establishes the Service Members Civil Relief and Consumer Rights Act which would provide numerous financial protections for active duty military personnel, including relief from motor vehicle leases, rental agreements, financial credit agreements, and other similar contracts.

## **BANKING**

Several "touch-up" pieces of legislation were presented to the legislature during the 2005 Regular Session in the area of banking.

**Senate Bill 107 by Senator Duplessis (Act 291)** will allow Louisiana banks to utilize a nationally recognized system which will provide additional FDIC coverage for public funds on deposit with state banks. **House Bill 446 by Representative Trahan (Act 235)** will require an applicant for a residential mortgage lender license to pass a written examination before obtaining a license. Any person with either a banking degree and one years banking experience, or with two years of banking experience would be exempt from the examination requirement.

**House Bill 696 by Representative Pinac (Act 99)** will provide additional protection to consumers who transact business with lenders who offer deferred presentment and small loans (i.e. "payday loans") by prohibiting lenders from taking either a direct or indirect interest in property in connection with the loan. Finally, **Senate Bill 255 by Senator Michot (Act 500)** provides a comprehensive revision regarding the sale and distribution of motor vehicles in Louisiana. Although the proposed legislation does not make any substantive changes to the existing law, it does attempt to reorganize and clarify the existing statutes for the benefit of the consumers.

# Constitutional Amendments

by: *Thomas L. Tyler*  
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Property taxes, elections, and conservation and restoration of our wetlands provided the bulk of proposals to amend our constitution this legislative session. The next statewide election in which any of these proposed amendments, if enacted, will appear on the ballot for voter approval is November 7, 2006.

## WETLANDS CONSERVATION & RESTORATION

Recognizing the importance to dedicate a significant revenue stream for coastal conservation, restoration, and infrastructure impacted by coastal wetland loss, **Act 513 (Senate Bill 187 by Senator Dupre)** dedicates the first \$600 million received by the state in each fiscal year from oil and gas activity on the Outer Continental Shelf. This \$600 million is deposited into the Wetlands Conservation and Restoration Fund only after compliance with the requirements in Article VII, Section 10.1 of our constitution for "8g" monies into the Louisiana Education Quality Trust Fund and requirements involving the Bond Security and Redemption Fund in our constitution.

This \$600 million can only be used for the "purposes of coastal wetlands conservation, coastal restoration, and infrastructure directly impacted by coastal wetland losses."

## ELECTIONS

**House Bill 80 by Representative Bruneau (Pending Senate Committee)** would have provided for election of members of the legislature and statewide elected officials to the congressional elections in 2008. The immediate impact of this change would have been to extend the current term of legislators and statewide elected officials by one year. This election cycle consolidation will provide savings to the state for the costs of holding two statewide elections back to back every four years - eliminating a statewide election for members of the legislature, governor, and other statewide officials followed the next year by congressional elections.

Officials who are not members of the legislature or a statewide elected officials but who are elected at the same time as the governor and whose terms expire prior to the regularly scheduled general election for state officials in 2008 have their terms extended for one year with their successors being elected to a regular term at the congressional elections in 2008

Legislators who are members of a publicly funded retirement system will not earn any additional service credit during the additional one year of their term.

## PROPERTY TAXES

### Limitation on Reappraisal

Property subject to ad valorem tax is to be reappraised and valued at intervals of not more than four years. Many taxpayers experienced increases in their property taxes as a result of recent reappraisals and valuations of their property - most of which involved the family residence.

After these reappraisals or valuations, the constitution requires that the total amount of taxes collected as a result of any increase or decrease in appraisal or valuation must be the same as the amount collected in the year preceding the reappraisal and valuation. As property increases in value (i.e. the family home), the millage rate is adjusted downward or rolled back so that no additional money is derived due to the increase in value.

While increases in millage rates are subject to voter approval, after these reappraisals or valuations, the "rollback" millage rate may be increased by a 2/3 vote of the respective taxing authority after a public hearing held in accordance with the open meetings law and notice of the meeting is given and published, etc. This increase without voter approval is permitted as long as the increased millage rate does not exceed the prior year's maximum authorized rate.

To limit the taxing authority's ability to increase this "rollback" millage rate, without a vote of the people, **House Bill 273 by Representative Arnold (Pending Senate Committee)** would limit this increase to the increase in the cost of living as reflected in the official Consumer Price Index of all Urban Consumers as published by the federal government since the last time the property was reappraised or valued under the constitution.

### Consigned Artwork

An exemption from ad valorem tax is granted for artwork held for sale on consignment, including sculptures, glass works, paintings, drawings, signed and numbered posters, photographs, mixed media, collages, and any other item considered as the material result of a creative endeavor that is listed as a consignment article by an art dealer. **Act 509 (Senate Bill 200 by Senator Bajoie)**

### Motor Vehicles

Motor vehicles used on public highways of the state are exempt from state, parish, and special ad valorem taxes. This exemption is applied to municipal ad valorem taxes under **Act 512 (House Bill 187 by Representative Arnold)**.

### Medical Equipment Leases

Medical equipment leased, for a term exceeding five years, by a nonprofit corporation or association which owns or operates a small, rural hospital is exempt from ad valorem taxes for the term of the lease

provided the medical equipment is used solely for health care purposes at the hospital under the provisions of **Act 510 (Senate Bill 32 by Senator Adley)**.

To be eligible for this exemption a "small, rural hospital" must satisfy all of the following criteria:

- (1) Have less than 50 Medicare-licensed acute care beds.
- (2) Be located in a municipality having a population of less than 10,000 which has been classified by the U.S. Health Service as an area with a shortage of health manpower.

#### Disabled / POW / Missing in Action

Special property assessment levels are applied to residential homesteads owned and occupied by persons age 65 and older which level cannot be increased above the total assessment of the property for the first year that the owner qualifies for the special assessment level provided the person's income level does not exceed a certain amount (\$50,000 with annual adjustment based on the consumer price index)

Individuals whose income does not exceed the limits specified can also qualify for the special assessment level if they are permanently and totally disabled as designated by the U.S. Social Security Administration (**House Bill 370 by Representative Faucheux - pending conference**) or by the appropriate state or federal agency or final judgement of a court - (**Senate Bill 165 by Senator Heitmeier - Pending House Final Passage**).

**House Bill 573 by Representative Kennard (pending concurrence)** grants the special assessment level to honorably discharged veterans with a service-connected disability rating of fifty percent or more from the U.S. Department of Veteran's Affairs and to members of the armed forces or the national guard who owned and last occupied property and who are killed in action or who are missing in action or a prisoner of war for a period exceeding ninety days. This assessment remains as long as the disabled owner or that owner's surviving spouse who is age forty-five or older or who has minor children or the spouse of an owner who was killed in action remains the owner of the property even if the surviving spouse's interest is an interest in usufruct. **Act 511 (Senate Bill 89 by Senator Nevers)** is identical to **House Bill 573** in that it also grants the special assessment level to honorably discharged veterans with a service-connected disability rating of fifty percent or more from the U.S. Department of Veterans' Affairs; to the surviving spouse of persons killed in action; and to persons who are missing or prisoners of war for a period exceeding ninety days. In addition, **Act 511** grants the special assessment to any person who is determined to be permanently totally disabled in a final non-appealable judgement of a court or as certified by a state or federal administrative agency charged with responsibility for making disability determinations.

Under **Act 511** the special assessment level remains as long as the property owner has the service-connected rating of fifty percent or more, or the owner's surviving spouse is age forty-five or older or has minor children and remains the owner of the property (even if the surviving spouse's interest is in usufruct). As to persons missing in action or prisoners of war, the special assessment remains until the first day of the tax year following the tax year that the veteran is no longer missing in action or a prisoner of war.

**Act 511** adds a requirement that recipients of the special assessment who are under age sixty-five are to annually qualify and certify to the local assessor that their adjusted gross income in the prior tax year does not exceed the income limits in the constitution (\$50,000 with annual adjustments based on the Consumer Price Index).

### **CONSTITUTIONAL CONVENTION - LIMITING CALL**

The legislature is authorized under Article XIII, Section 2 of the Constitution of Louisiana to call for a constitutional convention to *revise our constitution or propose a new constitution*. In 1992, with the enactment of Act 1066 of the 1992 Regular Session, the legislature did call for a "constitutional convention for the purpose of revising the constitution in order to provide for state and local revenue and finances matters relating thereto."

The language in our constitution is not clear as to the authority to call such a "limited" constitutional convention. In an effort to clarify the legislature's authority, **House Bill 157 by Representative Pitre (Pending Senate Committee)**, would have provided that if the legislature calls for a constitutional convention it may provide that the convention be limited to consideration of specific objects or be prohibited from consideration of certain objects.

## Corrections

by: *Dennis Weber*  
(225) 342-0643

**Senate Bill 323 by Senator Jackson (Act 343)** establishes special reporting requirements and general oversight requirements for the states' indigent defense system. Each district board shall submit an annual report to the Indigent Defense Assistance Board no later than February first of each year, commencing in 2006. The report, using the uniform definition of a "case" as defined in Subsection C, shall include detailed information of the district board's workload, resources, employees, and expenditures for the previous fiscal year. The chairman of the district board or absent a chairman, every member of the district board, shall be responsible for preparing, completing and submitting the annual report to the Indigent Defense Assistance Board.

The district board shall be subject to the penalties, payable out of the judicial district indigent defender fund, if any of the following occur:

- (a) The failure to file a report.
- (b) The failure to timely file a report.
- (c) The failure to disclose or accurately disclose any required information.
- (d) The filing of a false report.
- (e) The amount of the penalty shall be one hundred dollars for each day until the report or the required accurate information is filed.

A "case" is defined as a charge or set of charges, petition or complaint against a single defendant or client arising out of a single event, transaction or occurrence. Each appeal shall be counted as a separate case. If a defendant absconds, the case file shall be administratively closed after ninety days and counted as a single case. When the absconded defendant is brought back to court, the case shall be administratively opened as a new case. If a separate probation revocation hearing is required, the probation hearing shall be counted as a separate misdemeanor case. If two or more defendants are charged in a single indictment, the charges against each defendant shall be counted and reported as separate cases. Each Families in Need of Services (FINS) petition shall be counted as a separate case. Each Child in Need of Care (CINC) petition shall be counted as a separate case. Each child support petition shall be counted as a separate case.

Every court of original criminal jurisdiction, except in the town of Jonesville, in the city of Plaquemine, and in mayors' courts in municipalities having a population of less than five thousand, shall remit the following special costs to the district indigent defender fund for the following violations, under state statute as well as under parish or municipal ordinance, except a parking violation. The sum of thirty-five dollars shall be assessed in cases in which a defendant is convicted after a trial, a plea of guilty or nolo contendere, or after forfeiting bond, and shall be in addition to all other fines, costs, or forfeitures imposed:.



A person will be deemed "indigent" who is unable, without substantial financial hardship to himself or to his dependents, to obtain competent, qualified legal representation on his own. "Substantial financial hardship" is presumptively determined to include all defendants who receive public assistance, such as Food Stamps, Temporary Assistance for Needy Families, Medicaid, Disability Insurance, resides in public housing, or earns less than two hundred percent of the Federal Poverty Guideline. A defendant is presumed to have a substantial financial hardship if he or she is currently serving a sentence in a correctional institution or is housed in a mental health facility.

Defendants not falling below the presumptive threshold will be subjected to a more rigorous screening process to determine if their particular circumstances, including seriousness of the charges being faced, monthly expenses, local private counsel rates, would result in a "substantial hardship" were they to seek to retain private counsel.

If the court makes the preliminary determination that the accused is or may be indigent, the court shall require the accused to make application to the local indigent defender office or an attorney appointed or under contract to provide indigent defender services, who shall inquire further into the accused's economic status and, upon determining that the accused is indigent, shall file a certification thereof, in such form as the court may require and without paying costs in advance, in the record of the proceeding or enroll as counsel.

The accused shall be responsible for applying for indigent defense counsel and for establishing his indigency and entitlement to appointment of counsel. Any oral or written statements made by the accused in or for use in the criminal proceeding and material to the issue of his indigency shall be made under oath or an equivalent affirmation.

An accused person or, if applicable, a parent or legal guardian of an accused minor or an accused adult person who is claimed as a dependent on the federal income tax submission of his parent or legal guardian, who makes application to the judicial district indigent defender board certifying that he is financially unable to employ counsel and requesting representation by indigent defense counsel or conflict counsel, shall pay a nonrefundable application fee of forty dollars to the indigent defender board or its designee, which fee shall be in addition to all other fees or costs lawfully imposed. If the board or other appropriate official determines that the person does not have the financial resources to pay the application fee based upon the financial information submitted, the fee may be waived or reduced. An accused who is found to be indigent may not be refused counsel for failure to pay the application fee.

The proceeds shall be deposited to the judicial district indigent defender fund in the judicial district in which the application was made. The Indigent Defense Assistance Board will develop and promulgate rules pursuant to the Administrative Procedure Act to provide uniform guidelines to be used by the indigent defender board or its designee in making a determination as to the indigency of a defendant.

The funds collected pursuant to this Section and all interest or other income earned from the investment of such funds shall be used and administered by each judicial district indigent defender board.

The judicial district indigent defender board or other appropriate official shall maintain a record of all persons applying for representation and the disposition of the application and shall provide this information to the Indigent Defense Assistance Board on a monthly basis as well as reporting the amount of funds collected or waived.

The Indigent Defense Assistance Board shall consist of nine fifteen members. No individual may be recommended, appointed, or serve on the board if he is an elected official, or employed by a law enforcement agency, or an office having any prosecutorial authority, or employed full time by a court.

Each member of the board shall be admitted to the practice of law in this state for at least five years prior to appointment. Persons appointed to the board shall have significant experience in the defense of criminal proceedings or shall have demonstrated a strong commitment to quality representation in indigent defense matters. No person shall be appointed to the board that has received compensation to be an elected judge, elected official, judicial officer, prosecutor, law enforcement official, indigent defense provider, or employees of all such persons, within a two-year period prior to appointment. No active part-time, full-time, contract or court-appointed indigent defense provider, or active employees of such persons, may be appointed to serve on the board as a voting member. No person having an official responsibility to the board, administratively or financially, or their employee shall be appointed to the board until two years have expired from the time the person held such position and the date of appointment to the board. The majority of board members shall be a current member of the Louisiana State Bar Association. The board membership shall reflect the geographic, racial and gender makeup of the state. With the exception of mandatory affiliation of the Louisiana State Bar Association, no state or local association of lawyers shall have more than one active board member or officer as a voting member of the Indigent Defense Assistance Board.

This bill is a significant step forward to establishing a sound Indigent Defense program in our state.

**House Bill 663 by Representative Glover (Act 486)** authorizes compensation for wrongful conviction and imprisonment of a citizen. It establishes a Innocence Compensation Fund in the state treasury for deposit, use, and investment in the fund.

An innocent party may receive \$15,000 per year of imprisonment up to a maximum of \$150,000.

**Senate Bill 203 by Senator Dupre (Act 47)** establishes a strict punishment for a person who, during a state of emergency, loots property of another, a fine of not less that \$5,000 or up to \$10,000 and a period of imprisonment at hard labor for not less than three years, but not to exceed 15 years.

**House Bill 5 by Representative Baudoin (Act 30)** increase the penalty for a person who leaves a child unattended and unsupervised in a motor vehicle to a \$500 fine or imprisonment for up to six months or both.

**House Bill 17 by Representative T. Powell (Act 186)** increases the time period from 10 years to 30 years in which a person can be prosecuted for certain sex offenses against persons under the age of 17. The 30-year period begins when the victim reaches the age of 18.

## Crimes/Criminal Procedure

by: Tracy Sudduth  
(225) 342-8896

**Senate Bill 24 by Senator Cain (Act 494)** requires all dealers of anhydrous ammonia to inspect their customers' tanks and receptacles and place an inspection sticker of authorization on the receptacle which is valid for one year. **Act 494** creates the crime of unauthorized possession of anhydrous ammonia and prohibits:

- (1) Using anhydrous ammonia to manufacture or attempt to manufacture any controlled dangerous substance.
- (2) Possessing anhydrous ammonia with the intent to manufacture a controlled dangerous substance. Provides that possession of anhydrous ammonia in a container not authorized by the Liquefied Petroleum Gas Commission constitutes prima facie evidence of intent to manufacture a controlled dangerous substance.

**Act 494** prohibits retail establishments from selling more than three packages or nine grams of pseudoephedrine, ephedrine or phenylpropanolamine in a single retail sales transaction to a customer. Requires that any shelf in a retail establishment or pharmacy that contains pseudoephedrine, ephedrine or phenylpropanolamine be no more than 30 feet from the direct sight of a cash register or employee staffing the counter. **Act 494** provides a retail establishment with two options:

- (a) Position the shelf which contains the pseudoephedrine, ephedrine or phenylpropanolamine in order that the shelf is under constant video surveillance and post a sign stating the area is under surveillance. The video shall be preserved for at least 15 days. They shall keep a record of all pseudoephedrine, ephedrine or phenylpropanolamine sold per week. All images and records shall be available to law enforcement upon request.
- (b) Require all persons purchasing, receiving or otherwise acquiring pseudoephedrine, ephedrine or phenylpropanolamine to show a photo identification and sign a log or receipt. The log shall be available to law enforcement upon request.

Additionally, **Act 494** requires that any compound, mixture, or preparation, other than liquid or gel capsules, containing ephedrine, pseudoephedrine, or phenylpropanolamine, its salts or optical isomers, or salts of optical isomers which is sold in a pharmacy shall:

- (1) Be located on a shelf that is no more than 30 feet from the direct line of sight of a cash register or counter staffed by one or more licensed pharmacist or a licensed pharmacy technician or an employee of the pharmacy.
- (2) Only be sold if the purchaser produces a photo identification showing the purchaser's date of birth and the purchaser signs a written or electronic log or receipt showing the date of the transaction, name of the purchaser, and the amount of the compound, mixture or preparation sold.
- (3) Have a video camera positioned so the shelf holding the product is under constant video surveillance, recording an image every ten seconds which images are to be preserved for at least 15 days.

**Act 494** prohibits the purchase, receipt or acquisition by a person of amounts greater than nine grams within any 30-day period. Provides that the limit shall not apply to any quantity of such product, mixture, or preparation dispensed pursuant to a valid prescription from a licensed medical doctor.

**Act 494** shall not apply to compounds, mixtures or preparations of pseudoephedrine which are in liquid, liquid capsule or gel capsule form if pseudoephedrine is not the only active ingredient. **Act 494** prohibits local government from regulating pseudoephedrine, ephedrine, or phenylpropanolamine in a manner more or less restrictive than proposed law.

**Senate Bill 156 by Senator Chaisson (Act 297)** creates the Anti-Skimming Act, which criminalizes the use of a scanning device and/or re-encoder to capture encoded information from a magnetic strip from a credit, debit, or other payment card and then places the encoded information on a different credit, debit, or other payment card with the intent to defraud the authorized user, the issuer of the user's card, or a merchant.

**Senate Bill 157 by Senator Chaisson (Act 497)** gives the court discretion with respect to criminal penalties for third, fourth, and subsequent offenses of operating a vehicle while intoxicated. Allows the court to suspend all or a portion of the remainder of the sentence and requires that the conditions of probation involving home incarceration and substance abuse treatment also apply when any portion of the remainder of the sentence is suspended.

**House Bill 9 by Representative Daniel (Act 11)** makes it unlawful to knowingly operate the audiovisual recording function of any device in a motion picture theater while a motion picture is being exhibited without the written consent of the motion picture theater owner. **Act 11** does not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent of the local, state, or federal government from operating any audiovisual recording device in a motion picture theater, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities.

**House Bill 16 by Representative Farrar (Act 32)** deletes requirement that the offender flee the scene of the accident as an element of the crime of vehicular homicide. Retains element that the operator is under the influence of alcoholic beverages.

**House Bill 20 by Representative Strain (Act 159)** creates the crime of unlawful production, manufacture, distribution, or possession of a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.

**House Bill 51 by Representative Dorsey (Act 161)** amends the crime of stalking to provide that the acts which constitute the crime of stalking be intentional. Deletes acts described as "willful and malicious". **Act 161** shall not apply to a licensed private investigator or an insurance investigator employed by an authorized insurer or an authorized self-insurance group, acting during the course and scope of his employment and performing his duties relative to the conducting of an investigation.

**House Bill 56 by Representative Katz (Act 187)** prohibits a person from intentionally recruiting, harboring, transporting, providing, soliciting, or obtaining by any means another person for the purposes of slavery, involuntary servitude, or forced labor or services.

**House Bill 544 by Representative Schneider (Act 25)** creates the crime of unlawfully prescribing, distributing, dispensing, or assisting in illegally obtaining controlled dangerous substances. **Act 25** provides that it shall be unlawful for a physician, other licensed health care practitioner, or any other person to knowingly or intentionally commit certain proscribed fraudulent acts to assist a patient or other person in obtaining a controlled dangerous substance.

## CRIMINAL PROCEDURE

**Senate Bill 323 by Senator Jackson (Act 343)** provides for changes to judicial district indigent defender boards and the Indigent Defense Assistance Board. Increases the membership of the Indigent Defense Assistance Board from nine to 15 and requires that at least two members of the board, or a member of their immediate family, have received indigent defense services. Prohibits any person who has received compensation to be an elected judge, elected official, judicial officer, prosecutor, law enforcement officer, or indigent defense provider or any employee of such persons from serving on the board until the expiration of two years from the time they served in the such positions until appointment to the board.

**Act 343** further prohibits any active part-time, full-time, contract or court-appointed indigent defense provider, or active employees of such persons from being appointed to serve on the board as a voting member. Prohibits a state or local association of lawyers from having more than one active board member or officer as a voting member of the board with the exception of mandatory affiliation of the Louisiana Bar Association. Reduces the number of ex officio members from three to two, deleting one appointment from the Louisiana Trial Lawyers Association. Provides for special reporting requirements and makes the district

board subject to penalties of \$100 per day, payable out of the judicial district indigent defender fund, if the board fails to file a report or to file it. **Act 343** authorizes the board to collect, prepare and submit an annual report to the legislative auditor as provided for proposed law. Provides that eight voting members shall constitute a quorum for transacting business.

**House Bill 17 by Representative T. Powell (Act 186)** increases the time period from 10 years to 30 years in which a person can be prosecuted for certain sex offenses against minors and provides that this 30-year period begins when the victim attains the age of 18.

**House Bill 281 by Representative Ansardi (Act 52)** provides for the admissibility of certified copies of blood alcohol concentration (BAC) test reports of the state police crime laboratory in civil actions. Provides for cross-examination of those making the report by the party against whom the report is sought to be used.

# Culture, Recreation & Tourism

## CULTURE

by: Ann S. Brown  
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### ECONOMIC DEVELOPMENT

**House Bill 379 by Representative Hutter (Act 86)** creates the St. Bernard Parish Arts, Culture, and Entertainment District as a political subdivision of the state. The purpose of the district is to promote, market, and expand the arts, culture, and entertainment sectors of St. Bernard Parish. Further creates an 11 member board of commissioners to serve as its governing authority.

**House Bill 496 by Representative McDonald (Act 241)** creates the Northeast Louisiana Film Commission. The commission shall develop Northeast Louisiana as a film, video, and television production center and market its locations, resources, and personnel to motion picture and television production companies. "Northeast Louisiana" includes the parishes of Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll. The commission shall be governed by a board of eight voting members and members of the legislature, representing any part of the parishes, serving as ex officio nonvoting members.

### CULTURAL RECOGNITION

**House Concurrent Resolution 23 by Representative Townsend (enrolled)** designates the month of October annually as Creole Heritage Month. The Creole legacy is a culture comprised of many different ethnic groups, including French, African, Anglo, Spanish and American Indian ancestry.

**House Concurrent Resolution 163 by Representative Cravins (enrolled)** designates the town of Opelousas as the Spice Capitol of Louisiana.

### TAX CREDITS FOR HISTORICAL REHABILITATION

**Senate Bill 112 by Senator Broome and Senate Bill 147 by Senator Bajoie (both pending in the Senate Revenue & Fiscal Affairs Committee)** would have provided a tax credit for rehabilitation of *owner-occupied historical* structures.



**House Bill 420 by Representative Marchand and Senator Jackson (Act 479)** provides an income tax credit for the rehabilitation of *owner-occupied residential* structures located in certain historical districts.

**House Bill 602 by Representative Daniel (Act 439)** extends the income and corporation franchise tax credit for the rehabilitation of historical structures located in a downtown development district.

**Senate Bill 183 by Senator Bajoie (pending in House Ways & Means Committee)** would have raised the cap of the income and corporate franchise tax credit from \$250,000 to \$5 million for cost and expenses incurred in the rehabilitation of a historic structure located in a downtown development district.

## **RECREATION**

*by: J.W. Wiley  
(225) 342-2108*

### **STATE PARKS**

**Senate Concurrent Resolution 44 by Senator Amedee (enrolled) and House Concurrent Resolution 18 by Representative Faucheux (enrolled)** requests the Department of Wildlife and Fisheries to conduct a feasibility study to determine if the area around Maurepas Swamp Management Area is suitable for a state park.

### **RESERVOIRS**

Five bills have been introduced relating to the control of new or existing state reservoir districts or authorities. The districts or authorities would be governed by a board of commissioners for the development of natural resources by the conservation of soil and water for purposes of agricultural, recreational, commercial, industrial, and sanitary purposes. Concerns over the "critical" designation of the Sparta aquifer in north Louisiana may be the reason for the creation of new reservoirs in north Louisiana.

**House Bill 123 by Representative Downs (Act 40)** creates the Lincoln Parish Reservoir Authority. **House Bill 280 by Representative Gallot (Act 81)** restructures the Clairborne Parish Watershed District. **House Bill 518 by Representative Ritchie (pending House Transportation, Highways, and Public Works)** and **Senate Bill 278 by Senator Nevers (Act 307)** restructures the Washington Parish Reservoir District. **House Bill 596 by Representative Fannin (Act 93)** creates the Jackson Parish Dugdeмона Watershed Authority.

## **TOURISM**

*by: Tim Prather  
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### Tourism

Helping to bridge the gap with our neighbor to the North, **Senate Concurrent Resolution 3 by Senator Schedler (enrolled)**, affirms the establishment of Louisiana and the province of Alberta, Canada as "Twin" regions by SCR 6 of the 2003. The resolution authorizes the governor, the lieutenant governor, and the secretary of the Department of Culture, Recreation and Tourism to take steps to develop a "twining agreement" in time for the centennial celebration of Alberta, Canada in 2005.

In an effort to boost in-state tourism, **House Bill 332 by Representative Pinac (Act 20)**, authorizes the office of tourism to purchase in-state media advertisement. However, any funds used by the department for the purchase of in-state media advertisement cannot exceed ten percent of all the funds used for the purchase of media advertisement and that such expenditures would have to be consistent with the office of tourism's strategic plan for marketing.

Attempting to obtain increased funding for youth athletic programs and to promote tourism, **House Bill 879 by Representative Frith (Act 468)**, requires a tourist commission within any parish with a population of not less than 53,700 and not more than 57,700 persons according to the most recent federal decennial census to levy and collect an additional hotel occupancy tax of three percent and dedicates two-thirds of the proceeds of the tax increase to youth athletic programs and one-third to promote tourism.

The law provides that the tax be levied by ordinance of the tourist commission without a vote of the people and in addition to any other hotel occupancy tax currently authorized by law.

The law further provides that if the tax is not levied within 30 days after the effective date of the law, such failure shall be considered a failure to perform a ministerial duty required by law of public officials and the district attorney for the parish can then provoke the issuance of a writ of mandamus to compel the appropriate officials to act pursuant to the law.

**Senate Concurrent Resolution 16 by Senator Schedler (enrolled)**, requests the Department of Transportation and Development and the Department of Culture, Recreation and Tourism, in cooperation with the National D-Day Museum, to erect a memorial marker at the visitor center located on that portion of I-10 in Slidell designated as the Stephen E. Ambrose Memorial Highway in his honor.

The resolution provides for the Department of Transportation and Development to provide for site selection, installation, and maintenance of the marker and requires CRT to provide for fabrication of the

marker and funding. Furthermore, the resolution provides that the the D-Day Museum provide the appropriate text for the memorial marker.

## Economic Development

by: *Jeff Oglesbee*  
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Seeking to build upon the recent successful economic development activities in the state, the legislature introduced several key pieces of legislation which seek to improve upon those successes.

Under current law, moviemakers can get state tax credits as a percentage of the entire production value of television shows or movies, even if a large portion of the work is done outside of Louisiana. **House Bill 731 by Representative Hammett (Act 456)** makes a variety of improvements to the motion picture tax credit program, including an increase in the percentage of state tax credits, but would apply them only to production activity in Louisiana. It also creates a new credit for investors in film-making facilities build in Louisiana. **House Concurrent Resolution 195 by Representative Scalise (enrolled)** requests the governor to select a Louisiana university to conduct a study of the economic impact of the state's film industry on the local economies of the state's parishes and municipalities.

**House Bill 462 by Representative Hammett (Act 399)** expands the Louisiana Major Project Development Authority. Under current law, the Louisiana Major Project Development Authority, under the direction of the secretary of the Department of Economic Development, seeks to engage in whatever activities and projects it deems most appropriate to encourage and assist project site selection in Louisiana, including the expropriation of property. The projects must have an initial capital investment of at least \$300 million and must create at least 1,000 permanent net new full-time jobs. The proposed law would maintain the job requirement, but would reduce the minimum initial capital investment from \$300 million to \$100 million in order to attract additional new projects to Louisiana.

**House Bill 627 by Representative Hammett (Act 400)** creates the "angel investor" tax credit program. Under the proposed law, individuals or businesses which provide investments in certain entrepreneurial businesses would receive an income or franchise tax credits. The tax credits are granted at 50% of the investments, divided evenly over a five year period. The credits may be carried forward for ten years and would expire if not used thereafter. The total tax credits granted in any given year may not exceed \$5 million. These "angel investors" will enable additional start-up companies to expand in Louisiana's growing and vibrant economy.

Seeking to allow local and regional groups get more involved in economic development activities, **Senate Bill 291 by Senator Dardenne (failed, House Final Passage)** would allow parishes or municipalities to combine to form a regional authority that could request higher property or sales taxes in order to support business development projects. The legislation would enable the authority to initiate a variety of projects, such as creating an industrial park, preparing a site for a large manufacturing plant or crafting an incentive package to lure an industrial prospect. The authority could also buy property and

collect rent for development, assume bond debt and enter into legal agreements with private parties.

Finally, in an effort to promote tourism in Louisiana - by Louisiana citizens - **House Bill 332 by Representative Pinac (Act 20)** allows the Department of Culture, Recreation, and Tourism to use a portion of their advertising dollars within the state. Under current law, the department was prohibited from using any of their advertising budget within the state. This prohibition has led to increased competition from surrounding states who have successfully lured Louisiana citizens to spend their discretionary travel dollars outside of the Louisiana. It is hoped that the limited advertising campaign by CRT will result in an increase of Louisiana citizens exploring the great tourist destinations across our wonderful state.

## K-12 Education

*by: Diane Burkhart  
(225) 342-6144*

During this first year of allowing a limited number of policy issue bills to be introduced in a "fiscal" session, the lion's share of attention in education went to a variety of policy bills designed to address a school system in crisis, whether academic, fiscal, or both. The balance of the bills cut across a wide variety of issues. The following material is grouped by general topic and the topics are listed in alphabetical order. Hopefully, this information will be useful. Please feel free to call if more information is needed.

### ACCOUNTABILITY

The continuing push for increased levels of performance through accountability continues as the state seeks to work through the various issues involved in maximizing the high school experience for Louisiana students. **House Bill 434 by Representative Crane (Act 233)** provides for the establishment of the High School Redesign Commission for the purpose of making recommendations for the development of statewide policies, guiding principles, and programs that address the current and future economic needs of the state and promoting student success in high school and in life beyond secondary education.

The implementation of the LEAP tests will be modified by the provisions of **Senator Barham's Senate Bill 214 (Act 303)**. The bill provides for the state Dept. of Education to develop modified achievement standards and to use alternative assessments to accommodate students who are not assessed with significant cognitive disabilities but who are assessed with persistent academic disabilities but are likely to make significant progress.

Several other attempts to modify the LEAP program were introduced. Significant among those was **Senate Bill 283(pending Senate Committee) by Senator Fields** would have required BESE to establish a moratorium on the use of LEAP test scores, including the high school graduation tests, as the sole criteria for not promoting or graduating a student until there is equal access of students to certified teachers, the availability of current text books and appropriate materials and state-of-the-art computers and equipment in every school.

### ATTENDANCE

**House Bill 158 by Representative Marchand (Act 200)** proposes adjustments in the law that excuses certain children from the compulsory attendance laws. The bill permits a child's status to be reported by nurse practitioners as well as doctors. The bill also eliminates exemptions in the law based on the location of the child's residence and certain transportation factors.

## EMPLOYEES

The effort to ensure that all school employees are people who are safe for children to be around was extended by **House Bill 178 by Representative Hutter (Act 416)** by applying the prohibition on employing persons convicted of certain crimes as a teacher, bus driver, or other school employee who might reasonably be expected to be placed in a position of disciplinary authority over children to other public school employees, including cafeteria and janitorial or maintenance workers, whether in the schools as employees of the board or employees of a contractor supplying the service. The bill provides exemptions for private schools.

School superintendents are provided an increase level of job certainty under the provisions of **House Bill 429 by Representative Honey (Act 482)** which provides for local superintendents of schools to be employed using performance-based contracts and provides for notice to the superintendent ninety days prior to the end of the contract of the school board's intention to terminate at the end of the contract. Further provides for mid-contract termination only upon a finding by the school board of incompetence, unworthiness, inefficiency or failure to fulfill contract terms or board policy after notice, written charges, and a fair hearing.

**Senator Ullo** extends the ability of an out-of-state principal to be issued a valid Louisiana principal certificate without a score on the principal's exam that is otherwise required in **Senate Bill 236 (Act 117)**. To qualify, the principal must: have four years of successful teaching experience in another state, have completed one year of employment as a Louisiana public school principal, meet all requirements of BESE policy other than the test score, and be recommended by his employing superintendent.

## FUNDING

**Senate Concurrent Resolution 125 (enrolled) by Senator Ullo** contains the 2005 Minimum Foundation Program formula for the legislature's approval. The state cost of this MFP formula equals \$2,675,938,402, an increase of over \$51 million from last year.

Counting children in the custody of the office of youth development for school funding purposes is provided for in **House Bill 886 (Act 274) by Representative Jane Smith**. The bill provides that if a student is assigned to a community-based program or facility, the student shall be counted by the local school board, but may not be counted by other school boards for any funding reason.

**Senator Marionneaux** made an effort to require BESE to use personal wealth as not less than a fifty percent factor in the calculation of any system wealth factor used in the MFP formula. **Senate Bill 117 (failed in Senate committee)** would have provided that personal wealth could be determined as the proportion of school-aged children within the jurisdiction of the school system who are eligible for free or reduced lunch as compared to the total number of school-aged children within the jurisdiction of the school

system, the proportion of households within the jurisdiction of the school system which report a taxable income below two hundred percent of the federally determined poverty level as compared to the total number of households within the jurisdiction of the school system, or the proportion of the residential properties within the jurisdiction of the school system which are assessed at a fair market value which exceeds \$75,000 dollars compared to the total number of assessed residential properties within the jurisdiction of the school system, or any combination of them used as comparatives among all systems.

The popular program of early childhood education called LA4 permits the participation of charter schools, but only through the local school board. **Senate Bill 239 by Senator Ullo (Act 305)** permits the charter school to apply for LA4 funding directly.

### SCHOOL BOARD ELECTIONS

Expanding term limits to school boards began with **House Bill 405 (Act 230) by Representative Alexander** which authorizes the Lafayette Parish School Board to adopt a resolution to limit the terms of office for school board members to three consecutive four-year terms. Provides that such resolution may be adopted by the board only after the question of such term limitation has been submitted to and approved by a majority of the qualified electors of Lafayette Parish.

**Senator Duplessis** proposes to repeal a prohibition on Orleans Parish school board members or other elected officials from campaigning for or against a person running for the Orleans Parish School Board. **Senate Bill 58 (Act 284)** eliminates the prohibition and the accompanying criminal penalty for any elected official having or distributing a sample ballot relative to school board elections.

### SCHOOL SYSTEM CRISIS

The financial crises being faced by several school boards, stimulated several approaches to monitoring or addressing these problems. **Senate Bill 307 (Act 7) by Senator Murray and House Bill 776 (pending House final passage) by Representative Richmond** generally expand the authority to seek the appointment of a fiscal administrator in regard to all local governments by requiring the attorney general to file such rule whenever it is unanimously determined by the attorney general, the legislative auditor, and the state treasurer that a political subdivision will have insufficient revenue to pay current expenditures, excluding civil judgments, or fail to make a debt service payment. However, it adds as a further cause of such intervention in the case of school boards, whenever the state superintendent provides notice that a school system is financially at risk as that term has been defined by BESE.

Similarly, **House Bill 677 (pending House final passage) by Representative Crane** would have provided for the appointment of a fiscal administrator by the court when any local school system is determined by the state superintendent of education to be financially in crisis. The bill provided that the state superintendent shall provide written notice of such determination to BESE, the local school board president,



the local superintendent of schools, the state attorney general, the state legislative auditor, and the state treasurer. Required the state superintendent and the legislative auditor to enter into negotiations with the local board and superintendent to develop a plan that effectively addresses the factors upon which the determination of being financially in crisis was based. Provided that if the state superintendent, treasurer, and the legislative auditor each determine that a local school system is reasonably certain to fail to resolve the issues which have resulted in its status of being financially in crisis in a timely manner, the attorney general upon the request of the state superintendent, the treasurer, and the legislative auditor may file a rule to appoint a fiscal administrator for the local school system as provided for by proposed law.

**Senate Bill 312 (pending Senate final passage) by Senator Ullo** would have provided for the temporary take over of an entire school determined to be in both academic and financial crisis, by an administrator appointed by executive order of the governor, when she finds an emergency exists that imminently threatens the continuation of educational services to the systems students.

**House Bill 613 (failed in Senate committee) by Representative Burns** would have provided a pilot program of vouchers to attend private schools for public school or public school-bound students in failed schools in Orleans Parish.

## STUDENTS

One of the more controversial bills of the session was **Senate Bill 146 (Act 331) by Senator Bajoie**. The bill addresses the permissible food and drink items that can be sold in schools. The bill specifies that only the following beverages, not to exceed 16 ounces in size, may be sold to students at public elementary and secondary schools during a period starting ½ hour before school and ending ½ hour after school: 1) fruit juices or drinks composed of 100% fruit juice or vegetable juice that do not contain added natural or artificial sweeteners, 2) unsweetened flavored drinking water or unflavored drinking water, or 3) low-fat milk, skim milk, flavored and non-dairy milk. Requires each elementary or secondary school principal to determine if children in classrooms may possess drinking water. Requires the selection of food and beverage items offered for sale to students in high schools for the last 10 minutes of the lunch period to be comprised of no less than 50% of food and beverage items that meet the same nutritional standards as the beverages above.

**House Bill 651 (Act 442) by Representative Karen Carter** provides that each such school administrator shall make available on the free and reduced-priced meals application a section stating that children receiving free or reduced-priced meals can receive free health coverage from the La. Children's Health Insurance Program (LaCHIP) and that the school system is allowed to share information from such application with LaCHIP. Provides that such section shall provide a place for a parent or guardian to sign and the date with the option of checking beside a statement that the person signing does not want school officials to share information from such application with LaCHIP.

## TEACHERS

Seeking to provide incentives to reduce the shortage of teachers certified to teach certain subjects in public schools that have been designated as “failing” or are located in disadvantaged geographical areas, **Senate Bill 144 (Act 115) by Senator Nevers** revises the Teach Louisiana First program by deleting the distinction between failing schools and rural schools with academic deficiencies and providing instead incentives to reduce the shortage of teachers certified to teach certain core subjects in low-performing public schools.

On the same subject, **Senate Bill 264 (Act 340) by Senator Jones** expands and reorders the La. Teachers’ Homebuyer Program established in order to provide incentives for qualified classroom teachers to locate and teach in disadvantaged and under served geographical areas of the state, including but not limited to the delta region of the state, the Florida parishes region, the Acadiana parishes region, the East Coast parishes region and the North Central region. The program is expanded to include a loan closing assistance program and to create an advisory panel.

## TOPS

Only a few changes to the very popular scholarship program were suggested this year.

**Senate Bill 19 (Act 105) by Senator Theunissen** retains present law except as it applies to the selection of an elective unit in the areas of math and science. The bill requires the math or science elective unit to be selected from among the following courses: Geometry, Calculus or approved advanced math substitute, Biology II, Chemistry II, Physics or Physics II.

**Senate Bill 355 (Act 348) by Senator Ullo** creates and provides for a new TOPS award program for La. high school juniors and seniors called TOPS-Tech Early Start. The program provides for an award of \$150 per three credit hour course for a maximum of two courses per semester for a maximum of four semesters for the dual enrollment of participating high school juniors and seniors enrolled in high school and, at the same time, enrolled in technical college programs for the purpose of pursuing an industry-based credential which is recognized by the State Industry-Based Certification Council, approved by the BESE and the Board of Supervisors of the La. Community and Technical College System, and is identified by the Occupation Forecasting Conference as an occupation in top demand.

**House Bill 103 (Act 412) by Representative Frith** permits the use of a TOPS award at an out-of-state university when: (1) the institution is accredited by a regional accrediting organization recognized by the U.S. Department of Education, (2) all programs and services at the institution are specifically designed to accommodate deaf and hard-of-hearing students, (3) deaf and hard-of-hearing students comprise the majority of students enrolled at the institution at the undergraduate level, (4) the award recipient meets the admission requirements of the institution that are applicable to deaf and hard-of-hearing students, (5) the

initial program award is made to the student for the 2005-2006 award year or thereafter, and (6) the institution provides to the administering agency such information as would otherwise be required by the agency for program administration purposes from an eligible La. institution if the student was enrolled in such La. institution. Specifies that for any student who is the recipient of an Opportunity Award and who is eligible to use the award at an out-of-state nonpublic college or university pursuant to proposed law, the award amount to pursue an academic undergraduate degree shall be an amount determined by the administering agency to equal the weighted average of amounts paid for students attending La. public colleges and universities that offer academic undergraduate degrees. Proposed law provides the same award amount for Performance and Honors Awards except provides an additional \$200 per semester or \$400 per academic year for a Performance Award and an additional \$400 per semester or \$800 per academic year for an Honors Award.

**House Bill 120 (Act 194) by Representative Hill** lowers the required composite ACT score required for TOPS eligibility for a student completing an approved home study program from three points higher than that required for the particular award for a student graduating from a Louisiana public high school or BESE-approved nonpublic high school to two point higher.



# Postsecondary Education

by: David Smith  
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## Community and Technical Colleges

Again this legislative session rhetoric continued relative to the concerns that the administration of Louisiana Community and Technical College System has not been equitable toward the Technical Colleges when compared with the treatment received by the community colleges. Speeches from the floor and in committees reflected the extent of the dissatisfaction, however, **Senator Hines** tried to amend his **Senate Bill 301, (deferred, Senate committee)** to correct the perceived inequities did not fair well in the Education Committee. Senator Hines, however, was successful on the Senate floor in amending the content intended for **Senate Bill 301** into **House Bill 505 by Representative Jack Smith (Act 506)**. **Senate Bill 84 by Senator Smith (Act 141)** provides that in the appointment of new members to the Louisiana Community and Technical College System the governor should appoint members who have had direct experience at the technical college level. The idea was to insure that the system would benefit from having a number of new members who could relate to the problems reported by the technical colleges.

## Scholarships/Admissions

Providing educational opportunities for the military and their families took on new importance this legislative session due to the war in the near East. Its devastating impact on the Louisiana National Guard has produced a heightened awareness by the citizens of Louisiana of the hardship experienced by our troops. **Senate Bill 256 by Senator Mount (Act 501)** was crafted to assist the children of parents who were killed in action in the conflict in Afghanistan and Iraq by providing tuition and certain other benefits. **Senate Bill 140 by Senator Fields (Senate committee)** sought to provide college scholarship for those who served in combat and returned home to continue their education. For the members of the Louisiana National Guard whose members have experienced directly the horrors of war **House Bill 775 by Representative Barrow (Act 264)** extends and broadens the tuition exemption offered by LA colleges and universities by adding additional time in which a guardsman could utilize the exemption. The bill extends the window of opportunity in which the exemption from college and university fees could be provided. The bill also provides additional degree opportunities by permitting the exemption to be utilized to acquire an associate degree, masters degree or a professional degree.

In other areas of scholarships not embraced by the war was **House Bill 103 by Representative Frith (Act 412)** which extended the TOPS opportunity to those students who wished to attend a college or university setting which is predominantly attended by students who are deaf of which only two in the country qualify, Guallidet in Washington DC and a technical college in New York, both of which have a

majority of their enrollment comprised of students who are legally deaf.

**Senate Bill 355 by Senator Ullo (Act 348)** created a new pilot program designed to target those students who sometimes are misdirected in their junior and senior years in high school by creating an opportunity to receive technical training at a technical college while still in high school. This technical training would be credited toward their high school graduation while at the same time would provide them with skills and training designed to help them enter in to the work force with the knowledge required to enable them to succeed in positions needed by employers in both the trades and in industry. In a related note **Senate Concurrent Resolution 36 by Senator Adley (enrolled)** requested BESE to develop an MFP that provides for reallocation of state funds attributable to high school students who enroll in a technical college. The funds would be rededicated from the local school system to wherever the student attends the technical college. On the more traditional level **Senate Bill 19 by Senator Theunissen (Act 105)** adjusted the math and science elective courses for college bound students in order to received TOPS to reflect modification in required curriculum. In a continued process of adjustments for students to qualify for TOPS **House Bill 120 by Representative Hill (Act 194)** provided for adjustment of the ACT score necessary for home schooled children to qualify for TOPS by reducing the required score from three points to two points higher than that required by public and private school graduates.

**Senate Bill 277 by Senator Heitmeier (Senate Committee)** was introduced in order to authorize colleges and universities to raise tuition and mandatory fees at a maximum of four percent annually without legislative approval in an attempt to bring facility average pay up to the Souther Regional Educational Board average.

### Studies and Planning

Given the difficulty experience by rural and undeserved areas of the state in recruiting qualified teachers and in particular the Northeast portion of the state **Senate Concurrent Resolution 63 by Senator Jones (enrolled)** requested the Board of Regents to study and develop a comprehensive plan to create a learning in the Northeast delta region of the state. Part of the justification to create a learning center is based in part on the supposition that students who study and graduate from an institution in a given region are more likely to remain in that area and thus serve as a catalyst to generate a community with a higher level of skills which is critical for the development of the region.

### Failing Schools

In the continuing effort to resolve the academic and fiscal crisis in certain school systems, one legislative instrument, **Senate Bill 307 by Senator Murray (Act 7)** expanded the authority to seek the appointment of a fiscal administrator not only for political subdivisions but also for those school systems who are in BESE defined fiscal crisis. However, there was some concern expressed that the appointment of an administrator outlined in the legislation would be time consuming based on the fact that the process would

have to go through the court system in order to have a administrator appointed. **Senate Bill 312 by Senator Ullo (Senate floor)** would have provided for a more rapid scenario in providing an administrator to take over school systems which are determined to be both academically and fiscally in crisis. The bill would have directed the governor to declare an emergency and by executive order appoint an administrator to operate the school system provided certain conditions were certified to exist which demonstrated that the school district was in academic and in a fiscal crisis. **House Bill 613 by Representative Burns (Senate committee)** was directly targeted at the New Orleans school system which has been determined to be in a precarious academic situation. The legislation would have created a voucher system which would authorized a portion of state support attributable to the student to be transferred from the failing school where the student would have been in attendance to a non-public school where the student would be enrolled. A maximum of 1,200 students would have been served by this program.

## Elections

by: *Tabitha Irvin-Gray*  
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**Senate Bill 53 by Senator Fields (Act 282)** requires that candidates who *qualify for office in a general election* are those who receive the two highest numbers of votes, the four highest numbers of votes, and so on among those not elected in the primary until the maximum number of candidates for each office on the general ballot is reached. Candidates for United States senator or representative qualifying for the general election are those receiving the two highest numbers of votes in the primary election.

A candidate receiving a *majority of votes cast in a primary election* is elected. If two or more office of the same character are to be filled, the number necessary for a majority shall be greater than the result obtained by dividing the total cast for all candidates by the number of offices to be filled and dividing the result by two. If more candidates receive a majority than offices to be filled, those of such candidates receiving the highest total of votes shall be elected, to the number required to fill all of the offices. The votes received by a withdrawn or deceased candidate are void and not counted for any purpose. However, candidates for U.S. senator or representative receiving a majority of votes cast in the primary election are declared elected at the close of the polls on the day of the general election and his name not appear on the general election ballot.

*Unopposed candidates* in a primary election requires that they be elected if, after the close of the qualifying period or after withdrawal of one or more candidates, the number of candidates does not exceed the number of persons to be elected. They are declared elected by the people and their name not appear on the ballot in either the primary or general election. Candidates for U.S. senator or representative requires that if, after close of qualifying for the primary, the number of candidates does not exceed the number of persons to be elected. The candidate for that office or the candidate remaining after withdrawal of one or more candidates for that office is to be declared elected at the close of the polls on the day of the general election and his name not appear on either the primary or general election ballot. After close of qualifying in a primary election for U.S. senator or representative, if only two candidates have qualified for that office, then the names of the two candidates shall not appear on the ballot in the primary election but shall appear on the ballot in the general election.

If as a result of *death or withdrawal* of one or more unopposed candidate, the number of candidates for an office in a general election does not exceed the number of persons to be elected to the office, the remaining candidates are declared elected by the people, and their names not appear on the ballot in the general election. Except for candidates for U.S. senator or representative, if as result of death or withdrawal of one or more candidates for U.S. senator or representative, the number of candidates for such office in a general election does not exceed the number of persons to be elected, the remaining candidate



shall be declared elected by the people at the close of the polls on the day of the general election and the name of such candidate shall not appear on the general election ballot.

**House Bill 152 by Representative E. Guillory (Withdrawn from the files of the House of Representatives prior to introduction)** would have prohibited voters from using electronic communication devices in voting machines, except for certain persons voting with assistance. However, the following procedures was still effective for voting: only one voter may approach a vacant voting machine, and only one person may enter a voting machine at a time, except as otherwise provided by law; a preteen child may accompany his parent or legal guardian into the voting machine; a voter shall not remain in a voting machine longer than three minutes, or the commissioner shall have the voter removed from the voting machine; a voter shall leave the voting machine and shall not reenter. A voter may receive assistance in voting by the person of his choice if he is unable to read, or is unable to vote without assistance because of a physical handicap, including blindness.

**House Concurrent Resolution 22 by Representative Jefferson (enrolled)** Authorizes and directs the La. Dept. of Public Safety and Corrections to create a system to notify individuals convicted of a felony who have completed their terms of confinement or parole relative to the reinstatement of voter registration. Provides that the notification shall be provided upon completion of the term of confinement and upon completion of supervision of parole or probation and that it should be done within 14 days at last known address.

**House Bill 415 by Representative M. Powell (VETOED)** would have removed provisions for the January election date for bond, tax, and other proposition elections. It also would have removed the reference to making such date inapplicable in certain years in a parish with a municipality with a population of 475,000 or more.

**House Bill 423 by Representative Bruneau (Act 431)** Omnibus election coded bill contains the following changes:

- \* Allows the registrar to compare a signature on a petition with the voter's signature on any of the following: his original application card, any subsequent signature in the records of the registrar, precinct registers, and other affidavits filed with the registrar of voters, and to verify the signature if it is sufficiently alike the other signature.
- \* When a person changes his residence within a parish after the closing of registration for a primary election, the change to become effective prior to the regularly scheduled or special general election when the voter would be voting on the same issues and candidate offices regardless of the change.
- \* Exempts the following people from **voting in person the first time**: (1) A student whose

institution of higher learning is located outside of his parish of residence, provided that the student submit certain documentation. (2) A person who appears in the office of the registrar of voters prior to the absentee in person voting period to establish his identity.

- \* In Orleans parish (municipality with a pop. of 450,000 or more), the parish board of election supervisors may employ an executive administrator to be the principal assistant to the parish board of election supervisors.
- \* If there is an **objection to candidacy** and the time interval ends on a Saturday, Sunday, or other legal holiday, then noon of the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the end of the time interval.
- \* The clerk of court in any parish where a **ballot with a withdrawn candidate's name** on it will be used to provide notice of the candidate's withdrawal at any polling place where his name appears on the ballot. Failure to give such notice does not void the election.
- \* The compensation for the lease of private property to be used as a polling place increased \$150. Fiscal note is **\$31,690** increase.
- \* Parish board of election supervisors are allowed to use absentee commissioners if necessary to assist the board in counting and tabulating provisional ballots. Also provides that if a parish doesn't use absentee commissioners, they may use regular commissioners to help tabulate provisional ballots.
- \* A candidate or his representative shall be given not less than 30 minutes to exam and test voting machines prior to absentee in person voting and prior to voting on election day, and inspection of the machines after the election.
- \* If the deadline for making the appointment or issuing the proclamation to fill a vacancy of any member of a state board or commission, office of state legislator, local and municipal office, office of marshal of a city or municipal court or office of a judge falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the deadline.
- \* An applicant who is eligible to vote by mail must submit documentation showing his hospitalization from his physician or the hospital to the registrar no later than 4:30 p.m. on the day before the election.
- \* Prior to voting absentee in person, the registrar or his deputy must establish the voter's identity by a Louisiana driver's license, a Louisiana special ID card issued pursuant to present law, or other

- generally recognized picture ID card.
- \* Certain employees employed temporarily by the registrars of voters hourly rate may not to exceed the minimum pay rate associated with pay level 607 Administrative Schedule as specified in the classification and pay plan of the Louisiana Department of Civil Service.
  - \* Clarifies that when the proper party is the secretary of state or the qualifying official that such person is a party in his official capacity.
  - \* An election offense is added for failing to submit to the parish registrar of voters a completed registration application collected through a registration drive within 30 days of receipt of the completed application from the applicant.
  - \* Authorizes the campaign finance supervisory committee to require a person who has submitted an illegible report to resubmit a legible report without penalty. The report is considered received on the date the original was filed.

## Environment

*by: Cathy Wells  
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### Brownfields Tax Credit

**Senate Bill 322 by Senator Fontenot (Act 156)** authorizes a carry forward tax credit of 10 years for investment in brownfield properties, subject to approval by the governor. Investors are eligible for a tax credit of 15% of all costs of investigation and 25% of all costs of remediation. Investors are required to submit applications for the credit to the Board of Commerce and Industry and the Department of Environmental Quality. After review, the board submits such applications to the governor for her approval.

### Waste Tires

**Senate Bill 309 by Senator Marionneaux (Pending House Committee)** would have required funds currently held in the Research and Development Fund of the Waste Tire Management Fund to be distributed in a pro rata share to those waste tire processors having a standard permit to whom there are fund obligations remaining unpaid. In addition, SB 309 required DEQ to promulgate rules to allow waste tire processors to account for incoming tires on the basis of weight or tire count at the option of the processor.

### Water Quality

**House Bill 388 by Representative Fannin and Senator Kostelka (Act 225)** provides for the commissioner of conservation to declare areas of "ground water concern" in lieu of "critical ground water". An area may be declared as a "ground water concern" when the sustainability of an area of ground water concern cannot be maintained without ground water withdrawal restrictions. If the commissioner issues a draft order which describes the proposed boundaries of the area of ground water concern, he must send such draft order to the Senate Committee on Natural Resources and the House Committee on Natural Resources 30 days prior to the holding of a public hearing in the locality of the proposed boundaries.

## Ethics

*by: Tabitha Irvin-Gray  
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**Senate Bill 82 by Senator Jay Dardenne (Involuntarily deferred in House & Governmental Affairs)** would have repealed the authorization to allow elected officials to accept anything of economic value as a gift or gratuity if it does not exceed \$100 per event and up to \$500 per year from one person, provided the gift is a cultural or sporting event within the state of Louisiana. The authorization is extended for such gifts outside of the state when an elected official is on official business outside of Louisiana and is entitled to reimbursement from his agency for such business. The gifts of cultural and sporting events is excluded from the definition of expenditure in the provisions governing lobbyists and lobbying.

**Senate Bill 186 by Senator Boasso (Assigned to House & Governmental Affairs)** would have added a prohibition on the soliciting or accepting of campaign contributions by any candidate or his principal or subsidiary committee from any person who provides professional services to a state or statewide public retirement system board relative to the making or managing of trades in equities or other investments or who provides professional services regarding the performance, measurement, or management of the funds invested by the boards, and attorneys.

**Senate Bill 68 by Senator Lentini (Subject to Call - Senate Final Passage)** would have added a prohibited campaign practice that any person who earns income in connection with enforcement of a bail bond making, directly or indirectly or through any other person; a contribution, loan, or transfer of funds, including but not limited to any in-kind contribution to any candidate for the office of justice of the Louisiana Supreme Court, judge of any state court of appeal, district court, city court, or parish court which has criminal jurisdiction, justice of the peace, district attorney, or sheriff; or to any political committee of any such candidate, or to any other political committee which supports or opposes any candidate. It further prohibits any such candidate, any political committee of any such candidate, or any other political committee which supports such candidate from soliciting, accepting, or receiving such a contribution, loan, or transfer of funds. The civil and criminal penalties is applicable to a violation and authorizes the campaign finance supervisory committee to escheat to the state any contribution made in violation of the prohibition.

## Finance

by: *Linda Nugent*  
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### **PURCHASE OF STATE CARS FOR ELECTED OFFICIALS**

Before the commissioner of administration authorizes the purchase of a luxury or full-size vehicle for personal assignment by a statewide elected official, the Joint Legislative Committee on the Budget has to approve the purchase. The governor and lieutenant governor are exempt from the provisions of **Senate Bill 44 by Senator Lentini (Act 280)**.

### **MILITARY FAMILY ASSISTANCE FUND**

A measure designed to protect the livelihoods of the many soldiers from Louisiana on active duty and their families is **Senate Bill 216 by Senator Dupre (Act 151)**. The bill establishes the Military Family Assistance Fund which is financed with direct donations and tax refund donations from businesses and individuals. Monies from the fund may provide need-based financial assistance to the families and will provide an additional one-time payment of up to \$2,500 to families who have lost a soldier or who have a family member with a permanent, major disability as a result of their military service.

### **COOPERATIVE ENDEAVOR AGREEMENTS**

**Senate Bill 132 by Senator McPherson (Act 329)** is an effort to get a handle on obligations of the state related to Cooperative Endeavor Agreements (CEA) and pending claims against the state. A CEA that is expected to result in spending state revenue of one million dollars or more a year must be reported to the Joint Legislative Committee on the Budget (JLCB) prior to confection of the CEA. Excluded from this requirement are projects in the Capital Outlay Act, projects pursuant to the Governor's economic development Rapid Response Program, and coastal restoration projects. The bill also requires the Attorney General to report quarterly to the litigation subcommittee of the Budget Committee the status of claims against the state reasonably expected to result in a settlement of over one million dollars.

Another Senate bill with a similar objective was **Senate Bill 286 by Senator Dardenne (Involuntarily Deferred in House Appropriations)** which required any CEA or lease or rental of space (except capital outlay or coastal restoration projects) that would involve the expenditure of funds from one million to five million dollars to be reviewed and approved by the division of administration and reported to JLCB. A CEA involving the expenditure of over five million dollars would have to be approved by JLCB. The measure would have also prohibited State Bond Commission approval of such CEA or lease or rental contract unless money had been appropriated for same or JLCB approval had been obtained.

## PROCUREMENT

A bill to authorize the use of the request for proposal process for the procurement in any commodity area was also the vehicle providing for the negotiation of a contract for expansion of a convention center in a parish with a population of over 450,000, with Budget Committee approval. **House Bill 432 by Representative Alario (Act 178)** was also amended to authorize the prequalification of bidders for the renovation of the LSU Student Union at Baton Rouge. The amendment requires awarding the contract for the lowest responsible bid but allows for the bid to be for overhead and profit or for a lump sum and further requires Budget Committee approval.

## EXECUTIVE BUDGET FORMAT

**House Bill 560 by Representative Alario (Act 247)** provides for certain changes to the content and format of the Governor's Executive Budget. The budget would present functions and operations of state government at a budget unit level rather than at a program level and contain a description of the significant issues and major programmatic financial changes from the existing operating budget by department for the ensuing fiscal year. Details regarding programs, performance, and budget history would still remain part of the supporting documents.

## TRANSPORTATION TRUST FUND

Currently, before Transportation Trust Fund monies can be expended, the attorney general has to certify within 30 days of the effective date of the Act that an appropriation from the Fund is for a purpose as authorized by the state Constitution. In an effort to address DOTD's problems in procuring materials and providing services in highway district offices due to the 30-day lag time, **House Bill 592 by Representative Quezairé (Act 70)** reduces the time for the attorney general to certify the expenditures to seven days following final passage of an appropriation bill.

## I-49 NORTH AND SOUTH

**House Bill 654 by Representative Montgomery (Act 256)** authorizes revenues from unclaimed property to secure bonds to finance the remaining north and south portions of I-49.

## SABINE RIVER AUTHORITY

Legislation was introduced authorizing the state to forgive over seven million dollars that the Sabine River Authority owes to the state for ten million dollars issued by the state on behalf of the authority in 1975. **House Bill 715 by Representative Salter (Act 453)** has an effective date of July 1, 2008.

## JOINT LEGISLATIVE COMMITTEE ON THE BUDGET

A proposal to authorize the Joint Legislative Committee on the Budget to establish an executive committee, select other officers, and set additional compensation for other officers was kept in the Senate Finance Committee when the vote to report favorably failed. (**House Bill 800 by Representative Salter - Senate Finance**)

## COURT COSTS

Several bills which imposed new court cost fees or increased existing fees were considered favorably by the Senate Finance Committee; Judicial Council approval had previously been obtained for such increases, as required by law.

## FUNDS

A number of bills creating funds in the state treasury were considered by the Senate Finance Committee, including **House Bill 460 by Representative Alario (Act 298)**, which establishes the Rapid Response Fund. Designed for purposes of economic development, each year the fund will receive enough monies to bring the unobligated balance of the fund to ten million dollars. Monies are to be used for the immediate funding of economic development projects which may be necessary to secure the creation or retention of jobs. A report on the use of the fund is to be given to the Joint Legislative Committee on the Budget twice a year.

## TOURISM DOLLARS INCREASE

The Department of Culture, Recreation and Tourism receives a portion of the state sales tax to be used for tourism purposes. The tax set aside for that purpose generates between \$19 million and \$20 million each year, but the department has been limited to receiving no more than \$17.5 million annually. Under **House Bill 840 by Representative Alario (Act 464)**, the amount that can go to tourism will increase by \$400,000 each year until Fiscal Year 2009-10, at which time a new cap of \$19.5 million will go into effect.

## APPROPRIATIONS

The General Appropriation bill (**House Bill 1 by Representative Alario - Act 16**) provides for the ordinary operating expenses of state government for Fiscal Year 2005-06. The bill contains \$7.3 billion in State General Fund and total means of financing of \$18.7 billion. (*Highlights and details of HB 1 as it passed the legislature will be forthcoming from Senate Fiscal Services Staff shortly.*)

A Supplemental Appropriation bill is necessary to provide for certain unmet and/or unanticipated needs during the current fiscal year. **House Bill 842 by Representative Alario (Act 138)** contains supplemental appropriations for FY 2004-05.



The bill is the vehicle used to provide a bonus or salary increase to teachers of at least \$530; a portion of the money that had been set aside for additional payments on the unfunded accrued liability of two of the state retirement systems' debt was used to fund the pay increase (\$12.5 million). The bill also provides \$20 million to local school boards to offset a portion of increasing retirement costs.

## Gaming

by: *Camille Sebastien*  
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**Senate Bill 181 by Senator Chaisson (pending Senate committee) and House Bill 114 by Representative Martiny (failed Senate final passage)** would create the "Domestic Cruiseship Gaming Control Act" which authorizes the conducting of gaming on certain domestic cruiseships. The bill would provide for regulatory, rulemaking, licensing, suitability, and investigatory provisions regarding domestic cruiseships and sets out criteria for domestic cruiseships. Additionally, the bill would create the Domestic Cruiseship Gaming Control Assistance District as a special taxing district with boundaries coterminous with the parish of Orleans and which shall be a body politic and corporate and a political subdivision of the state. The district is authorized to levy and collect the following:

- (1) A franchise fee on net gaming proceeds as defined in R.S. 27:503 at a rate of 7.5% of net gaming proceeds to be distributed as provided by proposed law.
- (2) A license fee equal to 3.5% of net gaming proceeds for the right to conduct domestic cruiseship gaming which shall be distributed to the state to conduct suitability determination.
- (3) Levy and collect a franchise fee of 7.5% of net gaming proceeds for the right to conduct domestic cruiseship gaming which shall be distributed to the state for deposit in the state general fund.

The district would be further authorized to levy the necessary fees to conduct suitability determinations and background checks and to provide for the connection of electronic gaming devices on licensed domestic cruiseships to the central computer system. After providing for the expenses of the district, the district is specifically authorized to transfer to the city of New Orleans and to the parishes wherein the domestic cruiseship navigates such amounts as are necessary to address the development of tourism and economic development. The district is further authorized to transfer, apportion, and allocate such revenues, which remain after providing for all expenses of the district, to the city of New Orleans and to the various parishes wherein such domestic cruiseship navigates in accordance with the following formula:

- (1) 25% of the revenue is to be distributed to the city or parish which is the domicile of the domestic cruiseship and the port of origin of the cruise.
- (2) After the allocation of the 25% of revenue, the remainder of the revenues shall be apportioned between the remaining parishes or the portions of parishes abutting the Mississippi River at any point along the route which a domestic cruiseship navigates. The revenue shall be apportioned based upon the number of miles actually navigated by a domestic cruiseship on the Mississippi River. The apportionment of revenue shall include both the east bank and west bank of the Mississippi River in cases where a parish

is abutting the Mississippi River on both sides.

**Senate Bill 273 by Senator McPherson (rejected, Senate conference committee)** would have granted a person, who in the opinion of the board has the ability to exercise a significant influence over a licensee, a permittee, or the casino gaming operator, a right to appeal such decision or opinion of the board to a hearing officer in accordance with the provisions of the APA as provided in present gaming law provisions and further requires the appeal to be filed with the hearing officer within 10 days notice that the suitability of the person is to be examined and requires such matter to be heard and decided by the hearing officer within 30 days. The bill additionally provided that no administrative action can be taken against a licensee, permittee, or casino gaming operator found to be associated with and subject to the influence of a person required in the opinion of the board to be subject to suitability and found unsuitable unless such licensee, permittee, or casino gaming operator refuses to sever its association with such person found unsuitable within 30 days notice by the board demanding such disassociation. The bill also prevented a demand for disassociation from being served until such time as a determination of unsuitability has been made final. By amendments proposed by House Committee the bill also provided for suitability requirements for officers, directors, shareholders, owners, or members of a "country or community club," shifted the burden for determining that an applicant is unsuitable to the division, and removed consideration of an arrest record in determinations regarding the issuance of video draw poker devices. House Committee Amendments also deleted provisions preventing administrative action against a licensee, permittee, or casino gaming operator, found to be associated with and subject to the influence of a person subject to suitability.

The conference committee report would have adopted House amendments regarding suitability requirements for officers, directors, shareholders, owners, or members of a "country or community club" but would have also limited the individuals who are required to meet suitability requirements in a country or community club setting. The report would have rejected House amendments to add a provision removing consideration of an arrest record in determinations regarding the issuance of video draw poker licenses, but it would have also prevented an arrest, summons, charge, or indictment which does not result in a conviction or which results in an acquittal, deferred adjudication, or pardon from being the sole basis of a denial of a license or permit when an applicant otherwise meets suitability requirements. The conference committee report would also have prevented a conviction of a misdemeanor offense from being the sole basis of a denial of a license or permit when an applicant otherwise meets suitability requirements. Additionally, the report would have provided that consideration of a person's arrest or criminal record, reputation, prior habits, and associations in determinations regarding issuance of a video draw poker license would be subject to the remaining requirements for suitability and it would have further authorized rather than required the division to consider evidence of or relating to an arrest, summons, charge, or indictment of an applicant or the dismissal thereof, even if the arrest, summons, charge, or indictment resulted in an acquittal, deferred adjudication, probation, parole, or pardon.

The conference committee report also rejected House amendments which would have provided that

no administrative action could be taken against a licensee, permittee, or casino gaming operator, unless that person refuses to sever its association with the person found unsuitable within 30 days notice by the board demanding such action and which would have provided that board notice demanding a severance of licensee, permittee, or casino gaming operator's association with the unsuitable person would not be served until a determination of unsuitability has been made final. The report would have further rejected House amendments to add a provision shifting the burden for suitability determinations regarding the issuance of a video draw poker license.

After consulting with the gaming division of state police and the attorney general's gaming division, language was added to the conference committee report which would have granted a person, found by the board to exercise significant influence over a licensee, permittee, or casino gaming operator, a right to appeal such decision of the board to a hearing officer only after all requested information is supplied to the board and division, and there has been an investigation and recommendation of finding of unsuitability by the division. Such appeal would have been filed with the hearing officer within 10 days of receipt of notice of recommendation and would have been heard by the hearing officer within 30 days, except upon good cause shown. Additionally, the report would have amended the bill to limit the time period that no administrative action could be taken against a licensee, permittee, or casino gaming operator, unless that person refuses to sever its association with the person found unsuitable from 30 days to 10 days and it would also have prevented a demand for disassociation from being served until such time as a determination of unsuitability has been made final, either because the person failed to request an appeal of the hearing officer's finding of unsuitability or a final decision of unsuitability has been rendered by the board. If a stay of the board decision would have been granted on appeal to the district court, such stay would not have exceeded 60 days from the date of the board's decision.

**House Bill 762 by Representative Strain (Act 459)** amends river boat gaming provisions to provide for inspections of river boats which are "non-certificated vessels," which means a river boat vessel which does not hold a Certificate of Inspection issued by the United States Coast Guard. Such vessels may include those that formerly held a Certificate of Inspection issued by the United States Coast Guard and those for which the Coast Guard declines to issue a Certificate of Inspection. In order to ensure the health and safety of the public, the bill also authorizes the Louisiana Gaming Control Board to approve that the non-certificated vessels be inspected by a combination of the following:

- (1) A third-party inspector including but not limited to the American Bureau of Shipping or its affiliates.
- (2) Inspections conducted by the licensee.

**House Bill 799 by Representative Richmond (reconsideration, Senate final passage)** would have authorized slot machine gaming at the eligible airport facility and authorizes the airport authority to levy and collect an amount not to exceed 21½% in the aggregate of the weekly taxable net slot machine proceeds and levy and collect fees necessary to conduct suitability determination and background checks

and for fees imposed for linkage of electronic gaming devices to the central computer system. The bill would further provide that after providing for all expenses of the district, the revenues shall first be transferred or distributed to the Louisiana Stadium and Exposition District to assure full funding of the contractual obligations of such district to any National Football League franchise located in Orleans Parish. Provides that after satisfying those requirements the excess of such revenues shall be transferred and distributed as follows:

- (1) One-sixth to go to the Jefferson Parish governing authority to be distributed by the Jefferson Parish governing authority.
- (2) One-sixth to go to the city of Kenner to be distributed by the city of Kenner.
- (3) One-third to lower landing fees at the New Orleans International Airport.
- (4) One-third to increase the salaries of police officers in the New Orleans Police Department.

The bill also would provide for procedures for licensing of gaming, suitability criteria, conditions for licensing, criteria for slot machine gaming at such facility, the powers of the gaming control board and division of state police and for the calling and conducting of an election. Senate Committee Amendments revise the distribution of one-third of the excess of revenues after the full funding of the contractual obligation of the La. Stadium and Exposition District to the Saints from distributing the revenues to increase the salaries of New Orleans police officers to sharing it equally between the New Orleans Police Dept. and the New Orleans Fire Dept. for use to increase salaries or satisfy previously adjudicated matters.

The bill further would require that all electronic gaming devices at the eligible airport facility be connected to a central computer system for the monitoring and reading of financial information of those devices and provides that the total combined designated gaming area for all of the slot machine gaming facilities shall not exceed 15,000 square feet. The bill also would provide for an initial application fee of \$50,000 for a license to conduct gaming at the eligible airport facility.

**House Bill 822 by Representative Shepherd (indefinitely postponed, Senate floor)** would provide for the allocation of riverboat admission fees in Jefferson Parish by stipulating that a certain portion of such monies allocated to the governing authority of Jefferson Parish shall be allocated for and distributed to the Greater New Orleans Service Corporation, the Bayou Defamilies Park, and the Fore Kids Foundation, Inc.

## **VIDEO POKER**

**Senate Bill 267 by Senator Ellington (pending in Senate Committee)** would have required that no new licenses to operate video poker at a truck stop facility would be issued on or after July 1, 2005,

and specified that this limitation would not apply to renewal of any license previously issued or to issuance or renewal of licenses in which application for the original license was before July 1, 2005.

**House Bill 289 by Representative Hopkins (pending in Senate Committee)** would have authorized advertising outside licensed truck stop facilities where video poker devices are located in any manner and would have provided that a person licensed to operate video draw poker devices at his licensed establishment may promote or encourage the play of the video draw poker devices regardless of whether the promotion is based solely upon the play of video draw poker devices. The bill further provided that a video draw poker device owner or the licensee of a licensed establishment operating video draw poker devices may have a device, program, or system linked to each video draw poker device or linked to a central computer located at that licensee's establishments to track a patron's use or play of video draw poker devices for the purpose of offering complimentary items.

**House Bill 371 by Representative Wooton (Act 425)** amends provisions of video draw poker law by removing requirements that qualified truck stop facility fuels sales comply with provisions providing for unfair sales laws and practices and the consumer protection laws. The bill also repeals provisions of present law requiring a qualified truck stop to offer varied menus at their restaurants. The bill further provides for an exception to the requirement that video draw poker devices be connected to a central computer system if that system is not operational and provides for a designated representative for a qualified truck stop facility, Louisiana State Racing Commission licensed pari-mutuel wagering facility, or an offtrack wagering facility. However, designated representatives shall not be required for restaurants, bars, taverns, cocktail lounges, clubs, or such establishments located in motels or hotels licensed for the placement of not more than three video draw poker devices. Senate Committee Amendments to the bill delete the requirement that an electronic copy of ticket data from video draw poker devices be retained for at least two years after the ticket is printed and instead provides that such ticket data shall be retained for a minimum of five thousand tickets. The amendments further provide that any change in parish boundaries for any reason that occurred subsequent to the election permitting or prohibiting video poker in the parish in 1996 does not effect the permissibility or prohibition of video poker in an area included within the parish at the time of the election. Senate Floor Amendments provided that any truck stop applying for a video draw poker license after December 31, 2006, must be within a 1000 feet of any property that is on the National Historic Registry, any public playground, or a building used exclusively as a church, synagogue, public library and adds residence or residentially zoned property to the list.

**House Bill 453 by Representative Martiny (Act 61)** amends provisions of the Video Draw Poker Devices Control Law to provide for the issuance of civil penalties, denial, conditioning, suspension, or revocation of video draw poker devices and permits. The bill provides for the adoption of a civil penalty schedule by the board through rules adopted pursuant to the APA and provides that the board or division, as may be applicable, shall review the penalty schedule provided to determine whether a penalty provided for in the penalty schedule is appropriate and applicable to a particular violation, and if the issuance of a civil penalty is warranted, may impose the applicable appropriate penalty. The bill further provides that any

hearing officer of the board shall review the penalty schedule to determine whether a penalty provided for in the penalty schedule and issued by the board or division, where applicable, is appropriate and applicable to a particular violation. The civil penalty shall not exceed \$50,000 for each violation of any provision of present law or rule of the board. The bill further provides for the criteria for restaurants, bars, taverns, clubs, and cocktail lounges and defines administrative action as any revocation, suspension, finding of unsuitability or conditioning of a license or permit, or imposition of a civil penalty.

## **CHARITABLE GAMING**

**House Bill 564 by Representative Martiny (Act 373)** revises provisions of law regarding the conducting and operation of progressive bingo games by increasing the mega jackpot for progressive bingo from \$50,000 to \$100,000, and removes the requirement that contributions can be made only after the jackpot cap is reached. The bill also increases the amount of contributions which can be made during the course of a progressive jackpot game if the jackpot cap is raised from \$100 to \$200 and provides that nothing in present law shall be construed to prohibit the authority of local governments to restrict or prohibit electronic video bingo. The bill further provides that for purposes of approval of charitable gaming by local governing authorities the term bingo shall include electronic video bingo and it further removes population limits for those organizations who network or link together to conduct progressive mega jackpot bingo games provided the local governing authority of each parish has authorized the conducting of such games in the parish.

## Health & Hospitals

by: *Mary O'Brien*  
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The healthcare focus in Louisiana continues to be on the work of the Governor's Healthcare Reform Panel. Meeting quarterly, the panel has provided specific guidance and recommendations for the state in the area of expanding home and community services. The panel continues to study the issues of the uninsured and underinsured in Louisiana, as well as access to the healthcare system. These issues and several local concerns were the subject of much of the legislation in the 2005 Regular Session.

### **MEDICAID - INCREASED PAYMENT FOR UNCOMPENSATED CARE**

Perhaps the most widely reported healthcare legislation this session was the Healthcare Affordability Act, **Act 182 (House Bill 887 by Representative Durand)**. With regard to healthcare, this legislation is intended to provide increased payment for acute care hospitals that treat the uninsured. Care for the uninsured is referred to as uncompensated care or "UCC" and a facility that provides a substantial amount of UCC is designated a "Disproportionate Share Hospital" (referred to as DSH or "dish" payments). The federal government offers federal financial participation, "FFP", for facilities designated as DSH. However, in order to receive FFP, the state must have matching dollars on a thirty (state) to seventy (federal) ratio. In an effort to obtain the matching dollars, the Healthcare Affordability Act provides for a one and one half percent charge on the net patient revenue as reported on the facility's Medicare cost report. This charge will not apply to all hospitals owned by the state, all hospitals owned by the U.S., all hospitals designated as "rural" in the Louisiana Rural Hospital Preservation Act, and all hospitals certified by Medicare as licensed long-term acute care, rehabilitation, or psychiatric hospitals. It is expected that the proceeds from this fee will represent sufficient state dollars to obtain the maximum dollars offered by the federal government for "dish" payments to cover the cost of UCC.

### **LONG TERM CARE**

Several bills this session dealt with the issue of moving from a concentration of long term care costs to nursing homes, to more people being served by home and community-based services. This is a national trend, encouraged by the federal government, which has failed to take hold in Louisiana. Louisiana's nursing homes suffer from low rates of occupancy and aging facilities. **Act 341 (Senate Bill 272 by Senator McPherson)** provides for additional provisions to the Facility Need Review process. Included are: (1) processes to reduce the number of nursing home beds, (2) the manner in which nursing home owners may convert beds to medical model assisted living beds, and (3) providing for nursing homes to close beds while maintaining the availability of such beds, should the occupancy rate in the area increase to above ninety-three percent. Medical model assisted living is considered to be a home and community-



based service under federal Medicaid rules.

Home and community-based services offered by the Department of Health and Hospitals include the New Opportunities Waiver (NOW). This waiver provides an array of services to maintain persons with developmental disabilities in the community. The per client cost of this program has been substantial and **House Concurrent Resolution 87 by Representative Tucker (enrolled)** requests that DHH study the feasibility of capping the per client payment, as a cost control mechanism.

### **UNINSURED AND UNDERINSURED**

The number of Louisianians without health insurance, or who are underinsured, continues to be substantial and the cost to the state continues to rise. The legislature and the Department of Health and Hospitals have sought ways to expand coverage through waivers of Medicaid rules granted by the Centers for Medicare and Medicaid Services (CMS). **Act 154 (Senate Bill 270 by Senator McPherson)** The legislation states that families whose incomes are below two hundred percent of the federal poverty level, are the target of such an expansion of coverage. Specifics relative to payments of disproportionate share (DSH) being placed into a pool with flexibility to support DSH facilities, provide insurance to those not presently covered, and to expand the availability of primary and preventive care for Medicaid and uninsured patients are left to DHH to establish by rule.

### **PREFERRED DRUG LIST**

Louisiana established a preferred drug list in 2001, which adds certain prescription medications to a list of medications preferred by the Medicaid program to be prescribed to Medicaid recipients. While prior authorization to prescribe a medication not on the list, the vast majority of Medicaid prescriptions are for drugs on the list. This procedure has saved the state Medicaid program millions over the last several years. Prescription medications for Medicaid recipients, specifically, atypical antipsychotic medications used to treat schizophrenia and mental illness and immunomodulator or hepatitis C-specific antiviral drugs prescribed for the treatment of hepatitis C will be added to the preferred drug list in accordance with **Act 177 (House Bill 369 by Representative Durand)**. Specific qualifications for the availability of these medications are included in the act.

### **HEALTHCARE FACILITIES AND SAFETY OF THE PUBLIC**

Several bills and resolutions seek to address healthcare facilities and to enhance safety in the healthcare setting. **Senate Concurrent Resolution 86 by Senator Butch Gautreaux (enrolled)** calls for a study of the feasibility of requiring hospitals to report hospital-acquired infections. The issue of pain management clinics and how to regulate them are the subject of **House Bill 749 by Representative Hutter (Act 488) and duplicate Senate Bill 245 by Senator Schedler**. These bills provide for the State Board of Medical Examiners to provide rules governing those who practice in pain clinics who are also licensed by the board.

A grandfather clause permits some facilities operating currently to continue operation for a period of time before needing to come in to compliance with the new provisions.

In an effort to streamline regulation, while continuing to protect the public, **Representative Doerge's House Bill 528 (Act 483)** transfers the licensing of numerous facilities, including day care centers for ill children and for adults, for respite centers, and supervised independent living programs, from the Department of Social Services to the Department of Health and Hospitals. The "Healthy Vending" bill, **Act 331 (Senate Bill 146 by Senator Bajoie)**, restricts the food and beverages offered in vending machines in both elementary and secondary schools to at least fifty percent food and beverages defined as healthy. The bill also urges schools to increase physical activity for children. **House Bill 33 by Representative Montgomery (Act 469)** provides for the certification and testing of all equipment used to treat infectious medical waste, in an effort to reduce the possibility of infections arising from such sources.

## PREVENTION AND DISEASE MANAGEMENT

The Governor's Health Care Reform Panel has stressed the importance of both disease management and prevention programs in developing a health population. **Act 210 (House Bill 293 by Representative Tucker)** calls for reporting of those with Parkinson's disease, in hopes of working on disease management and prevention. **Act 124 (Senate Bill 149 by Senator Bajoie)** mandates kidney evaluations for Medicaid patients who are in high risk groups for kidney disease, considering that early detection is important in positive results for patients. Such early detection can also save hundreds of thousands of dollars in medical costs. **Senate Concurrent Resolution 5 by Senator Amedee (enrolled)** requests that Louisiana State University and Tulane University cooperate with the Aneurysm Outreach, Inc. to provide screening sites and screenings to help in educating the public regarding the thirteenth leading cause of death in the U.S., aortic aneurysm.

## ELDERLY/MENTAL HEALTH/DEVELOPMENTAL DISABILITIES

In **Senate Concurrent Resolution 41 by Senator Bajoie (enrolled)** the Department of Health and Hospitals is urged to plan for the consolidation of services for the elderly of Louisiana. The entire law regarding citizens with developmental disabilities was re-written and updated in **Act 128 (Senate Bill 190 by Senator Broome)**. Provisions include the manner of consent by a person with a developmental disability; system components, operations, and principles for providing services to citizens with developmental disabilities; rights of those with developmental disabilities; and administration of the state developmental centers. **House Concurrent Resolution 21 by Representative Walker (enrolled)** provides for a commission to investigate barriers to employment to those with mental health issues. Additionally, **House Concurrent Resolution 17 by Representative Schneider (enrolled)** calls on the Office for Elderly Affairs to develop an Internet site to provide information on resources for the elderly.

## AREAS OF HEALTHCARE PRACTICE

The Dental Practice Act was amended in **Act 196 (House Bill 125 by Representative Toomy)**, including provisions relative to the costs paid by those against whom the Board of Dentistry brings an action. The issue of allowing dentists to administer sedation to patients of any age is the subject of **Act 162 (House Bill 67 by Representative Walker)**. In a time of crisis regarding access to healthcare for the poor and uninsured, **House Concurrent Resolution 83 by Representative Strain (enrolled)** asks the Board of Dentistry to allow retired dentists to practice for no remuneration in charitable clinics. Such clinics provide a substantial amount of both pharmacy and dental services to the working poor of Louisiana. **Act 6 (Senate Bill 265 by Senator Hines)** provides relative to the practice of optometry. The issue of whether Louisiana should join the Nurse Licensure Compact is the subject of a study mandated by **Senate Concurrent Resolution 64 by Senator Schedler (enrolled)**. The issue of increasing the donation of prescription drugs that are unused at a wide range of healthcare facilities will be studied by the Medicaid Donation Task Force established by **Senate Concurrent Resolution 101 by Senator McPherson (enrolled)**. **Act 387 (House Bill 753 by Senator Durand)** amends the Pharmacist Practice Act allowing the Board of Pharmacy to determine, by rule, the proper ratio of pharmacists to pharmacy technicians, while setting a minimum of two technicians to one pharmacist.

# Homeland Security/Military Affairs

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## RETIREMENT SYSTEMS

Investments In Foreign States. (Act 9) **House Bill 658, by Representative Schneider** requires that most of the state's retirement systems report semiannually to the Senate and House Committees on Retirement any investments in countries determined to be sponsors of terrorism. The new law requires that money managers and consultants with the systems report such investments to the systems within seven days of such investments. Gives members of those retirement systems the power to challenge such investments in court and force the system to divest itself of the investment. The countries determined to be sponsors of terrorism are Iran, Libya, North Korea, Sudan and Syria.

## HOMELAND SECURITY

Regional Headquarters. **House Concurrent Resolution 88 by Representative Tucker (enrolled)** requests the Department of Defense to favorably consider the "federal city concept" for expanding the Naval Support Activity military installation on the west bank of the Mississippi River in New Orleans by consolidating the Navy, Marine, and Army flag/general commands in the New Orleans area, moving in the 8<sup>th</sup> Coast Guard District Headquarters, and possibly housing a new regional Homeland Security headquarters at the renovated military installation.

## MILITARY AFFAIRS

College Tuition Exemption. (Act 264) **House Bill 775 by Representative Barrow** extends the time that an exemption on college tuition may be claimed by Louisiana National Guard members who are activated. Currently, the exemption lasts for five academic years for undergraduate degrees, even if several of those years were spent on active duty. Now, the five-year exemption will be extended to provide a total of five years of college if the guardsman was a student, was activated, and subsequently returned to college and continued to serve in the guard.

Consumer Protection For Armed Forces. (Act 296) **Senate Bill 151 by Senator Nick Gautreaux** provides for relief to members of the active duty armed forces from enforcement of service contracts such as cell phones, automobile leases, and tenant rental agreements, and also prevents suppliers of natural gas, water and sewage, and electricity from stopping service to any residence of an active duty servicemember for nonpayment for those services.

Death Benefits. **House Concurrent Resolution 138 by Representative Gary Smith (enrolled)** memorializes the United State Congress to take such actions as are necessary to make permanent increases in Servicemembers Group Life Insurance coverage and the Death Gratuity benefits to provide financial security of survivors of members of the Louisiana National Guard and other servicemembers who die while serving on active duty.

Employment Law. **(Act 144) Senate Bill 118 by Senator Barham** provides that employees called to active duty who plan to return to that same job after active duty may continue to accrue sick leave, annual leave, vacation leave, and holiday leave as if they had worked continuously if the employer has a stated leave of absence policy allowing such accruals. The bill also provides that employees returning to a job after active military duty must give the employer written notice that they intend to return.

Military Honor License Plates. **(Act 365) House Bill 327 by Representative Quezaire** authorizes the creation and issuance of military honor license plates for veterans and military personnel. Current federal court order pursuant to the decision in Henderson v. Stalder enjoins the Department of Public Safety and Correction from issuing such plates. The bill distinguishes military honor plates from other special prestige license plates recognizing associations, institutions, or causes and requires the department to resume issuing military honor plates for former prisoners of war, members of the Louisiana National Guard, disabled veterans, medal of honor recipients, Louisiana members and retired members of the reserve forces of the U.S., military vehicles from World War II and the Korean War, veterans and retired veterans, survivors of Pearl Harbor, Vietnam War veterans, Purple Heart recipients, Korean War veterans, veterans of the U.S. Merchant Marine, veterans of Operation Desert Shield/Desert Storm, World War II veterans, Certain U.S. Marine Corps veterans. Laos War veterans, veterans of the Cold War.

Military Honors. **House Concurrent Resolution 117 by Representative J.D. Smith (enrolled)** memorializes congress to amend the U.S. Code to authorize state governor to proclaim that the U.S. flag shall be flown a half-staff upon the death of a member of the U.S. armed forces from their respective state who died on active duty.

**Senator Marionneaux** filed condolence resolutions for the families of all Louisiana servicemembers who died while participating in Operation Iraqi Freedom and Operation Enduring Freedom, often bringing those families to the Senate chamber for the solemn reading of the resolution and the observance of a silent prayer for the deceased service member.

Selective Service Registration. **House Bill 236 by Representative Morrell (House committee)** would have ended the current requirement that the Office of Motor Vehicles register all male applicants for drivers' licenses with the Selective Service System.

Veterans' Bonus. **Senate Bill 36 by Senator Barham (Senate committee)** sought to grant a two hundred fifty dollar, one time bonus, to veterans of Operation Enduring Freedom in Afghanistan and

Operation Iraqi Freedom in Iraq. The bill would also have granted a one thousand dollar death benefits to families of servicemembers killed during these operations. The proposal died in the Senate Revenue and Fiscal Affairs Committee after the Blanco administration requested passage instead of an income tax writeoff proposal be used to assist veterans of the two middle east conflicts. That measure, **(Act 151) Senate Bill 216 by Senator Dupre** creates the Military Family Assistance Fund for Louisiana National Guard members who are activated. The new law also establishes a Board and provides for donations to the fund, including check-offs on individual and business income tax returns and sales or use tax returns for voluntary contributions to the fund.

Veterans Health Screening. **(Act 69) House Bill 570 by Representative LaFonta** requires that the Adjutant General of the Louisiana National Guard provides that members of the guard shall be screened for exposure to depleted uranium from artillery rounds or other sources. It also requires that the Adjutant General report to the House Judiciary Committee and the Senate Judiciary B Committee by October 1, 2005, on the scope and adequacy of training received by members of the guard on detecting whether their service caused them to be exposed to depleted uranium.

Veterans' Income Tax Exemption. **House Bill 211 by Representative Hammett (Senate committee)** would have extended for two years the current exemption from the state income tax for the first \$30,000 of income earned by full-time military personnel (120-day uninterrupted duty) for services performed outside the state for the U.S. armed forces. It makes the exemption effective for all taxable years beginning after December 31, 2002, up to January 1, 2007.

Veterans Property Tax Assessment. Two bills, one house and one senate, that would grant special property tax assessments on homes of veterans who had suffered a service-connected disability of 50 % or more, or that owner's surviving spouse who is 45 years old or older or who has minor children and remains the owner of the property. The bills, both Constitutional Amendments, would also apply to spouses of the owner who is killed in action or was a prisoner of war for more than 90 days. **House Bill 573 by Representative Kennard (subject to call-House concurrence)** passed both houses of the legislature but was amended and ultimately sent to a Conference Committee and died on the house calendar when the session adjourned sine die. **Senate Bill 89 by Senator Nevers (Act 511)** ultimately passed both houses and was sent to the Secretary of State for placement on the next statewide ballot for the voters to approve or reject.

## Human Resources

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### WAGE ISSUES

**House Bill 275 by Representative Marchand (Referred to the House Committee on Labor and Industrial Relations)** proposed a constitutional amendment to raise Louisiana's minimum wage to \$6.15 per hour. The proposed amendment also provided that if the federal minimum wage increases, Louisiana's minimum wage will concurrently increase to one dollar more than the new federal minimum wage. The proposal did not apply to employees of state or local governmental entities. The bill provided that the proposed amendment shall be considered at a statewide election on November 7, 2006.

**House Bill 541 by Representative Dartez (Act 24)** is another wage related bill. Current law permits an employer to pay up to \$6,000 in wages and benefits owed to a deceased employee directly to his surviving spouse or children but requires any excess amounts to be paid to his estate. HB 541 allows an employer to pay all wages and benefits owed to a deceased employee directly to his surviving spouse if neither spouse had instituted divorce proceedings. If the deceased employee had no surviving spouse or if either spouse had filed for divorce, the employer may pay the owed wages and benefits to a child of the deceased employee who is at least 18 years old.

### SEXUAL ORIENTATION/GENDER IDENTIFICATION POLITICAL AFFILIATION DISCRIMINATION

**House Bill 571 by Representative Shepherd (Pending House Labor and Industrial Relations Committee)** would make it unlawful for covered employers - companies with 20 or more employees (excluding religious organizations) - to discriminate against applicants or employees because of their actual or perceived sexual orientation. "Sexual orientation" was defined as "being or perceived as being heterosexual, homosexual, or bisexual or being perceived as having a gender-related self-identify, appearance, or behavior whether or not associated with a person's sex at birth." The bill included a provision permitting an employer to require employees to adhere to reasonable workplace appearance, grooming, and dress standards as long as an employer allows them to appear and dress consistently with their gender identity.

**House Bill 317 by Representative LaFonta (Failed House final passage)** would prohibit state agencies, departments, offices, boards, entities, or officers from engaging in harassment or discrimination because of a person's race, color, religion, sex, sexual orientation, national origin, political affiliation, or disability. Additionally, the bill sought to prohibit the state and its departments and offices from

discriminating when providing services or benefits or awarding contracts based on a person's race, color, religion, sex, sexual orientation, national origin, political affiliation, or disability. Finally, any contracts awarded must contain a provision that the contractor shall not discriminate based on the above-listed factors in any manner relating to employment.

## **COLLECTIVE BARGAINING FOR PUBLIC EMPLOYEES**

**Senate Bill 98 by Senator Cravins (Subject to call - Senate final Passage)** proposed the enactment of the "Public Employee Partnership Act," which would give teachers and other public employees the right to form, join, or assist a labor organization for the purpose of collective bargaining through representatives of their choice. The proposed law set forth procedures for elections and decertification of labor organizations as the exclusive representatives for a group of public employees, called a bargaining unit. The bill would also create the Public Employee Labor Relations Board within the office of the governor to administer the proposed law and promulgate any necessary rules. Board members would be appointed by the governor. The proposed law would prohibit an employer from discriminating against an employee because he's a member of a labor organization. SB 98 would also prohibit public employees or a labor organization from engaging in a strike.

## **RETURNING MILITARY SERVICE MEMBERS**

**Senate Bill 118 by Senator Barham (Act 144)** amends Louisiana's Military Service Relief Act to clarify the manner in which someone returning from military service notifies his employer of his intention to return to work. The law requires returning employees to physically report for work or notify their employer in writing of their intent to return to work. Additionally, the bill allows you to condition reemployment on policies and procedures applicable to other employees returning from leave if those policies and procedures don't conflict with the Military Relief Act.

## **WOMEN'S WAGES**

**House Bill 444 by Representative Hunter (Failed House final Passage)** sought to create the "Louisiana Equal Pay for Women Act," which closely tracks the federal Equal Pay Act. The proposed law, applicable to public or private employers with four or more employees within Louisiana, would prohibit an employer from discriminating on the basis of sex by paying one employee less than another employee of the opposite sex for the same or substantially similar work. The bill also required covered employers to maintain records documenting the name, address, occupation, and wages paid to each employee for at least three years. Employers would also be required to post a notice summarizing the law and explaining how to file a claim when a violation occurs. HB 444 also authorized the secretary of the Louisiana Department of Labor to administer and enforce the new law and conduct investigations into alleged violations. An employee may recover in a civil action the amount of any underpayment plus interest, costs, and attorneys' fees if the employer is found to have violated the law. Any action must be filed within three years of the



date the employee learned of the alleged underpayment.

## **UNEMPLOYMENT BENEFITS**

**House Bill 610 by Representative Gray (Pending House Committee on Labor and Industrial Relations)** sought to protect unemployment benefits for employees who can establish that they left their employment because of domestic violence. Current law disqualifies a former employee from receiving unemployment compensation benefits if she voluntarily left her job for any reason other than a substantial change in employment by the employer. HB 610 would carve out an exception to that rule for someone who can establish that she left work because of domestic abuse. The proposed law would have allowed an employee to prove she's the victim of domestic abuse in several ways, including a law enforcement record documenting the abuse or medical documentation of it.

**Senate Bill 95 by Senator Kostelka (Act 111)** makes a person ineligible for unemployment benefits for any week during which he's an inmate of a custodial or penal institution.

## **EMPLOYER NOTICES**

**Senate Bill 57 by Senator Duplessis (Act 322)** seeks to require employers with 10 or more employees to notify all employees that they may be eligible for the federal earned income tax credit and may apply for the credit on their tax return or receive it in payments during the year. The law requires an employer to give employees that information at the time they're hired by providing them with any written notice on the subject from the IRS or a notice the company creates that contains the substantive information about the tax credit. Additionally, the law requires an employer to post a notice prepared by the U.S. Department of Labor setting forth information about the earned income tax credit.

# Information Technology

by: Gary Schaefer  
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## APPROPRIATIONS

**House Bill 1 by Representative Alario (Act 16)** provides appropriations for:

Louisiana Optical Network Initiative—an initiative of U.S. research universities and private-sector technology companies to provide a nationwide infrastructure in networking technologies and applications—\$4,000,000 (HB 2 an additional \$6,500,000 for Library and Scientific Acquisitions including LONI).

Governor's Biotechnology Initiative—an initiative to provide research dollars for biotechnology projects (e.g., neurobiotechnology activities)—\$3,750,000.

Governor's Information Technology Initiative—an initiative to conduct research and develop new technologies to advance information technology—\$18,500,000, plus \$2,000,000 for LSU Center for Computation and Technology.

Louisiana Technology Park—a nonprofit, public-private organization that serves as a high-tech incubator—\$2,800,000

Virtual School/Title 3—The Louisiana Virtual School and Title 3 Technology Challenge activities are designed to increase the use of technology and computers in the Louisiana public school systems—\$16,422,730

## ASSESSORS

**Senate Bill 316 by Senator Mount (Act 310)** requires effective January 1, 2006, all parishes which have participated in a current Internet posting program to submit proposed assessment lists to the Louisiana Tax Commission in electronic form to be published on the commission website for public inspection. Allows those parishes that have never participated in the program to apply yearly for relief from this requirement.

**House Bill 237 by Representative Burns (pending House Ways and Means)** would have provided that participation in the ad valorem tax assessment database was required in every parish on January 1, 2007, and provided that the assessor shall allow for the inspection of the assessment lists for a period of 30 days, beginning no earlier than July 1 and ending no later than September 15.

## **BANKS/BANKING**

**Senate Bill 222 by Senator Hollis (Act 132)** authorizes the imposition of an additional charge in a consumer credit transaction if the consumer makes an electronic payment.

## **CLERKS OF COURT**

**House Concurrent Resolution 118 by Representative Crowe (enrolled)** urges and requests the clerks of court and recorders of mortgages to employ the use of computer software to redact the first five digits of social security numbers appearing on filed or recorded documents to be scanned and made available, after August 1, 2005, to the public over the Internet.

## **CRIME/PUNISHMENT**

**House Bill 547 by Representative Greene (Act 246)** creates the crime of computer-aided solicitation for sexual purposes, defines the crime, and requires a person convicted of this offense to register and provide notification in accordance with the sex offender registration and notification requirements.

**Senate Bill 156 by Senator Chaisson (Act 297)** creates the Anti-Skimming Act, which criminalizes the use of a scanning device and/or re-encoder to capture encoded information from a magnetic strip of a credit, debit, or other payment card and then places the encoded information on a different card with the intent to defraud the authorized user, the issuer of the user's card, or a merchant.

**Senate Bill 166 by Senator Amedee (pending senate final passage, subject to call)** would have increased the penalties for the crime of threatening a public official including electronic communications, which threatened a public official, with the intent to influence his conduct in relation to his official duty. Exempted the transference of voice, data, or video images by any cable company, telephone company, Internet provider, commercial on-line service provider, or any of its affiliates.

## **DATABASE**

**Senate Bill 205 by Senator Duplessis (Act 499)** provides for the Database Security Breach Notification Law, which requires any person that conducts business in the state or that owns or licenses computerized data that includes personal information, or any agency that owns or licenses computerized data that includes personal information to notify any resident of the state whose personal information was, or is reasonably believed to have been acquired by an unauthorized person. Defines personal information as certain information when the name or data element is not encrypted or redacted and is in combination with certain other data elements.

## ELECTIONS

**House Bill 152 by Representative Guillory (failed, senate final passage)** would have prohibited the use of electronic communication devices while a voter was in a voting machine, unless such voter was using the device for voting assistance as outlined in existing law.

## ELDERLY

**House Concurrent Resolution 17 by Representative Schneider (enrolled)** urges and requests the Governor's Office of Elderly Affairs to develop a comprehensive Internet site with information and resources focused on enhancing and improving the lives of Louisiana's elderly population.

## HEALTH CARE/RECORDS

**House Bill 99 by Representative Jackson (withdrawn from files of the house)** would have created the Health-Care Consumer's Right to Know Act to assist consumers with receiving high-quality and cost-efficient health-care services by: requiring hospitals and ambulatory surgical centers to submit electronically patient billing data, defining core data elements to be reported, providing electronic access to patient billing data, determining reasonable fees to be charged to and collected from the requesting entity for providing electronic access to such data, and providing information on an interactive statewide website for use by consumers in making health care decisions.

## HEALTH/HOSPITAL DEPT

**Senate Bill 22 by Senator B. Gautreaux (pending Senate Health and Welfare)** would have required all licensed hospitals to report on an annual basis all incidents of hospital-acquired infections to the Department of Health and Hospitals, and to publish the annual report on its website.

## INSURANCE/HEALTH

**House Bill 290 by Representative Townsend (Act 209)** corrects the time period within which an electronic pharmacy claim is required to be paid, by requiring the claim shall be paid not later than the 15<sup>th</sup> day after the date on which the claim was electronically adjudicated. Provides for interruption of the 15-day period for payment of electronic pharmacy claims during a declared state of emergency.

## LEGISLATIVE POWERS/FUNCTIONS

**Senate Bill 20 by Senator Michot (Act 276)** revises the provisions for distribution of reports to the legislature and provides it shall be sufficient to provide one copy of the report to the presiding officer of each house of the legislature and an e-mail notification, which contains a link to an electronic copy of the report to each member of the legislature.

**Senate Concurrent Resolution 13 by Senator Lentini (enrolled)** requests the Senate Committee on Senate and Governmental Affairs and the House Committee on House and Governmental Affairs to study the use of videoconferencing for interim and standing committee meetings.

## NURSING HOMES

**House Bill 121 by Representative Odinet (senate final passage, subject to call)** would have provided for mandatory criminal background checks for residents in nursing homes or long-term care facilities by submitting the applicant's name and any other necessary identifying information to an Internet company that provides public records searches for criminal background.

## OFFICIAL JOURNALS

**House Bill 493 by Representative Farrar (deferred House Municipal, Parochial and Cultural Affairs)** would have provided that the official website of the governing authority of Rapides Parish would have been the official journal for the parish and any other political subdivision within the parish.

**House Bill 652 by Representative Wright (pending House Municipal, Parochial and Cultural Affairs)** would have authorized the governing authority of any parish with a population below 16,000 and any political subdivision within such parish to establish and maintain an official website as the official journal of the parish or political subdivision.

## PUBLIC CONTRACT/BIDS

**House Bill 412 by Representative Crowe (pending House Appropriations)** would have provided a 10% preference of information technology software or hardware, which was assembled, manufactured, or produced in Louisiana that was equal in quality to similar information technology assembled, manufactured or produced outside this state.

## **PUBLIC PROPERTY**

**Senate Bill 218 by Senator Dupre (Act 152)** provides that political subdivisions of the state shall establish procedures for the acquisition of surplus computer equipment by public elementary and secondary schools in the state, and community and technical colleges.

## **PUBLIC RECORDS**

**House Bill 70 by Representative Toomy (pending House and Government Affairs)** would have allowed the custodian of public records to charge a fee for making copies of public records, including copies of records made accessible by an electronic network.

## **RURAL/DEVELOPMENT**

**House Bill 531 by Representative Thompson (Act 372)** creates the Broadband Infrastructure and Information Technology Fund in the state treasury, provides that the fund shall be administered by the Governor's Office of Rural Development and monies in the fund shall be made available for the purpose of carrying out the duties and goals of the Louisiana Broadband Advisory Council.

## **TAX CREDITS**

**House Bill 413 by Representative Crowe (deferred House Ways and Means)** would have provided for tax credits against state income tax ranging from 10% to 15% of the actual investment for software development companies domiciled in the state of Louisiana.

**Senate Bill 341 by Senator Duplessis (Act 346)** provides for a digital interactive media producer tax credit against state income tax, ranging from 10% to 15%, to encourage development in Louisiana of digital interactive media technologies.

**House Bill 603 by Representative Scalise (pending House Ways and Means)** would have provided for a digital interactive media production investor credit to attract private investment for the production of digital interactive media with certain substantial Louisiana content.

**House Bill 604 by Representative Scalise (pending House Ways and Means)** would have provided for a digital interactive media employment tax credit ranging from 10% to 20% of the total aggregate payroll for the employment of residents of Louisiana in connection with the production of a digital interactive media.

**House Bill 684 by Representative Hammett (Act 402)** provides for a tax credit against corporation franchise taxes for increasing research and development, including research and development by small technology businesses.

## TAX EXEMPTIONS

**Senate Bill 335 by Senator Mount (pending Senate Revenue and Fiscal Affairs)** would have excluded from the computation of individual income, for a period of three years, income received by an individual or high technology business as royalties derived from any patent, copyright, or trade secrets owned by the individual or high technology business or which was developed and arose out of a high technology business.

**House Bill 632 by Representative Scalise (pending House Ways and Means)** would have provided for exemptions from corporate income, corporate franchise and other taxes for electronics manufacturing companies (e.g., robotics, smart homes, digital imaging, public alert technology).

**House Bill 854 by Representative Arnold (pending House Ways and Means)** would have provided tax incentives for electronic manufacturing companies, and would have defined electronic manufacturing companies as any manufacturing, research, and development business entity whose primary activity was related to the manufacture of electronics for the purpose of building robotics, components for robotics, smart homes, digital imaging, public alert technology, or electronic gaming.

## TAX/INCOME-INDIVIDUAL/CREDIT

**House Bill 491 by Representative Richmond (pending House Ways and Means)** would have provided for an individual income tax deduction from taxable income for purchase of computers for use in the home.

## TAX/TAXATION

**House Bill 641 by Representative Gallot (pending House Ways and Means)** would have provided for a credit against state income tax, ranging from 10% to 15%, for taxpayers domiciled in Louisiana who invested in state-certified software development.

## TELECOMMUNICATIONS

**Senate Concurrent Resolution 39 by Senator Ellington (enrolled)** requests the Louisiana Broadband Advisory Council to conduct public hearings in various locations across the state to ascertain supply and demand issues relative to broadband deployment.

**Senate Concurrent Resolution 46 by Senator Ellington (enrolled)** requests the Louisiana Broadband Advisory Council to convene a task force to develop a statewide E-Rate strategy to capture all possible E-Rate funds available to the state. The federal E-Rate program was created as part of the Telecommunications Act of 1996 and ensures that all eligible schools, libraries, and rural healthcare providers in the US have affordable access to modern telecommunications and Internet services.

#### **WILLS/TESTAMENTS**

**House Bill 260 by Representative Hunter (Act 79)** authorizes the introduction into evidence of a videotape of the execution and reading of the testament by the testator, and defines videotape as the visual recording on a magnetic tape, film, videotape, compact disc, digital video disc, or by other electronic means.



# Insurance

by: *Carla Roberts*  
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## HEALTH INSURANCE

**Senate Bill 77 by Senator Cravins (Defeated)** would have repealed Act 689 of the 2004 Regular Session. Act 689 stated that where burial policies provided both a full funeral and a face value, the insurance company only has to cover an amount not to exceed the face value of the policy. AARP supported the bill and the insurance industry opposed it. The bill was reported favorable in the Senate Insurance Committee but was defeated on the Senate floor with reconsideration requested by the author.

**Senate Bill 185 by Senator Cravins (Act 498)** permits certified professional staff in the office of youth services who work with juvenile inmates and who had previously worked for 20 or more years in a parish school system to enroll for health insurance with the Office of Group Benefits. Some school boards offer health insurance through insurance companies other than OGB. This had created a disincentive for employees from parish school boards such as New Orleans and Baton Rouge from moving to work in special school districts, such as the one which provides for training to juvenile offenders.

**House Bill 36 by Representative Farrar (Act 505)** mandates health insurance companies to cover colorectal cancer screening.

**House Bill 319 by Representative Moorish (Act 217)** changes the method of calculating homeowner's insurance premiums by the Louisiana Citizens Property Insurance Corporation from 10% above the average cost in the parish to 10% above the average in state. The change was made to lower the premiums of certain coastal parishes that had very few homeowners' insurance companies writing insurance in the given parish.

# Judiciary

by: Tom Wade  
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## COURT COSTS AND FEES

During the 2003 Regular Session, the legislature addressed the problem created by the attempt to fund the operations of the state's court system through bills authorizing new court costs and fees on a district by district basis. Act 202 of the 2003 Regular Session, which enacted R.S. 13:61, provides that any new court cost or fee or increase in an existing court cost or fee first be submitted to the Judicial Council for review and recommendation. There were a number of similar bills filed this session, but the vast majority of those were submitted to the Judicial Council pursuant to the 2003 legislation. Several examples follow.

**Senate Bill 38 by Senator Adley (pending in Senate Finance Committee)** would have increased certain costs of court in criminal matters in certain city courts. The present law authorizes city court judges to assess costs of court of no more than \$30 in addition to the fine or other penalty in every criminal matter, including traffic violations, against every defendant who is convicted, pleads guilty or who forfeits bond. It also provides for such costs to be deposited in a special account and used for operational expenses. These provisions are retained in the bill. The present law also requires the assessment of \$15 to be placed in a special account in the name of and under the control of the marshal or constable of the court in all city courts, except those specifically provided for otherwise. For such courts, the present law provides for the assessment of such a cost in amounts that range from up to no more than \$15 to up to no more than \$30. The bill increases the general assessment requirement from \$15 to \$30 and retains the alternate range for authority for specified city courts.

**Senate Bill 87 by Senator Theunissen (pending in Senate Finance Committee)** would have increased certain court costs collected from a defendant who is convicted after trial, after a plea of guilty, or who forfeits bond. The provisions of the bill relate to the Thirty-First Judicial District Court and the Thirty-Eighth Judicial District Court. The bill increases the amount which can be assessed as costs against a defendant who, in a criminal case, is convicted after trial or after plea of guilty or nolo contendere, or who forfeits bond from \$5 to \$15.

**Senate Bill 115 by Senator Marionneaux (Act 112)** provides for an increase in the court costs in criminal matters in the City Court of Port Allen to fund indigent defense. Under the present law, every court of original criminal jurisdiction, with exceptions, shall remit not less than the sum of \$17.50 and not more than the sum of \$35 upon recommendation of the district board and by a majority vote of the judges of the courts of original jurisdiction within the district to the district indigent defender board in each case in which a defendant is convicted after a trial, a plea of guilty or nolo contendere, or after forfeiting bond.

The present law further provides that these costs are in addition to all other fines, costs, or forfeitures imposed and that these costs do not apply in parking violation cases. It authorizes an exception for the City Court of Port Allen by providing that it shall not impose an amount in excess of \$12 for criminal violations. The act deletes the provisions for an exception for the City Court of Port Allen thereby authorizing the collection of the same sum as other courts of original jurisdiction.

**Senate Bill 123 by Senator Nevers (pending Senate Finance Committee)** would have allowed court reporters in the Twenty-Second Judicial District to retain one half of the fees for original documents in all civil cases reported but not transcribed. The present law authorizes a majority of the judges in the 22<sup>nd</sup> JDC to determine the amount to be paid for each page and for each copied page of testimony that is reported and transcribed in all cases. The bill would have retained those provisions but authorized the judges of the 22<sup>nd</sup> JDC in civil cases to impose an amount equal to not more than one-half the fees for originals that are reported but not transcribed. It would have required that the amount be retained by the reporter as compensation in addition to the salary of the court reporter.

## FUNDING

**House Bill 836 by Representative Alario (Act 46)** appropriate funds to defray the expenses of the Louisiana Judiciary. It appropriates total funding of \$123,093,795 from the following sources: \$107,045,241 out of the state general fund (direct), \$7,926,123 from statutory dedications out of the Judges' Supplemental Compensation Fund, Trial Court Case Management Fund, and the Patients' Compensation Fund, and \$8,000,000 from interagency transfers from the Dept. of Social Services. Funding for the ordinary operating expenses of the judicial branch of government is provided as follows:

(1)	Louisiana Supreme Court	\$ 53,916,344
(2)	Courts of Appeal	34,443,723
(3)	District Courts	25,809,494
(4)	Criminal Court, Parish of Orleans	4,442,794
(5)	Juvenile and Family Courts	1,821,249
(6)	Other Courts (Required by Statute)	2,150,252
(7)	Other Courts (Not Required by Statute)	<u>509,939</u>
	TOTAL	<u>\$123,093,795</u>

The total in Act 5 of 2004 was \$112,047,619.

## INDIGENT DEFENSE

A significant issue facing the legislature and the state's criminal court system is the funding of the indigent defender system throughout the state. Litigation has been filed in several judicial districts. Legislation seeking to address some of the problems was taking up during the session.

**Senate Bill 323 by Senators Jackson and Murray (Act 343)** provides for changes to judicial district indigent defender boards and the Indigent Defense Assistance Board.

The present law provides for the Indigent Defense Assistance Board to have nine members. The membership is increased to 15 members under the bill, and the bill makes the following changes to the membership:

- (1) Gubernatorial appointments shall be reduced from 3 to 2 members and the governor shall designate the chairman.
- (2) Appointments by the president of the Senate and the speaker of the House shall be reduced from 3 to 1 member each.
- (3) Two members, one of which shall be a juvenile justice advocate, shall be appointed by the chief justice of the Supreme Court of Louisiana.
- (4) One member who is an active employee, retired employee or has an academic association with the L.S.U. Paul M. Hebert Law Center shall be appointed by the chancellor of the Paul M. Hebert Law Center.
- (5) One member who is an active employee, retired employee or has an academic association with the Loyola University School of Law shall be appointed by the Loyola University School of Law.
- (6) One member who is an active employee, retired employee or has an academic association with the Southern University Law Center shall be appointed by the chancellor of the Southern University Law Center.
- (7) One member who is an active employee, retired employee or has an academic association with the Tulane University School of Law shall be appointed by the dean of the Tulane University School of Law.
- (8) Two members shall be appointed by the president of the Louisiana State Bar Association.
- (9) One member shall be appointed by the president of the Louisiana Chapter of the Louis A. Martinet Society.
- (10) One member shall be appointed by the chairman of the Louisiana State Law Institute's Children Code Committee.
- (11) One member shall be appointed by the executive director of the Louisiana Interchurch Conference.

The bill also requires that at least two members of the board, or a member of their immediate family, have received indigent defense services. It also prohibits any person who has received compensation to be an elected judge, elected official, judicial officer, prosecutor, law enforcement officer, or indigent defense provider or any employee of such persons from serving on the board until the expiration of two years from the time they served in such positions until appointment to the board. It also prohibits any active part-time, full-time, contract or court-appointed indigent defense provider, or active employees of such persons from being appointed to serve on the board as a voting member. The bill also prohibits a state or local association of lawyers from having more than one active board member or officer as a voting member of the board with the exception of mandatory affiliation of the Louisiana State Bar Association. It also reduces the number of ex officio members from three to two, deleting one appointment from the Louisiana Trial Lawyers Association. It provides that nothing shall limit the length of term for any board member serving on the board on August 15, 2005 except that a board member may be removed for just cause.

The bill further provides for special reporting requirements and makes the district board subject to penalties of \$100 per day, payable out of the judicial district indigent defender fund, if the board fails to file a report or to file it timely, fails to disclose or accurately disclose any information required under the bill, or files a false report. The bill authorizes a judicial district indigent defender board to recoup funds pursuant to the present law.

The bill makes the district board subject to penalties of \$100 per day, payable out of the judicial district indigent defender fund, if the board fails to file a report or to file it timely, fails to disclose or accurately disclose any information required under the bill's provisions, or files a false report. It authorizes the board to draft, administer and furnish the report forms to the judicial district indigent defender boards. It requires the reports to include detailed information of the district board's workload, resources, employees, and expenditures for the previous fiscal year based on the uniform definition of a "case" as defined in the bill. The bill also clarifies that each Child in Need of Care petition be counted as a separate case.

The bill authorizes the board to collect, prepare and submit an annual report to the legislative auditor as provided for the bill.

**Senate Concurrent Resolution 23 by Senator Jackson (enrolled)** continues the Louisiana Task Force on Indigent Defense Services to study the system of indigent defense in the state established by HR 151 and SR 112 of 2003 RS and continued by SCR 136 of the 2004 RS. It provides that the task force shall be composed of the following person or their respective designees:

- (1) Chief justice of the supreme court.
- (2) Governor.

- (3) Attorney general.
- (4) President of the Senate.
- (5) Speaker of the House of Representatives.
- (6) Chairmen of Senate Committee on Finance and House Committee on Appropriations.
- (7) Chairmen of Senate Committee on Judiciary C and House Committee on Administration of Criminal Justice.
- (8) Chairman of the Legislative Black Caucus.
- (9) Commissioner of administration.
- (10) Secretary of DSS.
- (11) Chairman of the La. Indigent Defense Assistance Board.
- (12) Director of the La. State Law Institute.
- (13) Chairman of the La. State Law Institute's Children's Code Committee.
- (14) President of the Conference of Court of Appeal Judges.
- (15) President of the Louisiana District Judges Assoc.
- (16) President of the La. Council of Juvenile and Family Court Judges.
- (17) President of the La. City Court Judges Assoc.
- (18) President of the La. Judicial Council of the National Bar Assoc.
- (19) Deans of the four law centers in Louisiana.
- (20) President of CABL.
- (21) Executive director of the La. Interchurch Conference.
- (22) President of La. AFL-CIO.

- (23) President of LABI.
- (24) President of La. Public Defenders Assoc.
- (25) President of La. Assoc. of Criminal Defense Lawyers.
- (26) President of the La. Chapter of the NAACP.
- (27) President of La. State Bar Assoc.
- (28) President of La. Legal Service Corporation.
- (29) President of La. Chapter of the Louis A. Martinet Society.
- (30) President of La. Assoc. of Women Attorneys.
- (31) President of La. District Attorneys Assoc.
- (32) President of Police Jury Assoc. of La.
- (33) Director of the Juvenile Justice Project of La.

The chairman of the House Committee on Administration of Criminal Justice, or his designee, serves as chairman of the task force. The resolution requires the task force to provide a report with any recommendations for legislation to the legislature not later than 4/1/06.

## **JURISDICTION**

**Senate Bill 75 by Senator Adley (Act 109)** provides for the jurisdiction of the City Court of Springhill. The present law provides that the civil jurisdiction of the City Court of Plaquemine, the City Court of Ruston, the City Court of Natchitoches, the City Court of Lake Charles, the City Court of Springhill, the City Court of Shreveport, the City Court of Sulphur, the City Court of Zachary, a city court with territorial jurisdiction in a city with a population of between 13,500 and 13,800 according to the most recent federal decennial census, and the City Court of Port Allen, is concurrent with a district court in cases where the amount in dispute, or the value of the property involved, does not exceed \$25,000. This act increases the jurisdictional amount in dispute for the City Court of Springhill from \$25,000 to \$35,000.

## **SECURITY**

**House Study Request 1 by Representative McVea (approved)** addresses the subject of

increasing violence in and around courthouses. This instrument requests the House Committee on Judiciary to study the issue of providing some uniform standards which would provide a minimum level recommended for courthouse security taking into consideration advice from judges, district attorneys, sheriffs, and other law enforcement personnel including funding for such additional security and to report its findings to the legislature prior to the convening of the 2006 R.S.



## Juvenile Justice

by: *Camille Sebastien*  
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**Senate Bill 321 by Senator Cravins (pending Senate Committee)** would have required the closure of Swanson Correctional Center for Youth at Monroe by December 31, 2006, and the closure of Jetson Correctional Center by December 31, 2006. The bill would have further required Youth Services to develop a comprehensive plan for the transitioning of youth in both facilities based upon the health, safety, and best interests of each child and the protections and safety of the public. However, would have given authority to the governor to extend both closures date by executive order and upon a declaration of a public safety emergency which necessitates the use of the facility as a juvenile facility. The closure date could have been extended by a period not to exceed five months from the date of issuance of the declaration of emergency. This bill would have also required a specific plan for provision of aftercare services to meet the needs of juveniles for whom release to the community is recommended and to provide for the safety of the public and a specific date after which youths adjudicated delinquent and committed to Youth Services shall no longer be assigned or reassigned to either facility. The bill also sought to provide Youth Services with more authority in the placement of juveniles and in deciding the plan of care for juveniles.

**House Bill 282 by Representative Geyman (Act 53)** exempts juveniles who have participated in and successfully completed a juvenile drug court program operated by a court of this state from payment of processing fees with respect to expungement.

**House Bill 637 by Representative Cravins (pending House Committee)** would have provided for the appointment of a tutor to represent a child when a child committed to the custody of the office of youth development (OYD) is placed in any out-of-home placement, whether the placement is secure or non-secure care and would have required the court to set a date for a review of the commitment and placement within three months from the date of the commitment and for reviews to be held every three months until the child is no longer placed out-of-home. Such review would have been held to determine whether reasonable efforts have been made to eliminate the need for removal of the child from the child's home and whether OYD has met its constitutional and statutory obligations to provide appropriate treatment to the child. The tutor would have represented the child's interests at all review hearings.

**House Bill 642 by Representative Jefferson (enrolled)** requires the Louisiana Commission on Law Enforcement and Administration of Criminal Justice to develop and implement a School Violence Prevention Training Program under their jurisdiction in conjunction with the Council of Peace Officer Standards and Training, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education. The bill also authorizes the Louisiana Commission on Law Enforcement and Administration of Criminal Justice to establish and appoint a committee to develop

curriculum requirements for the training and certification of school security guards and to establish minimum law enforcement instruction qualifications at an accredited POST academy. By amendments proposed by the Senate Committee on Judiciary B, the bill now requires the program and committee to be created by the POST Council within the existing school resource officer program in conjunction with the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

**House Bill 784 by Representative Salter (Act 74)** provides for an exception to the provisions of law requiring confidentiality of identifying information of juvenile crime victims by any public official, officer or public agency in those cases when the crime results in the death of the victim.

**House Bill 870 by Representative Gray (enrolled)** creates the Orleans Parish Juvenile Services Financing District as a political subdivision of the state for the purpose of providing funding for juvenile facilities, programs, and services in the parish of Orleans, including the juvenile court. The bill authorizes the governing authority of the city of New Orleans to levy and collect a tax of up to fifty mills on the dollar of assessed valuation of all property within the district and provides for the use of such ad valorem taxes.

**House Bill 880 by Representative Lancaster (Act 119)** provides procedures for the release, sharing and exchange of appropriate information, data, records, and reports regarding children and their families among those agencies responsible for making informed decisions regarding the treatment, care, security, and rehabilitation of children within the state in order that better and more timely services can be provided to children and their families. The Children's Cabinet is responsible for facilitating the development of interagency agreements and cooperation regarding the sharing of specified data.

**House Bill 886 by Representative Jane Smith (Act 274)** requires that any child who has been adjudicated delinquent or as a member of a family in need of services by a court, or is in the custody of the office of youth development as a result of such adjudication and is assigned by the office of youth development to a community based program or facility shall be counted by certain local public school boards for the city or parish where such program or facility exists for purposes of the MFP and any other available state or federal funding for which the child is eligible. No other local public school board shall be authorized to include such child in any count for purposes of MFP or any other available state or federal funding for which the child is eligible.

**House Concurrent Resolution 79 by Representative Bruce (enrolled)** requests the Louisiana Commission on Law Enforcement and Administration of Criminal Justice to study whether juvenile correctional officers should be included in the definition of a peace officer for purposes of the Peace Officers Standards and Training Law, to report its findings to the speaker of the House of Representatives and the president of the Senate no later than February 1, 2006, and to create the Juvenile Correctional Officers Task Force to assist in this study.

**House Concurrent Resolution 105 by Representative Winston (enrolled)** continues the Task

Force on Legal Representation in Child Protection Cases for an additional three years in order to complete the implementation phase.

**House Concurrent Resolution 179 by Representative Gray (enrolled)** continues the work of House Concurrent Resolution 289 of the 2004 Regular Session regarding the study of issues relating to juvenile competency by creating a task force and extends the period of time for the study of such issues to June 1, 2006.

**House Concurrent Resolution 162 by Representative Cravins (enrolled)** urges and requests DPSC, judges with juvenile jurisdiction in Region 5, and the local children and youth planning boards in Region 5 to study jointly the needs of and resources available to youth requiring out-of-home placement in Region 5 and to make recommendations before March 1, 2006, for changes in the laws, rules, and procedures to achieve more effective and cost-efficient delivery of juvenile justice services.

## Labor/Employment

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In the early 80's, the legislature created the Workers' Compensation Advisory Council within the Department of Labor. The purpose of the Council, as stated in R.S. 23:1294 et. seq., is to monitor and report to the governor and the legislature on the implementation and administration of labor and workers' compensation laws. Composed of 17 gubernatorial appointments, the Council is represented by members of labor and industry. For whatever reasons, the Council was more or less inactive until August of 2004.

A common adage says "there's a first time for everything". During the 2005 Regular Session the Labor and Industrial Relations Committee experienced a real "first" in **Act 257 by Representative Hunter**. This legislation is monumental in that it represents a rare instance where previously polar opposite sides of the political equation joined forces in a concerted effort through the Council.

**Act 257** covers four major areas of the workers' compensation system: compliance, the medical reimbursement schedule, the workers' compensation court and the second injury fund.

Compliance **Act 257** provides that an injured worker or the legal dependent of a deceased employee whose employer does not have workers' compensation insurance and who is not paid a final judgement within 60 days after all appeal delays have run, may "elect" to sue the employer for in tort. Current law limits the employee or the legal dependent of a deceased employee to workers' compensation remedies. A statutory or special employer who has workers' comp coverage and public bodies and/or municipalities are exempt from this proposed law.

Medical **Act 257** provides that fees for dental services shall be reimbursed at the 70<sup>th</sup> percentile of the National Dental Advisory Service Fee Report. In addition, Act 257 requires that all vocational rehabilitation shall be provided by a licensed professional vocational rehabilitation counselor who shall comply with the Code of Professional Ethics for Licensed Counselors.

Workers' Compensation Court **Act 257** allows an employer to have their credit for payments made to an injured worker (who also has a third party claim as the result of on the job injuries) in district court rather than in workers' compensation court. In addition, the approval of any settlement may also be made by the district court judge rather than having to move from district court where the third party action is pending to the workers' compensation court. This will expedite the resolution process of these claims.

This legislation also expands the jurisdiction of the workers' compensation court to include self-insurance contract disputes and concursus proceedings to determine entitlement to workers' compensation benefits, medical payments or attorney fees. Additionally, **Act 257** allows workers' compensation judges to find individuals guilty of contempt of court and impose civil fines not to exceed \$500. Currently, the workers' compensation proceeding must be halted while the allegation of contempt is tried in the district court. This change will allow for more orderly proceedings in the court as well as a quick resolution of a contempt charge.

**Act 257** provides that all civil penalties for fraud shall be paid to the Kids Chance Scholarship Fund. This is a fund set up to award scholarships to the children of workers who have been killed or permanently disabled because of an on the job accident. Last year \$30,000 was awarded in Scholarships. In addition, the fraud unit within the Department of Labor will be granted jurisdiction to investigate employer fraud as well as employee fraud. Currently, this unit is limited to investigating only employee fraud.

Second Injury Fund **Act 257** takes another step in securing the financial viability of the Second Injury Fund by changing the budgeting mechanism for the payment of claims. Currently, the fund is limited to 125% of the previous year's payments. In the past, the amount of payments was limited by the appropriation granted to the fund. Last year and again this year, the appropriation has been set at an accurate figure; however, because of past lower appropriations and the current cap of 125% of payments, the fund cannot accurately collect sufficient funds to pay the amount of claims received. **Act 257** changes the budgeting mechanism by allowing the fund to collect a maximum of 125% of the previous year's disbursements plus the known outstanding unpaid amounts which have been submitted for reimbursement. The cap is still in place; however, the amount of the cap takes into consideration what was paid in the past as well as what the fund knows it will owe in the coming year.

Currently, when an insurance company recovers any amount of money in a third party action, the Second Injury Fund arguably has the right to all of the money recovered. HB 680 will level the playing field and provide for a pro-rata sharing of any money recovered in the third party action. This will offer an incentive to the insurance carriers to seek recovery of funds.

**Act 257** alters the requirements and penalties for seeking approval to settle a workers' compensation claim that has been approved for reimbursement by the fund. Currently, once a claim is approved by the fund for reimbursement, the insurance carrier must get approval from the fund before settling the workers' compensation claim. The entire claim is not reimbursable if the carrier fails to get approval. The proposed bill would provide for rules regarding approvals as well as penalties. For non-third party settlements, the carrier must obtain approval which will be valid for 180 days only. The fund must give a response within 45 days of receipt of the request for approval. If the fund does not respond within the 45 days, the settlement is deemed approved. Failure of the carrier to obtain approval will result in forfeiture of reimbursement of the settlement amount.

For settlements involving a third party claim, the fund must respond to the request within 3 days of the request unless the settlement amount involves the payment of funds greater than \$50,000. If the settlement amount involves the payment of funds greater than \$50,000, the fund has 45 days to respond. If the fund does not respond within the required time frame, the settlement is deemed approved. Failure of the carrier to obtain approval will result in forfeiture of reimbursement of the settlement amount and 25% of any unpaid reimbursements or \$10,000 whichever is greater.

# Legislative Affairs

by: *Todd Parker*  
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## CAPITAL OUTLAY

**House Concurrent Resolution 62 by Representative Cravins (enrolled)** directs the clerk of the House of Representatives and the secretary of the Senate, upon the death of a legislator, to notify in a timely manner each legislator who represents in whole or in part the area formerly represented by the deceased legislator of capital outlay projects the deceased legislator had submitted for inclusion in the capital outlay budget or Capital Outlay Bill.

## COMMITTEE HEARINGS

Recognizing the benefits of videoconferencing for both legislators and the public, **Senate Concurrent Resolution 13 by Senator Lentini (enrolled)** was introduced. It requests the Senate and Governmental Affairs Committee and the House and Governmental Affairs Committee to jointly study the feasibility and cost-effectiveness of videoconferencing for interim and standing legislative committee meetings.

## HOUSE

The following House Resolutions were adopted this session making changes to the House Rules:

- 1) **House Resolution 1 by Representative Salter (enrolled)** provides for the creation of the office of parliamentarian of the House of Representatives. The Clerk of the House of Representatives was previously tasked with this role. The parliamentarian will be appointed by the Speaker from among the members of the House of Representatives. Moreover, it also provides that the Clerk shall be the general counsel for the House.
- 2) **House Resolution 3 by Representative Schneider (enrolled)** creates the Special Subcommittee of the Committees on Appropriations, House and Governmental Affairs, and Retirement to examine and study all matters relative to compensation and benefits of state employees.
- 3) **House Resolution 7 by Representative Burns (enrolled)** requires persons filing prepared statements with committees containing data or statistical information to include sufficient information to identify the source of the data or information.

- 4) **House Resolution 46 by Representative White (enrolled)** provides that a motion to refer a legislative instrument or a motion to discharge a committee from further consideration of a legislative instrument and to recommit such instrument to another committee shall not be in order unless the author of the instrument and the chairman of the standing committee of original referral are present in the chamber at the time the motion is made.
- 5) **House Resolution 70 by Representative Hebert (enrolled)** provides that the motion for the previous question is not in order when offered by a member at the conclusion of speaking on a motion under debate.

### **JOHN J. HAINKEL, JR. ROOM**

In honor of the late Senator John J. Hainkel, Jr., **Senate Resolution 11 by Senator Ellington (enrolled)** designates the Senate Briefing Room as the "John J. Hainkel, Jr. Room".

### **TICKETS TO SPORTING EVENTS**

Under current law, elected officials are authorized to accept anything of economic value as a gift or gratuity if it does not exceed \$100 per event and up to \$500 per year from one person provided the gift is a cultural or sporting event within the state. Moreover, the law extends such authorization for such gifts outside of the state when an elected official is on official business outside of the state and is entitled to compensation or reimbursement from his agency for such official business. **Senate Bill 82 by Senator Dardenne (involuntarily deferred, House and Governmental Affairs)** would have repealed these provisions.



## Local Government

by: *Michael Bell*  
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### SPECIAL DISTRICTS

This session several bills were introduced addressing the creations of special districts. **Senate Bill 83 by Senator Nick Gautreaux (Act 324)** creates the public housing rehabilitation program for low income and refurbished housing for the parishes of Acadia, Vermilion, St. Landry and Lafayette. **Senate Bill 348 by Senator Cravins (Act 318)** creates the Opelousas Downtown Development District for the objectives and purposes of reserving the determination in property value in the district to ensure the public health, safety and welfare of the city of Opelousas, and to strengthen downtown as the city's center of commercial, civic and cultural activity. **House Bill 205 by Representative Jefferson (Act 76)** creates the Twinbrook Security District in Orleans Parish for the purpose of promoting and encouraging security in the area included within the district. Also, **House Bill 206 by Representative Jefferson (Act 77)** creates the Touro Bouligny Security District in Orleans Parish as a political subdivision of the state for the purpose of promoting and encouraging security in the area included within the district.

### ECONOMIC DEVELOPMENT DISTRICT

**Senate Bill 90 by Senator Nevers (Act 142)** creates the Tangipahoa Parish Economic Development District to promote and encourage the development of economic and industrial opportunities, stimulating the economy through renewed commerce and industry, and for the utilization and development of natural and human resources of the area by providing job opportunities. **Senate Bill 291 by Senator Dardenne (failed, House final)** would have authorized creation of local and regional economic development districts for the purposes of: (1) facilitating the creation of jobs and to lower unemployment and under employment by coordinating and facilitating local and regional efforts for economic development programs and projects; (2) to act as the coordinating entity in acquiring and developing real estate needed to grow the economy; (3) to receive public and private funds for such purposes; (4) to assist businesses within the district; (5) to receive public and private funds for such purpose. **Senate Bill 313 by Senator Marionneaux (Act 155)** establishes the East Feliciana Parish Economic Development District to promote and encourage economic and industrial development and tourism opportunities within the area known as East Feliciana Parish. **Senate Bill 325 by Senator Jones (Act 312)** authorizes the Downtown Economic Development District of the city of Monroe to issue revenue bonds payable from an irrevocable pledge and dedication of up to the full amount of tax increments available to an economic development corporation. **Senate Bill 328 by Senator Jones (Act 314)** authorizes the Southside Economic Development District of the city of Monroe to issue revenue bonds payable from an irrevocable pledge and dedication of up to the full amount of tax increments available to an economic development corporation. **House Bill 742 by Representative K. Carter (Act 489)** creates the Greater New Orleans Bioscience Economic

Development District for the following purposes (1) facilitating the creation of high paying jobs by assisting the biomedical institutions and employees in the district with development of bioscience facilities and programs; (2) acting to acquire and develop real estate needed to grow the academic research institutions within the district; (3) receiving public and private funds for such purpose; (4) assisting with increasing research and training dollars for institutions within the district; (5) receiving public and private funds for such purpose; (6) assisting with increasing research dollars for health-related research and training; (7) increasing basic and clinical research and the bioscience workforce; (8) working to bridge commercialization opportunities from research developed within the district; (9) enhancing interdisciplinary biosciences; (10) acting as a link to private sector life sciences companies in the state, all with a view toward job growth in the district.

## MISCELLANEOUS

**Senate Bill 297 by Senator Duplessis (Act 342)** provides for an annual application form for an exemption of ad valorem taxation granted to property pursuant to Art. VII, Sec. 21(B) of the constitution in New Orleans. **Senate Bill 334 by Senator Schedler (Act 317)** authorizes St. Tammany Parish to require and compel property owners to remove trash, debris, junk, wrecked or used automobiles or motor vehicles, or other discarded items being stored or kept on their property. **Senate Bill 343 by Senator Fontenot (Act 10)** provides relative to Central City incorporation; creates the Central City Transition District and provides for interim continuation of services and interim collection of certain sales taxes.

## Natural Resources

by: J.W. Wiley  
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### OIL AND GAS

**Senate Concurrent Resolution 120 by Senator Malone (enrolled)** memorializes the United States Congress to establish a domestic energy policy that will ensure an adequate supply of energy and the necessary infrastructure. The policy should develop a concerted national effort to promote greater energy efficiency and open promising new areas for environmentally responsible natural gas production.

Numerous bills were introduced this Session to provide incentives for oil or natural gas exploration and drilling. **Senate Bill 182 by Senator Dupre (Act 298)** creates the Royalty Relief Dry Hole Credit Program. The well must be drilled on state-owned lands or water bottoms in the coastal zone to a depth of greater than 19,999 feet true vertical depth, and not be productive of oil or gas. **Senate Bill 280 by Senator N. Gautreaux (pending Senate Revenue and Fiscal Affairs)** would allow the State Mineral Board to relieve a state lessee from all or part of royalty payments to the state from a well designated as a "certified exploratory oil or natural gas well". Other bills include **House Bill 230 by Representative Dove (pending House Ways and Means)**, and **House Bill 196 by Representative Dove (pending House Ways and Means)**.

**Senate Concurrent Resolution 75 by Senator N. Gautreaux (pending House and Governmental Affairs)** would have created the Oil and Gas Strategic Financial Planning Task Force to determine the royalty, tax, and mineral management policies that would serve the state and parish future financing needs through optimal exploitation and development of state oil and natural gas resources.

**Senate Bill 251 by Senator Malone (pending House Civil Law and Procedure)** would have established requirements for unsolicited offers for lease or purchase of mineral rights.

**House Bill 515 by Representative Pierre (Act 89)** increases the fee collected on state mineral leases for deposit into the Louisiana Wildlife Conservation Fund. The fee increases from \$10 dollars to \$15 per acre.

### WIND ENERGY

According to a Scranton university study, Louisiana has been identified as one of the nation's best locations to harness wind energy. **House Bill 428 by Representative Pierre (Act 481)** authorizes the secretary of the Department of Natural Resources to lease state lands for development or production of

wind energy. In addition, the bill sets out the application procedure for obtaining a permit to lease state lands for such wind energy development or production.

### **LIQUIFIED NATURAL GAS (LNG) TERMINALS**

In response to concerns over proposed "open loop" LNG terminals, the Joint Natural Resources Committee held a public hearing on May 19, 2005. Opponents and proponents of the proposed LNG terminals, Pearl Crossing LNG project and Gulf Landing LLC, made presentations to the committee. The expected placement of LNG terminals off the coast of Louisiana has caused commercial fishermen, recreational fishermen, and state politicians to hold public hearings on this matter. In addition, Governor Blanco stated in a letter dated May 17, 2005, addressed to Mr. John Jamian, Acting Maritime Administrator, U.S. Department of Transportation, that she would oppose LNG terminals that use the open rack vaporizer system, unless studies indicate that the system will not have an unacceptable impact on the surrounding ecosystem.

In addition, **Senate Concurrent Resolution 117 by Senator Boasso (enrolled)** memorializes Congress to authorize more input and authority to states regarding proposed LNG terminals which would have a potential impact to the public health, safety, environment, and to the local communities in the area where terminals will be sited.

# Property

*by: Joe Guillory  
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## **PUBLIC PROPERTY**

**Senate Bill 44 by Senator Lentini (Act 280)** requires that statewide elected officials, except for the governor and lieutenant governor, shall first submit a request to the Joint Legislative Committee on the Budget for approval of the purchase of any luxury or full-size vehicle for personal assignment.

**Senate Bill 132 by Senator McPherson (Act 329)** establishes the State Resources Accountability Act which requires the reporting of certain information on cooperative endeavors to the members of the Joint Legislative Committee on the Budget [JLCB] and litigation settlements to the litigation subcommittee of the JLCB. Requires that an agency seeking to enter into a new cooperative endeavor that is expected to result in any non-public party to the agreement generating or expending revenue of \$1,000,000 or more per year from the operation, management, or control of a state resource inform the JCLB of the essential elements of the agreement not less than 30 days before it is confected. Authorizes the JCLB to hold a hearing on the agreement; authorizes such hearing to be held in executive session. Prohibits official confection of agreement prior to expiration of time within which JLCB may hold a hearing. Authorizes the chair to select an alternate time when notified by the agency that the time lines can not be met. Specifies the information about the cooperative endeavor that is required to be provided by the agency. Authorizes the JCLB by official action communicated by its chair to prohibit the confecting of a cooperative endeavor agreement when required information is not provided.

**Senate Bill 218 by Senator Dupre (Act 152)** relative to the disposition of surplus computer equipment, provides that political subdivisions of the state shall establish procedures to give first priority for the acquisition of surplus computer equipment to public elementary and secondary schools in the state and community and technical colleges under the management and control of the Board of Supervisors of Louisiana Community and Technical Colleges.

**Senate Bill 249 by Senator Mount (Act 118)** authorizes the transfer of certain property from the Chennault International Airport Authority to the Board of Supervisors of Community and Technical Colleges, for the use and benefit of its Sowela Campus, in exchange for forgiveness of a certain debt owed by the authority to the state.

**Senate Bill 286 by Senator Dardenne (House committee)** would require cooperative endeavor agreements, except capital outlay projects or coastal restoration projects, and contracts or agreements for the lease or rental of space or facilities that involve the expenditure of funds in excess of \$1

million but not more than \$5 million, to be approved by the division of administration would further require the division of administration to report on such agreements and contracts to the Joint Legislative Committee on the Budget (JLCB) each quarter and would require such cooperative endeavor agreements and lease or rental contracts or agreements in excess of \$5 million to be reviewed and approved by the division of administration and JLCB and would prohibit State Bond Commission approval of such cooperative endeavor agreements and lease or rental contracts or agreements unless the legislature has provided an appropriation for such obligation in the current fiscal year or the agreement has been approved by the JLCB after examination and establishment of the availability of funds for the term of the agreement.

**House Bill 100 by Representative Fannin (Act 164)** authorizes the transfer of certain state property situated in Jackson Parish from the Dept. of Transportation and Development to the town of Chatham.

**House Bill 243 by Representative Quezaire (Act 48)** provides for the conveyance of certain state property to the Department of Transportation and Development.

**House Bill 302 by Representative Wooton (Act 212)** authorizes the transfer of certain state property in Plaquemines Parish to the Plaquemines Parish governing authority.

**House Bill 344 by Representative McVea (Act 221)** authorizes the transfer and exchange between the state, the West Feliciana Parish Police Jury, and certain other property owners of certain specified properties located in West Feliciana Parish. Reserves the mineral rights to the original owners.

**House Bill 349 by Representative Bowler (Act 222)** authorizes sale or lease of certain state property located in Jefferson Parish to the Jefferson Parish School Board to be used exclusively for the construction of facilities for the Harahan Elementary School.

**House Bill 630 by Representative Hebert (Act 253)** authorizes the sale or transfer of certain state property in Iberia Parish by the Department of Wildlife and Fisheries and the commissioner of administration to the riparian owners, Carroll and Greta Green.

## **CIVIL PROCEDURE**

**House Bill 138 by Representative Hutter (Act 415)** provides for the award of attorney fees and court costs for the delay in community property partition cases.

## **SCHOOL LANDS**

**House Bill 184 by Representative Frith (Act 417)** in 1909 the Vermilion Parish School Board executed a property transaction with an irrigation company. Successors to the irrigation company sold the

property, and much of it has been subdivided, improved, and sold to individual homeowners. The La. Supreme Court ruled in *Abshire v. Vermilion Parish School Board* (848 So. 2d 552 (La. 6/27/03)) that the 1909 property transaction between the school board and the irrigation company conveyed only a right-of-way and not ownership. Thus title to the property remains with the school board despite numerous subsequent "sales" of various parcels. This legislation provides that the Vermilion Parish School Board is authorized to sell the property to the individuals who hold apparent title.

## **MOBILE HOMES**

**House Bill 319 by Representative Morrish (Act 217)** deletes certain aspects of the statutory rate formula and provides for the adoption of a formula by the board of the La. Citizens Property Insurance Corp. relative to mobile home policies.

## **LANDS/WATERBOTTOM**

**House Bill 339 by Representative Pitre (Act 57)** authorizes the Grand Isle Port Commission to use a specified portion of water bottom, water column, and water surface for an off-bottom oyster culture project undertaken in cooperation with the Louisiana Sea Grant program subject to approval of all state and federal agencies with jurisdiction over activities conducted in connection with the project.

## **PROPERTY ASSESSMENT**

**House Bill 370 by Representative Faucheux (pending conference)** was a constitutional amendment to freeze the tax assessment of the homestead of a person who is designated as disabled by the United States Social Security Administration.

## **PUBLIC LANDS**

**House Bill 701 by Representative Baudoin (Act 259)** prohibits the construction of permanent deer stands on state land. Requires deer stands to be removed no later than two hours after sunset each day. Specifies that a permanent deer stand present on state land does not confer on any person a right to exclude any other person. Exempts land under the jurisdiction of the La. Wildlife and Fisheries Commission from proposed law. Provides penalties for violations equal to those of class two wildlife violations.

**Senate Bill 210 by Senator Hietmeir (Act 130)** requires the Board of Levee Commissioners of the Orleans Levee District to place a final advertisement in the official journals of the parishes of Jefferson, Orleans, Plaquemines, and St. Bernard giving notice that anyone claiming ownership of property within the Bohemia Spillway shall make a formal application to the Department of Natural Resources to be certified for the return of such property.

## IMMOVABLE PROPERTY

**Senate Bill 13 by Senator Fields (pending House committee)** would exclude the 415 lots of the Hermitage subdivision from the South Burbank Crime Prevention and Development District.

**Senate Bill 45 by Senator Dupre (Act 281)** adds into the definition of "equivalent officer" ,the assessor of Terrebonne Parish, for the purpose of levying costs and fines for the securing or removal of structures which by reason of their nature or condition endanger the public welfare or safety. Such costs and fines, if not paid, may constitute a lien and privilege upon the property.

**Senate Bill 196 by Senator Barham (Act 301)** provides that those things permanently attached to a building or other construction, such as plumbing, heating, cooling, electrical or other installations, are its component parts, and that things are considered to be permanently attached to an immovable if, according to prevailing notions in society, they are considered to be component parts of an immovable.

## LAND USE

**Senate Bill 33 by Senator Theunissen (House calendar)** would authorize Cameron Parish to have land use zoning for the disposal, incineration and storage of liquid or solid waste; the authorization shall not supersede the authority of the DEQ.

**Senate 334 by Senator Schedler (Act 317)** authorizes the governing authority of the parish of St. Tammany to require or compel property owners to remove trash, debris, junk, wrecked or used automobiles, or motor vehicles, or any part or parts thereof, or any other junk, discarded or abandoned machinery or other metal, tin, or other discarded items on their property, when such items are being stored or kept in violation of any zoning or other regulatory ordinance.

**Senate Concurrent Resolution 71 by Senator Smith (enrolled)** memorializes Congress to direct the New Orleans District of the United States Army Corps of Engineers to cease using Section 10 of the Rivers and Harbors Act to stop sustainable forestry practices in areas that have no impact on actual navigation, except in parishes of Terrebonne, Lafourche, and St. Charles.

## PUBLIC BUILDINGS / GROUNDS

**Senate Bill 62 by Senator Duplessis (Act 108)** names the new school of social work building located on the north side of Southern University in New Orleans as the "Dean Millie M. Charles School of Social Work."

**Senate Bill 65 by Senator Kostelka (Act 286)** provides that the Ouachita Parish School Board may name an athletic facility at the former Calhoun High School in honor of Jerry Lee Lovett, Sr.



**Senate Concurrent Resolution 7 by Senator Fields (enrolled)** amends the rule of the Office Facilities Corporation regarding access of visitors and/or non-tenants to all state office buildings to provide that legislators and legislative permanent staff shall be granted access upon showing their official legislative identification with no further requirement. Directs the Office Facilities Corporation to alter and reissue any policy statements or other directives to reflect such amendment.

**Senate Concurrent Resolution 14 By Senator Jones (enrolled)** requests the state to determine whether or not it is in the best interest of the state to assume full ownership and possession of the real property and all the improvements located on the property formerly known as Swanson Correctional Center for Youth-Madison Parish Unit facility at Tallulah or to authorize the city of Tallulah to assume such ownership. Further requests the state to take whatever action facilitates the best interest of the state, subject to the approval of the budget committee and the Commissioner of Administration.

## HOUSING

**Senate Bill 83 by Senator Gautreaux (pending concurrence)** would have created the Southwest Acadiana Parishes Public Housing Rehabilitation District including the parishes of Acadia, Lafayette, St. Landry and Vermilion, to provide for safe, decent and affordable housing for individuals and families who are challenged by income, disability or special need.

**Senate Bill 201 by Senator Broome (pending House committee)** would have provided for the establishment of the Louisiana Habitat for Humanity Loan Purchase Program Act within Louisiana Housing Finance Agency. Provides for LHFA to partner with Louisiana Habitat for Humanity affiliates through the purchase of homeowner loans from the Habitat affiliates. Establishes the Louisiana Habitat for Humanity Trust Fund to receive monies for the purchase of home loans. Monies in the trust fund shall include funds allocated by LHFA from its agency funds; gifts, grants, or donations; federal funds; monies appropriated by the legislature; and monies received in repayment for the home loans.

## ANNEXATION

**Senate Bill 97 by Senator Cravins (Act 325)** provides that if any municipality annexes territory contained in a special service district, as defined by present law (R.S. 33:221), the municipality and each special service district affected by the annexation of the territory shall enter into a written contract, including but not limited to provisions for: (1) furnishing all water, sewer, and fire protection services to the annexed territory. (2) the application and distribution of all maintenance and operating taxes of the special service district previously authorized. (3) the levy of all new maintenance or operating taxes. (4) the retirement of all tax-secured bonds and other indebtedness of the special service district previously authorized. (5) the issuance of any new tax-secured bonds or the assumption of any other indebtedness for the annexed territory. (6) the collection and distribution of all parcel fees and all other special assessments. (7) the levy of all new parcel fees and all other special assessments. (8) all property within the annexed territory shall

be removed from the tax rolls of any special service district as to all maintenance or operating tax millages levied by or for said special service district in the annexed territory.

### **SEIZURES / SALES**

**Senate Bill 142 by Senator Theunissen (Act 146)** provides procedure for unredeemed commercial and residential property, and property that is subject to donation which is adjudicated to a municipality for five years or more, and for payment of certain costs upon redemption.

### **MOVEABLE PROPERTY**

**Senate Bill 255 by Senator Michot (Act 500)** provides for a comprehensive reorganization, consolidation, and clarification of the law pertaining to the distribution and sale of motor vehicles in Louisiana.

### **SPECIAL DISTRICTS**

**Senate Bill 348 by Senator Cravins (Act 318)** creates the city of Opelousas Downtown Development District. Specifies the composition and powers of the board responsible for managing the affairs of the district. Authorizes the district to appoint officers, agents, and employees, and prescribe their duties; to acquire by gift, grant, purchase, lease, or otherwise such property as may be necessary or desirable for carrying out the objectives and purposes of the district.

## Public Safety

by: Alan Miller  
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### DRUGS AND ALCOHOL

**Senate Bill 24 by Senator Cain (Act 494)** seeks to restrict the availability and sale of substances used to manufacture methamphetamine. The bill will require all dealers of anhydrous ammonia to inspect their customers' tanks and receptacles and to place an inspection sticker of authorization on such tank or receptacle. The bill also creates the crime of unauthorized possession of anhydrous ammonia. Under the bill, pharmacies and other retail establishments will be restricted in the amount of pseudoephedrine, ephedrine or phenylpropanolamine sold to a single customer. The establishment must also comply with restrictions regarding the placement of such products in the store.

**Senate Bill 157 by Senator Chaisson (Act 497)** seeks to give judges more discretion in the sentencing of multiple DWI offenders by removing the requirement that the judge suspend the vast majority of the sentence. Currently, a person convicted of a third offense DWI is required to serve only 30 days of a sentence of up to five years, with the remainder of the sentence being suspended and the offender being placed on supervised probation. A person convicted of a fourth or subsequent offense DWI is required to serve only 60 days of a sentence of up to thirty years, with the remainder of the sentence being suspended and the offender being placed on supervised probation. The bill doesn't change but clarifies certain requirements regarding home incarceration and substance abuse treatment when a portion of the sentence is suspended.

**House Bill 101 by Representative Tank Powell (Act 165)** seeks to add additional penalties to minors convicted of purchasing or possessing alcoholic beverages, and persons convicted of purchasing alcoholic beverages on behalf of minors, by authorizing a judge to suspend the offender's driver's licenses for 180 days.

### NOTIFICATION

**Senate Bill 318 by Senator Jones (Act 503)** seeks to expand the current notification provisions when a person convicted of a sexual offense is paroled, placed on work release, furlough or has escaped. Currently, the Department of Public Safety and Corrections is required to notify the chief of police of the municipality and the sheriff of the parish where the inmate will reside, as well as the victim of the crime and the witnesses who testified at trial in writing regarding the whereabouts of the inmate. Under this bill, all day care centers, elementary schools, middle schools, and high schools located within a one mile radius of the inmate's new residence must also be given notice.

**Senate Bill 318** also seeks to require the Department of Public Safety and Corrections and the Department of Social Services to jointly institute a pre-Amber Alert action plan to prevent child abductions and provide for dissemination of materials with a description of the child in the event of an abduction.

**House Bill 88 by Representative Jane Smith (Act 163)** seeks to require persons convicted of acts of violence against peace officers to register with local law enforcement agencies within ten days of establishing residency in Louisiana or upon release from confinement. The Bureau of Criminal Identification will also maintain a central registry of offenders who commit acts of violence against peace officers.

# Retirement

*by: Angela Lockett-DeJean  
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Legislation affecting the benefits applicable to members of two (Teachers' Retirement System of Louisiana and Louisiana State Employees' Retirement System) of the four state retirement systems was the prevailing issue concerning retirement this session. Although the majority of the bills were deferred in committee **House Bill 658 Representative Schneider (Act 9)** successfully passed both houses. For persons hired on or after January 1, 2006, **Act 9** by **Representative Schneider** modifies the defined benefit structure applicable to the majority of members of the Louisiana State Employees' Retirement System (LASERS). As a result of **Act 9**, the following changes apply to new hires of LASERS:

- 1) for persons whose first employment making them eligible for LASERS membership began on or after January 1, 2006, average compensation will be calculated using a 60 month period.
- 2) for any person applying to purchase service credit, the service credit purchased can only be used for calculation of benefits and not for eligibility purposes.
- 3) a member hired on or after January 1, 2006 is eligible to retire if has 10 or more years of service credit at age 60 or thereafter.
- 4) a member shall receive a benefit of 2.0% of his average compensation for each year of creditable service.
- 5) persons whose first employment making them eligible for LASERS membership began on or after January 1, 2006, receive a disability benefit equal to 1.8% of average compensation for every years of creditable service.

**Senate Bill 135 by Senator Dardenne (Pending In Conference Committee)** also proposed to change the retirement eligibility or new hires by requiring the member to have 10 or more years of service credit at age 60 or thereafter.

**Senate Bills 7 and 305 by Senator Boasso (Subject To Call)** likewise affected LASERS and TRSL. While **Senate Bill 7** would have changed the average compensation, contribution rates, accrual rates and benefits of new hires, **Senate Bill 305** would affect the administration of the two state retirement systems and proposed to create one board to govern the two systems.

## Revenue & Taxation

*by: Riley Boudreaux  
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While the Administration successfully enacted a "provider fee" in order to obtain revenues to match federal funds for certain hospitals treating Medicaid and Medicare patients (**House Bill 887 by Representative Durand**) (**Act 182**), a Revenue Estimating Conference estimate indicating that state revenue increases were unexpectedly large probably played a factor in the failure of the Administration's cigarette tax (**House Bill 437 by Representative Hammett**) (**pending House**).

However, that rosy estimate had another effect. The Legislature then felt free to embrace a broad variety of business-friendly tax incentives proposed by the Administration and fellow legislators. Many of the initiatives were spearheaded by Michael Olivier, the Governor's appointee as secretary of the Department of Economic Development. The Legislature enacted:

**House Bill 795 by Representative Hammett (Act 403) (Senate Bill 315 by Senator Barham, Senate, subject to call;** similar bill) authorizes the Board of Commerce and Industry to enter into contracts of exemption from all taxes except property taxes for existing manufacturing establishments, headquarters, or warehousing and distribution establishments for five years (renewable for another five) if they are located in another state or contemplating locating in another state. Upon the Governor's "invitation," they may be renewed for two additional 5-year periods as long as the years of exemption do not exceed twenty.

**House Bill 627 by Representative Hammett (Act 400)** creates the "Angel Investor Tax Credit Program" which provides a credit of 50% of the amount invested in "Louisiana Entrepreneurial Businesses." A "Louisiana Entrepreneurial Business" is one domiciled in the state, employing 50 or fewer full-time employees, and either has gross annual sales of less than \$10 million or has a business net worth of less than \$2 million. The total credits granted by DED may not exceed \$5 million in any calendar year. The credits may be sold. The program terminates in 2010.

**House Bill 684 by Representative Hammett (Act 402)** expands the current research and development tax credits. The credit is a percentage of the of the state's "apportioned share" of the taxpayer's expenditures or 25% of the federal credit under certain circumstances. Retains the current 8% for taxpayers employing 500 or more Louisiana residents, but increases it to 20% if fewer than 500 residents are employed. Also allows a credit for businesses receiving a Small Business Innovation Research Grant equal to 20% of the award. The credits may be sold. The program terminates in 2010.

**House Bill 731 by Representative Hammett (Act 456)** is an attempt to tighten up the tax benefits for movie productions a bit. It actually terminates the sales tax exemption on January 1, 2006 and limits the application of the movie employment tax credits in current law to productions that have received an effective certification date prior to December 31, 2005 (although remaining credits are made sellable). The bill specifies that expenditures eligible for the movie production credit must be "expended in the state" - defined as property acquired from a source within the state or services "procured and performed" in the state. Because of such definition, the bill actually increases the credit allowable from 10% of investments between \$300,000 and \$1 million and 15% if over \$1 million to 25% for anything over \$300,000, with an additional 10% for amounts expended on "payroll" for "Louisiana residents." In addition, the credit may be allowed for production-related infrastructure projects until 2009. The percentage is reduced for subsequent years beginning in 2010. The credits may be sold or they may be transferred to the state for a portion of their value.

**House Bill 631 by Representative K. Carter (Act 485) (Senate Bill 114 by Michot, assigned to House committee; similar bill)** grants a tax credit for investors in sound recording productions. If the total investment is greater than \$15,000 and less than or equal to \$150,000, a credit of 10% is allowed; if between \$150,000 and \$1 million, 15%; if greater than \$1,000,000, 20%. The credit may be carried forward for 10 years or is refundable. The aggregate amount of credits issued during a calendar year cannot exceed \$3 million. No credits can be issued starting 2008.

**House Bill 679 by Representative Hammett (Act 401) (Senate Bill 179 by Barham, Senate, subject to call; similar bill)** grants several benefits to corporations:

- (1) Authorizes the deduction of all dividends and interest income which would otherwise be included in gross income and specifically excludes from income interest on municipal and US bonds.
- (2) Authorizes manufacturers and merchandisers to use a single factor - their sales factor [sales within the state divided by sales everywhere] - for apportioning income and tax base to Louisiana for income and corporate franchise tax purposes.
- (3) Deletes the special apportionment formula for loan businesses' interest income.
- (4) Deletes the provision that requires the gain on the sale of a partnership interest to be deemed a Louisiana gain to the extent that the partnerships assets are located in Louisiana at the time of the sale.
- (5) Provides special rules for gains and losses not made in the regular course of business.

**Senate Bill 341 by Senator Duplessis (Act 346)** authorizes an income tax credit for investors

in "digital interactive media production" (such as video games) approved by the Department of Economic Development prior to January 1, 2010. The credit is 20% of an investment in the first and second year following certification; 15% in the third and fourth; and 10% in the fifth and sixth. No credit is allowed beyond that time. The total credits issued annually cannot exceed \$5 million. The credits may be transferred or sold.

**Senate Bill 246 by Senator Duplessis (Act 339)** grants a \$5,000 tax credit for each new job created in the "rubber manufacturing industry" as defined by NAICS Code 326211 until June 30, 2012.

Of particular interest in New Orleans, **Senate Bill 200 by Senator Bajoie (Act 509)** exempts from property tax artwork consigned to an art dealer.

**Senate Bill 337 by Senator Ellington (Act 345)** grants two state sales tax exemptions until July 1, 2012:

- (1) One is for the purchase of "alternative substances" as a fuel by manufacturers. "Alternative substance" is defined in the bill as any substance other than oil and natural gas or any product of oil and natural gas, and specifically includes petroleum coke, landfill gas, reclaimed or waste oil, "unblended biodiesel" and "tire-derived" fuel, but not coal, lignite, refinery gas, nuclear fuel, or electricity.
- (2) One is for the purchase or rental of manufacturing machinery and equipment used to produce "unblended biodiesel."

**Senate Bill 34 by Senator McPherson (Act 319)** revives and modifies an expired tax credit of 20% of the cost of "qualified new recycling manufacturing or process equipment" for non-hazardous, solid wastes. The credit is also applicable to "qualified service contracts," defined as any service contracts utilized by a "non-hazardous industrial waste generator" or a "nonhazardous industrial waste beneficial user" to implement DEQ-approved beneficial use programs for "nonhazardous industrial waste streams" as defined under DEQ's Solid Waste Rules and Regulations so as to avoid "conventional" disposal in a landfill.

**House Bill 835 by Representative Daniel (Act 492)** even provides a benefit until July 1, 2010 for oil and gas wells which have been inactive for two or more years, exempting them from severance tax for a period of five years of production (up from two in current law). Retroactively applies to wells certified as inactive on or after January 1, 2005.

Some tax benefits were aimed at individuals or at ends which many consider socially desirable:

**Senate Bill 89 by Senator Nevers (Act 511)** is a constitutional amendment which grants the "special assessment level" to homesteads of families which have a person who has an armed service-



connected disability rating of 50% or more, or is a member of the armed forces or the Louisiana National Guard who is killed in action, missing in action, or is a prisoner of war for a period exceeding 90 days. The family must meet all the other conditions (except age) in the Louisiana Constitution for getting the special assessment level.

Currently the "special assessment level" is granted to people 65 or older. It provides that the assessment of the homestead cannot be increased above its total assessment for the first year that the owner qualifies for and receives the special assessment level. The millage rate is not subject to the limitation. The special assessment level is not authorized for people whose federal adjusted gross income exceeds \$56,744 for Tax Year 2005 -- adjusted annually by the Consumer Price Index.

**Senate Bill 89** was amended to also include the constitutional amendment proposed by **Senate Bill 165 by Senator Heitmeier (Pending final passage, House)** which would grant the special assessment level to people who are permanently totally disabled as determined by a final non-appealable judgment of a court or as certified by a state or federal administrative agency charged with the responsibility for making determinations regarding disability, if they meet all of the other requirements in the constitution (except age). **House Bill 370 by Representative Faucheux (Pending Conference Committee, House)**, a constitutional amendment which would limit the special assessment level to people who were adjudged totally, permanently disabled by the Social Security Administration, was amended in the Senate to conform to Senate Bill 165.

**Senate Bill 59 by Senator Duplessis (Act 495)** modifies the current state child care expense credit for resident individuals with federal adjusted gross income of \$25,000 or less by using the federal credit, not reduced by other requirements in that law, as a starting point and by allowing the state credit whether or not the taxpayer claims the federal credit. The credit is phased-in for such individuals at 25% of the "unreduced" federal credit for tax year 2006, and 50% for tax years thereafter.

**Senate Bill 61 by Senator Duplessis (Act 285)** expands a current income tax credit for the employment of first time drug offenders who are less than 25 years of age to cover the full-time employment of first time "nonviolent offenders" of any age. The credit is \$200 per taxable year per eligible employee for a maximum of 2 years per employee. The employee must successfully complete any court-ordered drug treatment/rehabilitation program or any other court-ordered program.

**Senate Bill 351 by Senator Nevers (Act 504)** grants a tax credit for public work contractors or subcontractors if they offer 85% of their full time employees and dependent making less than \$40,000 per year health insurance coverage. The contractor or subcontractor must pay 75% of the premium, 50% of the premium for dependents. The program lasts through the 2007 tax year and has a \$3 million cap.

**Senate Concurrent Resolution 62 by Senator Adley (enrolled)** directs the Department of Revenue to accept amended income tax returns for 2002, 2003, and 2004 and make refunds because the

department in 2002 changed the income tax return to limit married couples to a deduction of only \$6,000 of private retirement income (instead of the \$12,000 it had been allowing) if only one spouse had the retirement income. The department did not promulgate a rule to make this change in administering the exemption and did not otherwise provide notice to taxpayers.

**Senate Bill 322 by Senator Fontenot (Act 156)** allows taxpayers a tax credit of 15% of their investment in a "voluntary remedial investigation" and 25% of their investment in a "voluntary remedial action" (i.e. clean up) at a state-certified "Brownfields site." A Brownfields site is an area in the state at which a voluntary remediation action or a voluntary remedial investigation concerning the presence or potential presence of a hazardous substance or pollutant is authorized by the secretary of the Department of Environmental Quality.

Finally, legislators received many comments from the public regarding the results of the four-year re-appraisal of property required by the Constitution of Louisiana. Spurred by the Legislative Auditor and a new, more aggressive Louisiana Tax Commission, assessors had revalued many residences using methods of determining fair market value which caused large increases in some areas. Constituent's pain was only increased when some property tax recipient bodies exercised their constitutional prerogative to "roll forward" millages back up to the prior year level in order to capture the increased taxes without approval by the voters.

The Legislature decided to study such issues during the interim, especially since any resolution may require a constitutional amendment and because the issue is so important both to their constituents and to the local bodies which are required to provide services to their constituents.

It did however, consider legislation which provides better notice to taxpayers of their assessments. **Senate Bill 316 by Senator Mount (Act 310)** requires which requires all parishes which have participated in a current Internet posting program to post their assessment lists on the Tax Commission's website (all but about 15 parishes) to continue to do so. **Senate Bill 96 by Senator Schedler (Act 496)** and **Senate Bill 108 by Senator Adley (Act 143)** requires the Tax Commission to prescribe the type of notice which must be published if a tax recipient body is going to hold a meeting at which property taxes are to be rolled-forward without approval of the electorate. The notice must include:

- (1) Prominent placement in the newspaper in a section other than the classified advertisement or public notice section.
- (2) Formatting in a box with a bolded outline.
- (3) A size of not less than two inches by four inches.
- (4) Print in bold face type.

The tax recipient body holding the meeting must also issue a press release about the meeting to newspapers with substantial distribution within the parish of its jurisdiction and to area broadcast media.

For the first time, **Senate Bill 96 by Senator Schedler (Act 496)** will also require assessors to provide individual notices to taxpayers of the amount of the assessment of their property:

- (1) In the 4-year re-appraisal tax year required by the Constitution.
- (2) In any tax year in which an assessment of the property increases by 15% or more from its assessment in the previous tax year.

## Social Services

*by: Bobbie Hunter  
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**Senate Bill 161 by Senator Amedee (Act 148)** provides for the protection of children whose physical or mental health and welfare are at risk by physical abuse, neglect, or exploitation and who may be further threatened by the conduct of others. SB 161 provides for the reporting of suspected cases of abuse, exploitation, or neglect of children and provides for the investigation of such complaints, and for the resolution of child in need of care proceedings in the courts. Present law requires that the court proceedings be conducted expeditiously to avoid delays in achieving health, safety, and permanency for children in need of care, while providing for definitions of abuse and children in need of care.

With this new legislation, the statutes will provides for the definition of removal of a child as placing the child in the custody of the state or with someone other than the parent or current caretaker, during or after an investigation of abuse or neglect. Requires all removals to be through a court order, the placement of the child to be placed in the care of an individual considered suitable, with whom the child has a close established significant relationship, not a blood relative, neighbor, godparent, teacher, or close friend of the parent being investigated.

Currently, the court must determine whether reasonable efforts have been made by DSS to prevent or eliminate the need for a child to be removed from the home. If the court finds that the welfare of the child cannot be safeguarded without removal, the court must issue a written instanter order, for the child to be taken into the custody of the state or placed in the care of a relative or suitable party capable of protecting the health and safety of the child.

Voluntary relative placement of a child is now terminated, and requires an order from the court. The determination of the removal of a child is to be made immediately following a presentation of a verified complaint. If the child is removed and placed in the care of a suitable relative or interested party, the court must issue a safety plan, and the provisional caretaker must adhere to the conditions of the plan to insure the protection of the child. The caretaker must provide evidence of a suitable environment for the child pending adjudication, and agree to and sign the safety plan.

With the enactment of SB 161, any individual who fails to provide proper supervision of a minor will be fined not less than \$25, and not more than \$250 for each offense, or not imprisoned for more than 30 days, or both. There will be penalties for a relative or custodial caretaker who violates the safety plan. The penalty will be imprisonment for not more than six months or a \$500 fine, or both. If the violation results in an injury to the child that requires medical attention, or the death of a child, the penalty will be two years imprisonment with or without hard labor.

**Senate Concurrent Resolution 20 by Senator Broome (enrolled)** urges and requests the Department of Social Services to study the impact of the state's sliding fee scale on the availability, affordability, and the quality of child care services funded by the Child Care Development Fund. Currently the Department of Social Services is responsible for the administration of the Child Care Assistance Program, and over 46,000 children in Louisiana are enrolled in the program. A sliding fee scale, which is used to determine each family's contribution to the cost of child care, must vary based on income and size of the family. In order to implement cost-saving measures to ensure that funding was available to serve as many low-income families as possible, the percentage of child care costs paid for by the agency was decreased on April 1, 2003.

The Child Care Assistance Program helps low income families pay for the child care services they need in order to work, attend school, or job training. Parents may select any Class A child care center, school-based before-school and after-school program, registered family day care home, or in-home provider. The availability of quality childcare that families can afford is an important solution to poverty. The sliding fee scale rates are currently established at seventy-five, fifty-five, and thirty-five percent based upon the seventy-fifth percentile of the state's median income; and

**House Concurrent Resolution 82 by Representative Gray (enrolled)** requests the House Committee on Health and Welfare and the Senate Committee on Health and Welfare to meet and function as a joint committee to study the current laws and regulations governing children in foster care in the state, to study the laws, regulations, and procedures which govern social workers charged with monitoring children in foster care, and to make recommendations for changes in the laws, rules, and procedures governing children in foster care in Louisiana.

Foster children in Louisiana are not being adopted within the time frame of twenty-four months as required by the Adoption and Safe Families Act (ASFA). As of March of 2004, there were six thousand three hundred forty-six children in foster care in Louisiana waiting for a permanent home. Children in foster care in Louisiana are often subjected to multiple placements and school changes, unsatisfactory school performance, reading deficiencies, and school disciplinary problems.

When these children reach the age of eighteen, they are aged out of the Louisiana foster care system to confront the formidable task of transitioning to adulthood, often with insufficient education and no job skills or training many of these children also face substance abuse problems, mental health problems, and frequently are prescribed psychotropic medications.

# State Government

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## Indigent Defense

Addressing the issue of indigent defense, **Senate Bill 323 by Senator Jackson (Act 343)** reorganizes the nine member Indigent Defense Assistance Board. The board would be increased from nine to 15 members and makes the following changes to the membership:

- (1) Gubernatorial appointments would be reduced from three to two members and the governor would designate the chairman.
- (2) Appointments by the president of the Senate and the speaker of the House would be reduced from three to one member each.
- (3) Two members, one of which would be a juvenile justice advocate, would be appointed by the chief justice of the Supreme Court of Louisiana.
- (4) One member who is an active employee, retired employee or has an academic association with the L.S.U. Paul M. Hebert Law Center would be appointed by the chancellor of the Paul M. Hebert Law Center.
- (5) One member who is an active employee, retired employee or has an academic association with the Loyola University School of Law would be appointed by the Loyola University School of Law.
- (6) One member who is an active employee, retired employee or has an academic association with the Southern University Law Center would be appointed by the chancellor of the Southern University Law Center.
- (7) One member who is an active employee, retired employee or has an academic association with the Tulane University School of Law would be appointed by the dean of the Tulane University School of Law.
- (8) Two members would be appointed by the president of the Louisiana State Bar Association.
- (9) One member would be appointed by the president of the Louisiana Chapter of the Louis A. Martinet Society.

- (10) One member would be appointed by the chairman of the Louisiana State Law Institute's Children Code Committee.
- (11) One member would be appointed by the executive director of the Louisiana Interchurch Conference.

The Indigent Defense Assistance Board bill provides for the following:

- (1) Prohibits any person who has received compensation to be an elected judge, elected official, judicial officer, prosecutor, law enforcement officer, or indigent defense provider or any employee of such persons from serving on the board until the expiration of two years from the time they served in the positions until appointment to the board.
- (2) Prohibits any active part-time, full-time, contract or court-appointed indigent defense provider, or active employees of such persons from being appointed to serve on the board as a voting member.
- (3) Prohibits a state or local association of lawyers from having more than one active board member or officer as a voting member of the board with the exception of mandatory affiliation of the Louisiana Bar Association.
- (4) Reduces the number of ex officio members from three to two, deleting one appointment from the Louisiana Trial Lawyers Association.
- (5) Provides for special reporting requirements and makes the district board subject to penalties of \$100 per day, payable out of the judicial district indigent defender fund, if the board fails to file a report or to file it timely, fails to disclose or accurately disclose any information required under proposed law, or files a false report.
- (6) Provides for a sum of \$35 to be assessed in certain cases.
- (7) Authorizes a judicial district indigent defender board to recoup funds pursuant to present law.
- (8) Makes the district board subject to penalties of \$100 per day, payable out of the judicial district indigent defender fund, if the board fails to file a report or to file it timely, fails to disclose or accurately disclose any information required under proposed law, or files a false report.
- (9) Authorizes the board to draft, administer and furnish the report forms to the judicial district indigent defender boards. Proposed law requires the reports to include detailed information of the district board's workload, resources, employees, and expenditures for the previous fiscal year based on the uniform definition of a "case" as defined in proposed law. Clarifies that each Child in Need of Care (INC) petition be counted as a separate case.

- (10) Authorizes the board to collect, prepare and submit an annual report to the legislative auditor.
- (11) Provides for the staggered terms of the membership.
- (12) Provides that eight voting members shall constitute a quorum for transacting business.

### Smoking

Hoping to clear Louisiana's air, **Senate Bill 354 by Senator Marionneaux (Subject to Call - Senate Final Passage)**, would have authorized the creation of the Louisiana Clean Indoor Air Act. The purpose of the Act would have been to preserve and improve the health, comfort, and environment of the people of this state by limiting exposure to tobacco smoke.

The Act would have provided for restrictions in the following areas:

- (1) Public meetings.
- (2) Elevators.
- (3) Government-owned or operated means of mass transportation, including, but not limited to, buses, vans, and trains.
- (4) Taxicabs and limousines.
- (5) Grocery stores.
- (6) Gymnasiums.
- (7) Jury waiting and deliberation rooms.
- (8) Courtrooms.
- (9) Child day care facilities.
- (10) Health care facilities including hospitals, health care clinics, doctor's offices, and other health-care related facilities.
- (11) Any place of employment that is not exempted.
- (12) Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- (13) Restaurants.
- (14) Bars.
- (15) Indoor sports arenas.
- (16) Lobbies, hallways, and other common areas in apartment buildings, condominiums, and other multi-unit residential facilities.
- (17) Lobbies, hallways, and other common areas in hotels and motels, and in no less than seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests.
- (18) Bowling alleys.
- (19) Billiard or pool halls.
- (20) Retirement facilities, assisted living facilities, and nursing homes, except for specially designated smoking areas not located near residential quarters.
- (21) Public buildings.
- (22) Auditoria.



- (23) Theaters.
- (24) Libraries.
- (25) Museums
- (26) Public and non-public schools; and other educational and vocational institutions.

Furthermore, the Louisiana Clean Indoor Air Act would have also provided that no municipal or parish governing authority, or political subdivision of this state could adopt ordinances, rules, or regulations which further restrict the provisions of the Act relating to smoking in any of the following places:

- (1) Private homes, private residences, and private automobiles.
- (2) Limousines under private hire.
- (3) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent.
- (4) Any retail tobacco business.
- (5) Any tobacco bar.
- (6) Any airport smoking concession.
- (7) The room of a hospice patient in a hospice facility, so long as such room is appropriately segregated from the rooms and common facilities of other hospice patients.
- (8) The outdoor area of any business; except that the owner or manager of such business may post signs prohibiting smoking in any such outdoor area, which would have the effect of making that outdoor area an area which would be prohibited under the Act.

The Louisiana Clean Indoor Air Act would have provided for the following penalties:

- (1) Any person who owns, manages, or operates a business under the above restrictions would be guilty of a misdemeanor and upon conviction, would be fined not more than \$500.00, imprisoned for not more than six months or both. For each subsequent offense, the violator would be fined not more than \$1,000.00, imprisoned not more than one year, or both.
- (2) Any person who smokes in any area designated as a nonsmoking area would be advised by the person in charge of the facility of the prohibition against smoking. If such person continues to smoke, the person in charge of the facility may ask him to leave the premises. If the person refuses to leave and continues the violation, the person in charge of the facility would summon a law enforcement officer who shall advise the violator of the prohibition and ask him to leave the premises. If the person fails to leave, the officer may issue him a summons. The summons would be returned to the court having jurisdiction over misdemeanors in the parish or municipality of the domicile of the facility. A person who violates the Act would be guilty of a misdemeanor offense and, upon conviction thereof, would be punished by a fine not to exceed \$50.00 for a first violation within a calendar year, a fine not to exceed \$150.00 for a second violation within a calendar year, and a fine not to exceed \$250.00 for each additional violation within a calendar year. Each day of a continuing violation would be deemed a separate violation.

### Administrative Law

Addressing the issue of intra-governmental relations, **House Bill 208 by Representative Bowler (Act 204)** requires an agency or any official of the agency to comply fully and in a timely manner with the final decision or order of an administrative law judge following an adjudication commenced by the division of administrative law.

The Act provides for all adjudications commenced by the division of administrative law to be resolved exclusively as required by present law, including the Administrative Procedure Act. Provides for an administrative law judge to issue a final decision or order, whether or not on rehearing, following an adjudication by the division of administrative law. It specifies that the agency has no authority to override such decision or order.

### Attorney General

**House Bill 562 by Representative Hammett (Act 435)** provides for debt collection services by the attorney general on behalf of state agencies and creates the Department of Justice Debt Collection Fund as a special fund in the state treasury. Under the bill, the attorney general could initiate proceedings to collect debts owed to the state and its departments, agencies, boards, and commissions and such activities would be performed at the request of the state agency and in accordance with the terms of a written agreement between the two parties.

The attorney general receives as compensation up to 25% of all monies recovered from debt collections on behalf of the state, with the exception of those for collection of student loans issued under the Federal Family Education Loan Program, the Federal Perkins Loan Program, or educational debts collected on behalf of institutions under the jurisdictions of boards created by Art. VIII of the Louisiana Constitution.

Furthermore, the attorney general's compensation for debt collections related to student loans is governed by the instrument creating the debt or by a cooperative endeavor with the agency owed the debt.

The bill creates the Department of Justice Debt Collection Fund as a special fund in the state treasury. The fund is comprised of monies to be received by the attorney general from the collection of debts owed to the state. Monies in the fund are used by the Dept. of Justice solely for the purpose of pursuing the collection of debts owed to the state.

### Surplus equipment

As a way to help struggling schools throughout the state, **Senate Bill 218 by Senator Dupre (Act 152)** changes the way the state currently allocates surplus computer equipment.

The Act gives first preference for allocation of surplus computer equipment to public elementary and secondary schools in the state, and community and technical colleges under the management and control of the Board of Supervisors of Louisiana Community and Technical Colleges.

Furthermore, political subdivisions of the state have to establish procedures for the acquisition of surplus computer equipment by public elementary and secondary schools in the state, and community and technical colleges under the management and control of the Board of Supervisors of Louisiana Community and Technical Colleges.

### **Retirement**

In an attempt to help the ailing statewide retirement system, **Senate Bill 305 by Senator Boasso (Subject to Call - Senate Final Passage)** would have allowed the chairman of the House committee on Retirement and the chairman of the Senate Committee on Retirement or their designees to serve as voting ex officio members of the governing boards of the following state retirement systems; LASERS, TRSL, LSERS and SPPRS.

The law would have removed the chairmen of the House and Senate committees on retirement, or their designees from serving as voting ex officio members of the governing boards of LASERS and TRSL and would have created one board of trustees with administrative powers as follows:

- (1) The board would have been vested with discretion to exercise these powers in the same manner, or differently, for each LASERS and TRSL in accordance with the fulfillment of its fiduciary duty as provided by law:
  - (a) To appoint the director, assistant directors, actuary and chief investment officer, to fix their salaries, and to designate the powers and duties of these officials.
  - (b) To make, alter, amend, and promulgate rules and otherwise provide for the establishment and maintenance of the systems, which by terms the law are under the jurisdiction of the board as authorized by the retirement law.
  - (c) To prepare and submit to the Joint Legislative Committee on the Budget and the state budget officer a budget covering the estimated costs of administering each system for each succeeding fiscal year.
  - (d) To hear appeals from members who claim their rights under the laws and/or the rules of the systems have been violated, and to issue appropriate orders in such cases.
  - (e) To adopt mortality and service tables.
  - (f) To designate a medical board composed of five physicians who are not members of the system to serve on the State Medical Disability Board, or as alternate physicians to the medical board.
  - (g) To designate a depository for operating monies, which shall be fully guaranteed.
  - (h) To designate a custodian of bonds and securities.

- (i) To make rules and regulations governing election of board members, not inconsistent with law.
- (2) The board would have consisted of 11 members as follows:
- (a) The state treasurer, ex officio, or his designee.
  - (b) Three representatives of for-profit corporations who have experience in private pension fund design or management, chosen by a selection committee consisting of LAE, LFT, RSEA and the AFSCME from a list of five names recommended by LABI.
  - (c) Three representatives of Louisiana based not-for-profit corporations who have experience in fund management and investments, chosen by a selection committee consisting of LAE, LFT, RSEA and the AFSCME from a list of five names recommended by the LANO.
  - (d) One representative of the active members of the LASERS with at least five years of creditable service in the system elected by vote of the active members of the system.
  - (e) One representative who is a retired member of LASERS and who shall represent the retired members of the system.
  - (f) One representative of the active members of the TRSL with at least five years of creditable service in the system elected by vote of the active members of the system.
  - (g) One representative of the retiree members of the TRSL elected by vote of the retirees of the system.
  - (h) The chairman of the House Committee on Retirement, ex officio, or his designee.
  - (i) The chairman of the Senate Committee on Retirement, ex officio, or his designee.

Under the law, new terms of service would have been instituted and provisions for new election would be set forth.

### **Enforcement**

In an effort to help Louisiana clean-up its image, **House Bill 37 by Representative Scalise (pending House committee)**, would have created an independent office of the state inspector general within the office of the governor.

The independent office of the state inspector general in the office of the governor would have examined and investigated the management and affairs of covered agencies as follows:

- (1) The inspector general would have been appointed by the governor with the consent of the Senate. No person would have been appointed who holds or is a candidate for any elective office, including elective political party office, holds any other public office, or has held any elective office within two years immediately preceding his appointment. Also, no former inspector general would have been eligible to become a qualified candidate for any elective office, including elective political party office.

- (2) Would have required the governor to appoint the inspector general from a list of nominees who were to be selected by a nominating committee composed of the presidents of Centenary College of Louisiana, Dillard University at New Orleans, Louisiana College, Loyola University at New Orleans, Our Lady of Holy Cross College at New Orleans, Our Lady of the Lake College at Baton Rouge, and Xavier University of Louisiana at New Orleans and the dean of H. Sophie Newcomb College of Tulane University.

Furthermore, the law would have required the nominating committee, within sixty days of a vacancy, to submit to the governor no less than three names of three different eligible nominees and would have required the governor to make an appointment from the list no later than sixty days after receipt of the nominations.

- (3) Would have provided that the inspector general serve a six-year term. A vacancy would have been filled in the manner of the original appointment for the remainder of the unexpired term. The initial term would have been deemed to have begun on Jan. 12, 2004.
- (4) Would have provided for the governor to set the compensation of the inspector general, not to exceed the amount approved for the position by the legislature while in session and requires the legislature to make adequate appropriations to the office to enable it to implement the law efficiently and effectively.
- (5) Would have provided that notwithstanding the term established as provided in (3), any person appointed to the office of inspector general be subject to removal from office by the governor for misfeasance, malfeasance, or any other lawful cause.

The inspector general would have the following authority, functions, and duties:

- (1) Serve as executive head and chief administrative officer for the office and be responsible for the policies, administration, control, and operation of the functions and affairs of the office.
- (2) Examine and investigate the management and affairs of covered agencies concerning waste, inefficiencies, mismanagement, misconduct, abuse, fraud, and corruption, including but not limited to misuse of state property, patterns of excessive bills on state contracts, unauthorized use of leave, mismanagement of governmental operations, and waste or abuse of things of value belonging to or used by the executive branch. "Covered agencies" includes the executive branch, levee districts, and port commissions.
- (3) Administer oaths and take the testimony of those sworn and compel the attendance of witnesses to be deposed under oath or the production of public and private records by issuing a subpoena for the production of those records.

- (4) Obtain access to and examine any records of a covered agency and be deemed to be an authorized representative and agent of each covered agency for the purposes of examining and investigating the records of all contractors, subcontractors, grantees, or subgrantees of covered agencies, which records relate to contracts, subcontracts, grants, or subgrants with a covered agency and to obtain access to any records of a covered agency in the possession of a third party, including but not limited to bank account records.
- (5) Help prevent waste, inefficiency, mismanagement, misconduct, abuse, fraud, and corruption by reviewing policies and procedures, monitoring operations, and making recommendations.
- (6) Receive complaints of waste, inefficiency, mismanagement, misconduct, abuse, fraud, or corruption in the covered agencies, investigate such complaints which warrant investigation and recommend if disciplinary action or further investigation by his office or other agencies is appropriate, and take other appropriate action.
- (7) Report such complaints to federal, state, or local agencies when there is evidence of criminal activity and when otherwise appropriate, and cooperate with them.
- (8) Make quarterly reports and other specific reports as warranted to the governor and the Joint Legislative Committee on the Budget.

The office of state inspector general would have been placed in the office of the governor under provisions granting it independent status.

## Transportation & Development

by: Sherri Breaux  
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### AIRCRAFT/AVIATION

**House Bill 269 by Representative Baylor (Act 360)** increases the maximum extension of the primary term of a lease of airport property from 60 years to 100 years.

As a local bill, **House Bill 294 by Representative Townsend (Act 478)** allows the governing authority of the Natchitoches Regional Airport to lease land, operations space, improvements, and equipment on such airport or landing fields without complying with public lease laws provided that the governing authority charges fair and reasonable prices for the property, which is determined by appraisals and fair market value comparisons in accordance with Federal Aviation Administration guidelines. The appraisals and fair market value comparisons must be conducted and paid for by the governing authority of the Natchitoches Regional Airport.

Whereas, as a statewide bill, **House Bill 778 by Representative Heaton (Act 390)** allows the governing authority of any airport located in this state which is eligible for funding from the Federal Aviation Administration to lease land, operations space, improvements, and equipment on such airports or landing fields without complying with public lease laws provided that the governing authority charges fair and reasonable prices for the property, which is determined by appraisals and fair market value comparisons in accordance with Federal Aviation Administration guidelines. And, like House Bill 294, the appraisals and fair market value comparisons must be conducted and paid for by the airport's governing authority.

**House Concurrent Resolution 103 by Representative M. Guillory and Senator Theunissen (enrolled)** memorializes Congress to advocate changes in Federal Motor Carrier Safety Regulations relative to issuance of restricted commercial drivers' licenses, which currently prohibit aerial applicators from qualifying because the fuel they transport in order to conduct crop-dusting activities is classified as a hazardous material.

The Governor's Aviation Advisory Commission will be continued and the membership revised by **Senate Concurrent Resolution 69 by Senator Theunissen (enrolled)**.

### MOTOR VEHICLES

License plates. **House Bill 327 by Representative Quezaire (Act 365)** redesignates the veteran and military personnel plates as "military honor" plates and requires the department to resume issuing military honor plates for the following classes:

- (1) Former prisoners of war.
- (2) Members of the Louisiana National Guard.
- (3) Disabled veterans.
- (4) Congressional Medal of Honor recipients.
- (5) Louisiana members and retired members of the reserve forces of the U.S.
- (6) World War II, Korean War, and other military vehicles.
- (7) Veterans and retired veterans.
- (8) Survivors of Pearl Harbor.
- (9) Veterans of the Vietnamese Conflict.
- (10) "Purple Heart" recipients.
- (11) Veterans of the Korean War.
- (12) Veterans of the United States Merchant Marine.
- (13) Participants in Operation Desert Shield/Desert Storm.
- (14) World War II veterans.
- (15) Certain veterans of the United States Marine Corps.
- (16) Laos War veterans.
- (17) Veterans of the Cold War.

Trucks. **House Bill 372 by Representative Quezaire (Act 426)** prohibits applying exceptions to the maximum permissible load limits to violations occurring on the interstate system.

**House Concurrent Resolution 173 by Representative Dove (enrolled)** requests DOTD to consider restricting the weight limit of commercial vehicles traveling on LA 316, also known as Bayou Blue Road, in Terrebonne Parish, and to consider reducing the posted speed limit for such highway.

## **PORTS/HARBORS/TERMINALS**

**Senate Bill 70 by Senator Kostelka (Act 287)** extends for a period of three years the authorization for special permits for trucks hauling containerized cargo in international trade intended for export within a 50-mile radius of the Port of Ouachita.

**Senate Bill 101 by Senator Boasso (failed, House)** would have revised the membership of the board of commissioners of the St. Bernard Port, Harbor and Terminal District, changed the manner in which such members were appointed, and provided for the qualifications of the port director.

**House Bill 28 by Representative Morrish (Act 8)** alters the qualifications of the port director of the Lake Charles Harbor and Terminal District. The new law will require a bachelor's degree rather than a four-year degree and require that the institution be accredited by a regional or national accrediting agency approved by the U.S. Dept. of Education rather than a nationally recognized accrediting agency approved by the Board of Regents. Also, as included as alternate minimum qualifications for the port director position,



and subject to the approval of the district board of commissioners, a person shall be qualified if he has at least 10 years of experience in port operations, trade or industrial development, or business or public administration, including at least five years of employment in a senior management position at a port.

**House Bill 669 by Representative McVea (Act 98)** creates and provides for the West Feliciana Port Commission.

## **RAILROADS**

**Senate Bill 285 by Senator Chaisson (Senate committee)** would have authorized the state to enter into a state participation agreement in the Federal Rail Safety Program, empowered the Public Service Commission to perform any act permitted by the Federal Railroad Safety Act of 1970, as amended, and to adopt reasonable fees to be assessed against railroads operating in Louisiana for the expenses of administering a rail inspection program. Following testimony presented to the Senate Committee on Transportation, Highways and Public Works, committee members stressed the importance of rail safety but felt that a study was in order to make appropriate determinations on implementation, including any fees and costs associated with the program. As the chairman, **Senator Ellington** authored the study resolution, **Senate Resolution 144 (enrolled)** to establish a study group consisting of the author of SB 298, the chair of the Senate committee, one additional committee member, the secretary of DOTD, the secretary of the Public Service Commission, a person to represent the railroads, plus any additional member deemed appropriate by the study group, and charges the group to study and make recommendations with respect to participation in and implementation of the Federal Railroad Safety Program State Participation Agreement. The study group must make a written report of its findings to the Senate committee not later than Jan. 1, 2006.

Background: Thirty states now participate in the State Rail Safety Participation Program which employs safety inspectors in the five rail safety inspection disciplines, and which emphasizes planned, routine compliance inspections, but also additional investigative and surveillance activities by the state consistent with overall program needs and individual state capabilities. Before participation can begin, a state must enter into a multi-year agreement with the Federal Railroad Administration for the exercise of such authority, the agreement of which may delegate investigative and surveillance authority regarding all or any part of federal railroad safety laws.

**Senate Bill 353 by Senator Lentini (Act 347)** requires that the DOTD secretary study all public railroad grade crossings establishing priorities for their improvement, relocation, or closure and develop a prioritized plan implementing such improvements, relocations, or closures pursuant to the Federal Railroad Crossing Safety Program. The measure will allow DOTD to improve, change the location of, or abolish an existing crossing on a state maintained road upon a determination that such action is necessary for the safety of the public. No action or omission of the department is discoverable or admissible in any state court. DOTD is also authorized to evaluate the need to close any public railroad grade crossing on a non-

state maintained highway within the territorial jurisdiction of any local governing authority in compliance with the Federal Railroad Crossing Safety Program, such evaluation to be conducted in accordance with federal guidelines. Upon a preliminary closure determination, public participation must be encouraged by notification of the local governing and other interested parties, allowing a time period for a response from these parties and requiring DOTD to be responsive to written concerns communicated in writing or at a public hearing. Upon a final closure determination by a rail safety reconsideration board composed of the secretary and chief engineer of DOTD and the exec. director of the Highway Safety Commission, the department and the railroad shall close the crossing. Payment of costs to close a public grade crossing pursuant to a final closure determination will not be an obligation of the local governing authority.

No action or omission of DOTD, railroad, or any local governing authority pursuant to federal regulation will impose liability upon the state or constitute transfer or assumption of care, custody and control of the non-state maintained highway and public grade crossing by the state. Additionally, no any action or omission of the department or any local governing authority will be discoverable or admissible in any state court, as well as certain records and documents of the department or any local governing authority compiled or prepared pursuant to such closure determinations.

**House Bill 285 by Representative Cravins (Act 477)** increases the penalties for certain railroad grade crossing violations for a first offense to a fine of not more than \$200 or imprisonment for not more than 30 days, or both. Additionally, a first offender must attend an Operation Lifesaver Course within 180 days after adjudication of the citation. The penalty for second and subsequent offenses is a fine of not more than \$500 or imprisonment for not more than 90 days, or both. Additionally, a second or subsequent offender must attend a one-day safe driver's course designed by Operation Lifesaver. Offenders who fail to timely attend a required safe driving course shall be subject to a 30-day driver's license suspension.

Under this bill, the Railroad Crossing Safety Fund is created as a special fund in the state treasury to be allocated and disbursed by the secretary of DOTD solely for improvement projects for public railroad crossings, including but not limited to improving surfaces of crossings, realignment of crossings, and installation of warning devices. The source of monies in the fund will be those monies derived from penalties imposed for railroad crossing violations, that is, \$25 of each fine imposed will be collected by the court and forwarded to the state treasury for deposit into the fund.

## **ROADS/HIGHWAYS**

Naming of roads. Among those instruments naming or requesting DOTD to name certain roads are:

**Senate Bill 143 by Senator Cain (Act 114)** designates a portion of LA 12 located within the city of DeQuincy as the Buddy Henagan Memorial Parkway, while **Senate Resolution 12 by Senator Barham (enrolled)** requests DOTD to dedicate Highway 80 as the Korean War Veterans Memorial Highway.

**House Bill 498 by Representative Kleckley (Act 180)** names a portion of Nelson Road Extension in Calcasieu Parish as the L'Auberge Boulevard, and **House Concurrent Resolution 56 by Representative Hill (enrolled)** requests DOTD to designate a portion of LA 10 in Oakdale as the "Dr. George B. Mowad Memorial Highway.

Miscellaneous. A memorial honoring Dr. Stephen Ambrose will be erected at the visitor center in Slidell on that part of I-10 designated as the Stephen E. Ambrose Memorial Parkway pursuant to **Senate Concurrent Resolution 16 by Senator Schedler (enrolled)**.

**House Bill 654 by Representative Montgomery (Act 256)** creates the Unclaimed Property Leverage Fund and authorizes securitization of unclaimed property revenues to provide funds for Interstate 49 North and South projects.

**House Concurrent Resolution 122 by Representative Kleckley (enrolled)** requests DOTD to select the re-routing of West Prien Lake Road, also known as LA 1138-2 in Lake Charles, as a design-build demonstration project in order to expedite construction and alleviate extreme traffic congestion in the area.

## **SPECIAL DISTRICTS**

**Senate Bill 278 by Senator Nevers (Act 307)** provides for the authority, composition, duties, functions and responsibilities of the Washington Parish Reservoir District. The measure also clarifies that the purpose of the district is to create, maintain, and operate a single reservoir in Washington Parish. The terms of office will change to terms of 4 years, following the initial 10-year terms. Additionally, the bill alters various functions and powers of the board.

New districts. The Lincoln Parish Reservoir Authority is created under **House Bill 123 by Representative Downs (Act 40)** to develop the wealth and natural resources of the authority by conserving soil and water for agricultural, recreational, commercial, industrial, and sanitary purposes. The authority shall create and maintain lakes and reservoirs and engage in economic development.

**House Bill 313 by Representative Hammett (Act 214)** creates the Lake St. John Recreation Water and Conservation District in Concordia Parish as a political subdivision of the state. Its purpose is for the preservation, promotion, and development of the wealth and natural resources of the district by the conservation of soil and water for agricultural, recreational, commercial, and sanitary purposes and by the regulation of aquatic plant growth.

**House Bill 387 by Representative Salter (Act 429)** grants authority to the board of commissioners of the Sabine River Authority to establish and maintain a law enforcement division to provide for the safety and security of the public and to protect the natural resources and the properties

and waters within the territory and under the jurisdiction or management of the board. A Senate amendment to the bill requires funding to be available for implementation. Further, **House Bill 595 by Representative Salter (Act 251)** clarifies the powers of the Sabine River Authority to enter into any and all contracts and agreements with any person, public or private entity, any government or governmental agency, including the United States, the state of Texas, the Sabine River Authority of Texas, the state of Louisiana, and agencies, bureaus, departments, and political subdivisions which contracts or agreements provide for the sale, conservation, storage, utilization, preservation, distribution, or consumption of the waters over which the authority has jurisdiction or legal control. However, any agreement for sale, utilization, distribution, or consumption of such water outside of the state is subject to written concurrence by the governor.

**House Bill 717 by Representative McDonald (Act 72)** creates the Bayou Desiard Lake Restoration Commission as a political subdivision of the state to restore the management and protection of the water in certain portions of Bayou Desiard Lake.

#### **SPECIAL PERMITS**

**Senate Bill 141 by Senator Romero (Act 330)** extends for two years to August 1, 2010, the authority to issue special permits to any owner or operator of a vehicle hauling sugarcane who has not added an additional single axle on the sugarcane trailer for a total of six axles for the vehicle and trailer combination.

#### **TRAFFIC**

**Senate Concurrent Resolution 11 by Senator Heitmeier (enrolled)** requests DOTD to install traffic controls or reduce the speed limit on LA 406 (Woodland Highway) in Belle Chasse.

**House Concurrent Resolution 65 by Representative Jack Smith (enrolled)** requests DOTD to install a traffic signal at the intersection of Railroad Avenue and US 90 in Patterson.

**House Concurrent Resolution 113 by Representative Pitre (enrolled)** requests the DOTD to grant permission to the Lafourche Parish governing authority to install and maintain, at parish expense, flashing red lights above stop signs at certain intersections along LA 3235 in Lafourche Parish.

**House Concurrent Resolution 145 by Representative Cazayoux (enrolled)** requests DOTD to erect stop signs along Bueche Road at its intersection with Section Road in West Baton Rouge Parish to create a four-way stop at this intersection.

#### **TRANSPORTATION/DEVELOPMENT DEPT**

**Senate Bill 102 by Senator Ellington (Act 122)** provides for the general re-creation of the Dept. of Transportation and Development and its statutory entities. July 1, 2011 is the new termination date, and termination will begin July 1, 2010, unless such entities are again re-created.

**Senate Bill 268 by Senator Smith (Act 137)**, relative to the logo signing program, requires the qualified third party or parties to pay DOTD a minimum of \$150,000 per year or 10% of the gross revenue, whichever is greater, for use of rights-of-way, which will ensure that selection of the qualified third party or parties is awarded by a competitive bid process to the highest responsible bidder pursuant to the procurement code.

## **TRANSPORTATION TRUST FUND**

**House Bill 592 by Representative Walsworth (Act 70)** reduces the time period for the attorney general to make the certification or determination from within 30 days of the effective date of the appropriation from the Transportation Trust Fund to seven days following final passage of any appropriation by both houses of the legislature.

## **NON-LEGISLATIVE ISSUES:**

### **EMERGENCY EVACUATION ROUTES**

On June 9<sup>th</sup>, officials from State Police and DOTD testified before the Senate Committee on Transportation on emergency evacuation routes. Major improvements in the hurricane evacuation routes and contraflow plan should prevent the traffic jams which occurred due to Hurricane Ivan last year and will improve traffic management associated with future hurricane evacuations and recovery. The plan will increase efficiency through loading points, alternate routes, traffic management, and signage. It was noted that although efficiency will increase, congestion is inevitable in an evacuation. So, educating the public on the contraflow/evacuation plan so they may have realistic expectations is the key.

State police gave a detailed account of the plan and escape routes in south Louisiana, and the DOTD official specified the types of high-tech signage which will be used to assist motorists, including erection of 30 variable message signs available for the 2005 season and 10 permanent dynamic message signs by the 2006 season. One million copies of the new "Louisiana Citizen Awareness & Disaster Evacuation Guide" have been printed. Also copies of the guide and evacuation information and maps may be downloaded from the following websites: [www.lsp.org](http://www.lsp.org) (State Police); [www.dotd.state.la.us](http://www.dotd.state.la.us) (DOTD); and [www.loep.state.la.us](http://www.loep.state.la.us) (Office of Emergency Preparedness).

An overview of the contraflow plan is as follows:

- DOTD and State Police will establish a traffic control center to be staffed on a 24/7 basis during an emergency, in which there will be increased aerial surveillance, ability to monitor and react to real-time traffic conditions, and the ability to communicate real-time information to the public through direct contact with news media and other gulf states.
- The existing plan consists of 8 lanes and 3 choke points, whereas the new plan will increase to eleven lanes and one choke point. Interstate 10 West contraflow will begin in Metairie and end in LaPlace. I-55 North and I-59 North contraflow will extend into Mississippi. For detailed evacuations of various areas of south Louisiana, see the Evacuation Guide as specified above.
- There will be phased evacuations during a threat of a hurricane, which will be based on the geographic location and time in which a tropical storm winds are forecasted to reach the affected areas:
  - < Phase I: 50 hours before onset of tropical storm winds. Includes areas south of the Intracoastal Waterway. These areas are outside any levee protection system and are vulnerable to Category I and 2 storms. The 24/7 command center will be activated and schools/public offices will be closed. There are no route restrictions.
  - < Phase II: 40 hours before onset of tropical storm winds. Includes areas south of the Mississippi River, including Westbank, which may be levee protected but remain vulnerable to Category 2 or higher storms. At this point, law enforcement will manage and control traffic at intersections. There are no route restrictions.
  - < Phase III: 30 hours before onset of tropical storm winds. Includes areas on the East Jefferson and Orleans parishes, which are within the levee protection system but remain vulnerable to a slow-moving Category 3 or any Category 4 or 5 storm. Certain routes will be directed and contraflow will be triggered.
  - < Phase IV: Discontinue contraflow and prepare for re-entry.
- **Alternate Routes.**

The new plan will better manage signals on the major routes (US 61, 90, 190 and LA 1). I-110, US 61 & US 190 can be managed to increase output to US 190 Bridge. There will be a major effort to distribute the new maps and guides that highlight alternate routes.
- **Signage.**

Thirty Variable Message Signs available for the 2005 season (cost is \$35,000 each) as follows: 10 at future sites of the permanent dynamic message signs; I-310 northbound at Airline, LA 3127 and I-10; I-310 southbound at Airline; I-510 northbound at I-10; I-110 at Airline (East Baton Rouge); I-10 westbound at LA 30 and LA 427; and 12 signs along US 61, US 90, US 167, US 190 and LA 1.

Ten Dynamic Message Signs by the 2006 season (cost if \$250,000 each) as follows: I-10 westbound at Causeway, US 61 in Ascension, I-59 and I-49; I-10 eastbound at I-12; I-12 westbound at I-55 and US 190 and Airline in EBR; I-55 northbound at I-12; and I-49 northbound at US 190.

- **Traffic Management Plan.**

Evacuations will be executed at the Troop level, with high state and local law enforcement visibility. Local coordination with city and parish stakeholders subject to state office of emergency preparedness plan. The evacuation plan will be customized to each storm. And, there will be communication with real-time information to the public through direct contact with news media, to the traffic control center, and to other gulf states.

Contraflow will not be used to Baton Rouge for several reasons. 1) It does not reduce time required to evacuate New Orleans – the chokepoint remains west of Kenner. 2) Contraflow cannot be loaded efficiently west of I-55. 3) Routing traffic north on I-55 and I-59 reduces I-10/I-12 chokepoint, which caused excess congestion during Hurricane Ivan. 4) It adversely impacts eastbound interstate commerce.

Summary of improvements:

- G West Contraflow: 1-lane crossover and 1-lane slip ramp, cost = \$475,000.
- G East Contraflow: 2-lane crossover, ramp widening, striping, cost = \$600,000.
- G Causeway & I-12/I-55: 2-lane crossover, ramp widening, cost = \$500,000.
- G ITS: 10-permanent dynamic message signs, 20-portable dynamic message signs, 30 traffic counters/detectors, 20 CCTV cameras, 5 highway advisory radios, systems integration/communication, cost = \$5.15 million.
- G Traffic control & operations: motorist assistance and tow trucks, signs, barriers, barricades & cones, cost = \$500,000.

**TOTAL COST = \$7.5 million**

## Wildlife & Fisheries

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### BOATS/BOATING

**Senate Bill 235 by Senator Ullo (Act 116)** provides that the Wildlife and Fisheries Department shall regulate the operation of vessels and motorboats upon the waters of the state. Proposed law retains present law and adds an exception that the governing authority of Jefferson Parish may regulate the operation of air boats within the parish, including requirements for commercial and recreational use, equipment, speed, inspection and fees.

### FEES/LICENSES/PERMITS

**House Bill 238 by Representative St. Germain (Act 206)** provides that 50% of the fees collected from the sale of lifetime hunting and fishing licenses be deposited into the Conservation Fund and \$5 from each senior combination lifetime license with the remainder of the revenues being deposited into the Lifetime License Endowment Fund. Authorizes the state treasurer to invest the principal and the undistributed return on the principal for the purpose of achieving perpetual financing of the fund.

### FISH/FISHING

**House Bill 119 by Representative Romero (involuntarily deferred House Natural Resources)** would have provided that a fishing license would expire one year from the date of issue.

**House Bill 127 by Representatives Frith, Baldone and Senator Romero (Act 42)** creates the crime of theft of crawfish and provides for penalties.

**House Bill 245 by Representative Powell (Act 172)** increases fees for commercial and recreational crab traps and dedicates the increased revenues to the crab trap removal program and to the Seafood Promotion and Marketing Board for additional marketing of Louisiana crabs.

**House Bill 535 by Representative Triche (House Calender)** authorizes the issuance of a commercial crab trap gear license to a person who reported crab trap ticket sales of 10,000 or more pounds during 2002, 2003 or 2004. Present law authorizes the issuance of a crab trap license to anyone who held such a license prior to November 15, 2004.

**House Bill 587 by Representative Odinet (Act 438)** authorizes the use of devices to protect oysters from predation on oyster leases. Provides for application fees and permit costs. The materials for



the device may not be made of monofilament or multifilament and limits the openings on the device.

**Senate Resolution 137 by Senator Boasso (enrolled) and House Concurrent Resolution 174 by Representative Odinet (enrolled)** urge and request the U.S. Department of Commerce not to place the eastern oyster under the Endangered Species Act.

## **HUNTERS/HUNTING**

**House Concurrent Resolution 100 by Representative Baldone (enrolled)** urges and requests the Waterfowl Study Commission to examine the issue of hunting pen-raised waterfowl south of I-10.

**House Concurrent Resolution 101 by Representative Thompson (enrolled)** urges the Department of Wildlife and Fisheries to sponsor a pilot program for the breeding and release of waterfowl.

**House Bill 200 by Representative Jack Smith (Senate Natural Resources Committee)** would have prohibited hunting on private property without the authorization of the property owner.

**House Bill 283 by Representative Kinney (Withdrawn)** would have required the Wildlife and Fisheries Commission to permit hunting wildlife refuges two days a week during hunting season.

**House Bill 701 by Representative Baudoin (Act 259)** prohibits the construction of a permanent deer stand on any state land, except those regulated by the Wildlife and Fisheries Commission and provides for penalties.

**House Concurrent Resolution 95 by Representative St. Germain (Senate Natural Resources Committee)** directs the Wildlife and Fisheries Commission to return the regulations for deer hunting with dogs in Area 6 to the same provisions implemented in the 2004 - 2005 deer hunting season and to develop a compromise plan on the issue of deer hunting with dogs for the 2006 season.

## **WATER/WATERWAYS**

**House Bill 477 by Representative Dove (Act 184)** provides that no game or fish commission or political subdivision may regulate the movement, position or mooring of any commercial industrial vessel on navigable waterways within its jurisdiction.

## Women & Children

*by: Bobbie Hunter  
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**Senate Resolution 108 by Senator Fields (Labor & Industrial Relations Committee)** would have requested full compliance with equal employment opportunity laws. Full and active employment is the right of every American citizen who desires to create a productive way of life, free from discrimination and other barriers that would inhibit the right to a just wage. Title VII of the Civil Rights Act of 1964, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment on the basis of race, color, religion, sex, or national origin.

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies, and labor organizations are protected under laws mandating equal employment opportunity for all American citizens, and the various federal statutes also apply to employers holding federal contracts or subcontracts, and prohibits job discrimination on the basis of race, color, religion, sex, or national origin.

The various federal statutes also protect qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability, and require covered entities to provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship; and

The Equal Pay Act of 1963 prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment, and with regard to programs and activities receiving federal financial assistance, federal laws prohibit employment discrimination on the basis of race, color, or national origin in programs or activities that receive federal financial assistance, as well as employment discrimination on the basis of disability. These federal laws prohibit retaliation against any person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice.

**Senate Resolution 64 by Senator Broome (enrolled)** recognizes the importance of promoting women's health and well being in Louisiana, and to designate May 5, 2005, as "Go Red for Mothers and Women Day" in honor of all women, in Louisiana that have been touched by heart disease or stroke. Cardiovascular disease is the leading cause of death for women in Louisiana, accounting for 7,929 of all female deaths in the state, and more women die from cardiovascular disease in Louisiana each year. There are more cardiovascular disease deaths in females than males both nationwide and in Louisiana, and cardiovascular diseases claim the lives of over 500,000 women annually in the United States and strokes claim the lives of over 100,000 women.

Additionally, one in three women die of heart disease, and one in five women has some form of heart or blood vessel disease and only about a third of women know that heart disease is the leading cause of death for women. Statistics show that women over age fifty-five are at a higher risk for high blood pressure than men, and that all women should ask their doctor about their risk for heart disease and stroke.

**Senate Concurrent Resolution 19 by Senator Bajoie (enrolled)** urges and requests the office of public health, Department of Health and Hospitals to study the possibility of including fresh fruits, vegetables, and cut herbs purchased from any authorized WIC provider, as approved items to be purchased with WIC coupons.

National studies have revealed that fresh fruits and vegetables are a critical component of a healthy diet currently, there are few WIC pilot programs in Louisiana which allow the purchase of fresh fruits, vegetables, and cut herbs from authorized Farmer's Markets. Providing easier access to fresh fruits, vegetables, and cut herbs is within the scope of the purpose of the Women, Infant and Children's Program.

**House Concurrent Resolution 170 by Representative Gray (enrolled)** requests the House Committee on Labor and Industrial Relations and the Senate Committee on Labor and Industrial Relations to meet and function as a joint committee to study domestic abuse, its effect in the workplace, and to submit a report of its findings and recommendations to the governor and the legislature prior to the 2006 Regular Session of the Legislature.

It is estimated that each year approximately nine hundred thirty-seven thousand women are victims of violent crimes committed at the hands of husbands, ex-husbands, and current and former boyfriends. Studies show that domestic violence has a particular impact on job performance because batterers commonly harass their partners at work through means such as stalking and telephone harassment.

Batterers sabotage victims' ability to work in other ways by failing to provide child care, stealing car keys or money, hiding clothing, or inflicting visible injuries, and many victims are unable to escape their abusive circumstances because they cannot afford to leave their employment.

The Bureau of National Affairs estimates that domestic violence costs employers at least three to five billion dollars a year in lost days of work and reduced productivity, and studies show that fifty to eighty-five percent of abused women missed work because of abuse; over sixty percent reported arriving late due to abuse.

## Issue by Issue

by: *Brenda Hodge*  
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### Overview

At the 2005 Regular Session of the Louisiana Legislature, legislators plunged into untested waters, implementing for the first time a new way to handle a so-called “fiscal only” legislative session. Beyond the specific spending and tax issues considered at a “fiscal only” session, this year legislators also were allowed to introduce five measures dealing with general matters.

The result was over 1200 bills introduced for consideration at the regular session. The measures dealt with a wide range of subjects including not only state spending priorities and tax incentives to spur economic development but also living wills, public safety issues, highway safety matters, restitution for the wrongly convicted, assistance for those Louisianians serving in the military and their families, state retirement reforms and more. However as the work of the 2005 regular session drew to a close, the focus was still on the big money issues and how best to use taxpayer dollars to provide needed state services and to build the foundation to move Louisiana and its communities forward.

### State Operating Budget

After much concern about the ability of the state to develop a budget plan with anticipated state revenue collections that would allow the state to continue vital state health care and education programs, legislators finally adopted an operating budget totaling about \$18.7 billion that avoids drastic cuts in such programs.

The 05-06 budget is about 5% above the prior budget year with about one-half of the \$864.6 million increase in state general fund dollars. Federal funds account for \$244.2 million of the increased dollars.

While the state is collecting more revenue than projected a few months ago, most of the increase is due to the skyrocketing oil and gas prices and the resulting increase in state mineral revenues. By law, the state can use no more than \$850 million in mineral revenues in any one year’s operating budget. We have exceeded that amount in mineral revenue collections in the 04-05 fiscal year and are forecasted to exceed that amount in the coming year. Excess mineral revenue collections are earmarked for the Budget Stabilization or Rainy Day Fund. The balance in that fund is expected to exceed \$650 million in the 05-06 budget year, almost triple the balance just a year and a half ago.

### State Construction Budget

The capital outlay budget, which includes both bond financed and cash financed projects, outlines

state plans for infrastructure improvements across the state. While the budget is adopted each year, the construction program actually spans multiple years as projects move from design and planning to completion and as projects move from lower priority to higher priority in the budget plan.

- C 2005-06 state construction budget totals over \$4 billion in proposed bond sales and cash with the cash mostly from federal funds.
- C Most of the bond financed projects that will actually receive funding in the coming fiscal year are projects already underway.
- C In an effort to reduce long term state debt, the amount of state construction bonds the state can sell each year is limited by the state constitution. In recent years, legislators have self-imposed an even lower limit than constitutionally required. With that in mind and considering the state obligation to continue to finance projects already underway, the state expects to have about \$80.2 million in bond financing available to begin new projects.

#### Education Dollars

Lawmakers continued to support Louisiana's school and student accountability program as well as the highly successful pre-k program that provides early learning experiences for the state's at risk 4 year olds. Funding for the pre-k program is enhanced with \$20 million in additional funding to extend the program to an additional 4,000 at risk students with 48 of the state's 68 public school systems expected to participate in the program in the coming year.

Beyond the program financing, the major education funding question at the 2005 regular session was how best to address funding problems in the public school systems across the state and how to give classroom teachers a meaningful pay raise. While no agreement was reached on a dedicated source of revenue to fund a \$3300 pay raise for teachers over the next two years, legislators did reach agreement on the Minimum Foundation Program (MFP) that includes a pay raise for some teachers and a plan to give all teachers at least \$530 dollars extra in the coming year.

- C MFP -
  - C Totals \$2.68 billion dollars which provides full funding under the formula used to provide state aid to local school systems.
  - C Includes \$51 million increase over last year's program.
  - C One-half of the increased funding goes to teacher pay raises.
  - C Not all school systems qualify for the extra teacher pay dollars.
  - C While the average raise is \$530 a year, teachers in 14 school systems will get nothing under the MFP while others will get as much as \$1791 more.
- C Teacher Bonus Plan - Concerned about the inequitable pay raise situation in the MFP, the Senate decided to set aside some \$12.5 million from the supplemental budget for this fiscal year that had been earmarked to make additional payments on state retirement systems' debt for a teacher bonus. The money will be used to make sure that all teachers get at least the average pay raise - \$530 - outlined in the MFP for the coming year. This will be a one time bonus unless the extra

money is included in the MFP next year or legislators otherwise re-appropriate the money for the bonus.

- C School System Finances -
  - C \$20 million is set aside in the supplemental budget to assist local school systems with rising retirement and health care costs.
  - C SB 307 - Allows for the appointment of a fiscal manager if a school system is determined to be “financially at risk”.
- C Contract Bus Drivers’ Assistance (HB 634) - Increases the current gasoline and special fuels tax refund provided to contract school bus drivers from one-half of the taxes paid to three-fourths of the taxes paid.

#### Economic Development/Tax Incentives

- C Rapid Response Fund (HB 460) - Sets up a rapid response fund in the Department of Economic Development to fund workforce training and needed capital improvements necessary to retain current businesses or attract new ones. The funds are allocated with the approval of the secretary of the department and the governor. The proposed state budget allocates \$10 million to the fund.
- C Major Projects Development Authority (HB 462) - Lowers the minimum investment required to receive site selection assistance from the authority from \$300 million to \$100 million. Also allows the authority to assist in the development of proposed projects in an adjoining state under certain circumstances as long as the assistance provided does not exceed the expected economic benefit to Louisiana.
- C New Orleans Biosciences Development District (HB 742) - Creates a special district in New Orleans to foster the development of the biosciences industries. The effort involves the LSU Health Sciences Center, Tulane, Xavier, Delgado and private entities. The district could seek property tax increases with a vote of citizens to support the district’s efforts.
- C Angel Investor Tax Credit (HB 627) - Provides income and corporate franchise tax credits for investments of \$50,000 to \$1 million in Louisiana-based entrepreneurial businesses to provide much needed financing for start-up, high risk ventures. The credits amount to 50% of the amount of the investment applied evenly over five years. No more than \$5 million of such credits may be granted in any one year. The program sunsets at the end of the 2009 tax year.
- C Research and Development Tax Credits (HB 684) - Reforms existing tax credit program to fully implement the phased-in credit program, increase the percentage of investment available for the tax credit depending on the amount of the investment and expands the credits available to investors receiving Small Business Innovation Research grants. The new rules apply for income tax credits in the 2005 tax year and to corporate franchise tax credits in the 2006 tax year.
- C Louisiana Headquarters and Growth Act (HB 679) - Beginning in the 2006 tax year, the act changes how multi-state businesses with headquarters in Louisiana are taxed to encourage corporations to locate headquarters in Louisiana and to remain in the state. Under the new law dividend and interest income will be exempt from the corporate income tax.
- C Tax Equalization and Industry Assistance Programs (HB 795) - Includes existing businesses and

- industries contemplating relocating to another state in the Tax Equalization Program so that the state can “meet” the offers and tax breaks being offered the existing business to move out of state. Allows two five year extensions on tax reduction contracts for certain existing contracts. Businesses investing in modernization of facilities will be eligible for the assistance program.
- C Motion Picture Tax Credit (HB 731) - Reforms the existing tax program in an effort to encourage more direct investment in Louisiana goods, services and employees. Ties the various tax exemptions and tax credits to Louisiana based payroll and purchases. Sets the available tax credit for certified Louisiana investments at 25% for investments made after January 1, 2006 with a declining tax credit available over the next two years to 15%. Allows the credits to be redeemed directly from the state at a rate of 72% to 80%.
- C Digital Interactive Media Production Tax Credit Program (SB 341) - Creates a tax credit program for state certified digital interactive productions, i.e. video games, animation projects, etc. Provides tax credits totaling 10 - 15% depending on the amount of the investment. No more than \$5 million in credits may be granted each year. The credits can be carried forward for 10 years, transferred or sold. The program expires in January, 2010.
- C Sound Recording Investor Tax Credits (HB 631) - This is a two year program beginning in the 2006 tax year that provides refundable state income tax credits for investment in state certified sound recording productions and/or infrastructure projects. No more than \$5 million worth of credits may be granted in a year. The amount of the credit depends on the amount of the investment.
- C Community Development Entities (HB 356) - Reforms existing program that provides state income and franchise tax credits to investors in Community Development Entities by removing the limitations on investments in loan programs and the prohibition against investments that are secured by a governmental entity. The tax credit program is extended through August 2013.
- C LA Initiative for Small Business Entrepreneurship (HB 628) - To encourage the state to conduct its procurement and other contracting business with Louisiana small businesses, the commissioner of administration will be required to establish a system to certify such small businesses and to establish annual goals for participation.
- C LA Community Development Financial Institution Act (HB 786) - Provides income and franchise tax credits totaling 75% of the amount of the investment for specially certified financial institutions that provide financial assistance and make investments in low income communities. The tax credits are capped at \$5 million annually. Program is designed for smaller companies that make investments in areas of the state with pockets of poverty.
- C Urban Revitalization Zones (HB 862) - Requires the Department of Economic Development to designate Urban Revitalization Zones in eligible parishes (the 16 largest parishes). Provides for qualifying local governments to enter into contracts with investors in such zones for corporate franchise tax exemptions and employee tax credits. Participating local governments must agree to increased police protection in the designated zones and participating businesses must meet Louisiana hiring requirements.
- C LA Broadband Infrastructure and Information Technology Fund (HB 531) - Creates a fund to

accept donations, grants and other contributions to support efforts proposed by the Louisiana Broadband Advisory Council. The Council is charged with developing a statewide plan to encourage cost-effective broadband access, with a particular focus on rural and underserved areas.

- C Historic Structures Rehabilitation Tax Credits (HB 420) - Expands existing corporate income and franchise tax credit program for rehabilitation of historic structures in downtown development districts to provide for similar tax credits for individuals investing in rehabilitation of owner occupied residential structures located in historic districts. The tax credit is limited to \$25,000 with a minimum investment of \$20,000 in the rehabilitation. The amount of the tax credit is dependent on the taxpayer's income. The tax credit program expires December 31, 2009.
- C Inactive Wells Severance Tax Exemption (HB 835) - Extends the current tax exemption on inactive wells returned to service so that the severance tax break is available through June 30, 2010.
- C Louisiana Royalty Relief Dry Hole Credit Program (SB 182) - Provides a credit against royalties for vertically deep dry hole wells started after June 30, 2005 on state owned lands or water bottoms in the coastal area. To qualify the wells must be of at least 20,000 feet vertical depth. The credits apply to a maximum of 20 such wells through June 30, 2009.
- C Business Machinery and Equipment Sales Tax (HB 128) - Clarifies the existing law that phases out the state sales tax on business equipment and machinery to ensure that agricultural equipment, logging equipment and industrial manufacturing equipment used to generate electrical power for a company's own use is included in the phase out.
- C Rubber Manufacturing Industry Tax Credit (SB246) - Provides \$5,000 income or franchise tax credit over a ten year period for each new job created in a qualified rubber manufacturing industry. The program expires the end of June 2010.

#### Property Taxes

After the property tax and assessment reforms were approved by the legislature last year with an eye to requiring fair and equitable assessments across the state, this session legislators attempted to continue to provide assessors and the Louisiana Tax Commission with the necessary tools to continue to promote professionalism and fairness in the application of property taxes across the state. After years of problems with assessments or no reliable reassessments in some parts of the state, many taxpayers did experience a big jump in their property assessments. Such spikes should not occur again. Legislators however want to make sure that all taxpayers have easy access to reliable information about their assessments as well as any plans by local government authorities to roll forward millage rates to take advantage of the increased assessments. Legislators have been reluctant to approve measures that would tie the hands of local governments to respond to their constituents' individual needs or otherwise interfere with the professional operation of assessor offices or the oversight provided by the Louisiana Tax Commission.

Property tax issues include:



- C Public Notification of Millage Increases (SB 108) - Expands current public notification laws to require any taxing authority planning to roll forward millage rates without an additional vote of the people to publish a notice of such intent no later than July 15<sup>th</sup> of each year. The notice must be published twice in the official journal or other large circulation publication. The notice must be in bold face type in a bold box at least two inches by four inches. The taxing authority must also issue news releases regarding plans to increase millages and to otherwise provide information to the public regarding such plans.
- C Public Notification of Assessment Increases (SB 96) - Contains similar notice requirements as required in SB 108 and also requires individual notices to taxpayers by July 15<sup>th</sup> of each year that property is reassessed and the assessment increases by 15% or more above the previous assessment. The new notification rules take effect beginning with the 2006 tax year.
- C Property Assessments Data Base/Public Access (SB 316) - Requires all assessors to post property assessments on the Internet for review by the public unless they have never participated in the data base program and request an exemption from the Louisiana Tax Commission by November 15<sup>th</sup> of the tax year. Once an assessor has participated, they may not be exempted. All but 17 parishes participated in the database pilot program last year.
- C Assessment Freeze for Disabled (SB 89) - Proposed change in the state constitution to extend the current freeze on home property assessments granted to senior citizens on limited incomes to Louisiana citizens who are at least 50% disabled.
- C Tax on Consigned Art (SB 200) - Proposed change in the state constitution which voters would consider in the November 2006 statewide election that would exempt all artwork listed as consignment articles by an art dealer from property taxes.

#### Other Tax Issues

- C Senior Citizens' Income Tax Break (SCR 62) - Directs the Department of Revenue to accept amended income tax returns from citizens 65 years of age or older who filed joint returns from 2002 to 2004 and were not allowed to claim the full \$12,000 retirement income state tax exemption. Starting in 2002, the revenue department limited the amount of retirement income that couples could exempt from state taxes to \$6,000 per person actually receiving the income rather than \$12,000 per couple whether both were receiving retirement income or not. The state will refund any overpayment to eligible senior citizens over three years.
- C Sales Tax Exemptions for Certain Groups and Operations -
  - C HB 90 - Exempts the sale of speciality items to members of non-profit carnival organizations for fund-raising purchases from state and local sales taxes.
  - C HB 639 - Extends the current state and local sales and hotel occupancy tax exemption granted to camps and retreat facilities operated by religious non-profit organizations to *all* federally recognized non-profit operations.
  - C SB 131 - Exempts the purchase of toys by non-profit organizations from state and local sales taxes when the toys are purchased for donation.

- C HB 832 - Exempts purchases by non-profit organizations that sell donated goods and spend at least 75% of their revenues on employing or training disabled citizens from state sales taxes.
- C HB 807 - Exempts the Zephyrs Triple A professional baseball franchise in Jefferson Parish from most state and local taxes.
- C SB 26 - Provides an individual income tax credit of up to \$10,000 for certain expenses associated with living organ donations.

### Health & Hospitals/Insurance

A major issue at the regular legislative session, both from a fiscal standpoint and a policy standpoint, was state health care programs and how best to address the needs of the one fourth of Louisiana's population that is uninsured.

- C Hospital Provider Tax (HB 887) - The 1.5% tax on net patient revenues collected by the state's acute care private hospitals was key to addressing funding problems in health care programs. The tax will raise about \$87 million in state revenue that will generate some \$203 million in federal matching funds. The money will go into the Louisiana Healthcare Affordability Trust Fund. Participating hospitals who provide Medicaid services will get back their tax investment via higher Medicaid reimbursement rates and payments for treating the uninsured. The remainder of the money plus additional funds gained by certifying certain expenses incurred by the hospitals will go to fund other health care programs. The hospitals are prohibited from passing on the cost of the tax, which expires in 2009, to consumers. The tax and financing plan must be approved by the federal government.
- C Health Care & Health Insurance for the Uninsured (SB 270) - The state will also seek federal government approval of a plan to establish a special pool of money from federal funds received by Louisiana for treatment of the uninsured known as uncompensated care payments. The pool will be used to fund uncompensated care payments to certain hospitals, expand medical care for the uninsured and those eligible for Medicaid and provide health insurance coverage for uninsured families whose incomes are less than 200% above the federal poverty level. For a family of four that translates into \$37,000 annual income.
- C Nursing Homes/Assisted Living Initiatives (SB 272) - Provides an incentive for nursing homes to diversify into home and community based care by allowing the conversion of unused nursing home beds into apartment-like facilities with medical care near by. Currently about one-fourth of the nursing home beds are empty, but the state Medicaid program continues to pay for the empty beds with no incentive for the nursing homes to fill the beds or otherwise use the space. DHH will develop a program to make the new assisted living accommodations eligible for Medicaid financing.
- C Diversification of Long Term Care System (HB 528) - In an effort to better manage and coordinate long term care services for the elderly and disabled, this measure transfers the licensing of personal care attendants, respite care, supervised independent living, adult day care and family support services from DSS to DHH.

- C Developmentally Disabled Services Reform (SB 190) - Overhauls Louisiana laws relating to providing services to the developmentally disabled. Creates a single point of entry for services and establishes a bill of rights for developmentally disabled citizens.
- C Home Health Care Service (HB 697) - Authorizes home health care attendants after proper certification and training to administer certain medications and nutrients to low income elderly and disabled citizens opting for home care rather than institutional care.
- C Medicaid Pharmacy Drug Program Cost Containment Program (HB 369) - In an effort to continue to hold down the rising costs of the program that provides prescription drugs to the needy and elderly in the Medicaid program, legislators agreed to include certain AIDS, hepatitis C and mental health drugs on the preferred drug list. Patients wishing to obtain drugs not on the preferred list must seek a special exemption and prior approval. Initiated three years ago, the preferred drug list saved taxpayers some \$63 million this year.
- C Rural Hospital Support (SB 104) - Encourages the development of physician based industries to support rural hospitals by allowing such businesses to benefit from the tax incentives offered under the state's Quality Jobs Program.
- C Pain Clinics (HB 749) - Concerned about the number of pain clinics starting up operations in Louisiana and problems with illegal drug activities at the clinics, legislators approved this measure requiring DHH to establish a process for licensing and oversight of such clinics.
- C Living Wills (HB 675) - Changes state law on living wills to allow an individual to include in the will a declaration on the use of a feeding tube to sustain his or her life. Also prohibits a spouse who is legally separated from the patient or who has been convicted of a crime of violence against the patient from making decisions on life sustaining procedure. All existing living wills in the state are still valid. If there is no living will, a determination of a patient's wishes will be determined first by a qualified spouse with the decision next up to the children, parents and siblings in that order.
- C Cancer Screening Insurance Coverage (HB 36) - Requires insurance policies issued on or after January 1, 2006 to provide coverage of routine colorectal cancer screening tests.
- C LaCHIP & Group Health Plans (HB 203) - Requires group health plans to offer special enrollment periods for dependents who were previously enrolled in LaCHIP.
- C Health Insurance Tax Credits for Public Works Contractors (SB 351) - Grants tax credits to public works contractors who offer health insurance coverage to at least 85% of their employees and pay at least 75% of the cost of the employee's insurance premiums and at least 50% of the cost of the employee's dependents' insurance premiums. The tax credits are limited to \$3 million a year.

#### Children & Family Issues

- C Child Protection and Abuse Prevention Proposals
  - C SB 161 - Ends the state practice of the voluntary placement of a child at risk or endangered with a relative. Requires a court order for the removal and placement of a child with a "suitable" individual. The court must also issue a safety plan for the child and require the caretaker to provide evidence of a suitable environment for the child. Also increases

- the fines and penalties levied against a caretaker for violating the safety plan.
- C SB 160 - Provides for the public disclosure of limited summary information in the case record of DSS clients when there is a child fatality or near fatality when abuse or neglect is a contributing factor. Allows for the release of such information to clarify or correct information released by others.
  - C HB 644 - Repeals law that required DSS to destroy records and files relating to a child abuse investigation after three years if the reported abuse is false or unjustified. This is an effort to make sure that investigators have access to reports of prior abuse over time.
  - C SB 92 - Refocuses the stated legal purpose of the Office of Community Services in DSS to include prevention services to support child abuse prevention as well as family strengthening and support services.
  - C SB 243 - Adds to the definition of child neglect to include prenatal exposure to illegal drugs that affects the health or condition of a newborn.
  - C Foster Children Support (HB 341) - Authorizes the Office of Community Services to provide vocational counseling and testing to foster care children to better prepare them for leaving the foster care system and becoming self-supporting.

#### Education Issues

- C LA High School Redesign Commission (HB 434) - Places in state law the existing commission that has been developing statewide policies and programs to address the current and future economic needs of the state and to promote student success in high school and post secondary educational pursuits. In the 01-02 school year, more than 15,000 students dropped out of high school. The commission has been focusing on better preparing students for college and developing job training and career alternative curriculums for schools. The commission is composed of educators, legislators, business officials, representatives of labor organizations and concerned citizen groups.
- C Qualified Teachers Incentive Program (SB 264) - Establishes a program to provide financial incentives including home loan and loan closing assistance to certified teachers who agree to work in disadvantaged areas of the state. Disadvantaged areas include the Delta Region, Florida Parishes region, East Coast parishes region and North-Central parishes region. BESE will develop the details of the program. \*\*\*There is currently no money set aside for the program.
- C Teach LA First Program Reforms (SB 144) - Expands the program that provides incentives to certified core subject teachers who teach in failing schools and certain rural schools to include those teachers willing to work in all low performing schools.
- C Alternative Testing Programs (SB 214) - Requires state education officials to develop and implement alternative testing methods for students with a certified diagnosed condition that affects learning or test performance.
- C Healthy Choices in Schools (SB 146) - Requires at least 50% of the beverages and snacks offered to students in school vending machines be "healthy" choices. High calorie pastries are banned from the machines. BESE will develop rules for implementation of the program beginning with the 05-06 school year. One in three children in Louisiana are considered overweight.

- C Community & Technical College System -
  - C SB 84 - Phases in a requirement that no less than 6 of the 15 members of the Board of Supervisors of Community and Technical Colleges have significant experience in vocational education.
  - C HB 505 - Requires the development of a plan for the organization of a technical division within the Louisiana Community and Technical College System. Requires the technical division be operational no later than March 15, 2006.
- C TOPS Tech Early Start Program (SB 355) - The state program that provides at least free tuition to qualified students now provides over \$120 million worth of assistance to over 40,000 students. This proposed change in the program will allow high school juniors and seniors to get TOPS assistance to enroll in community and technical colleges for credit towards high school graduation and job certification. A student must earn at least a 15 on the ACT and maintain a GPA of at least 2.0 . A student taking advantage of the early start program would still be eligible for the four year TOPS award.

#### Public Safety Issues

- C Illegal Drugs/Drug Abuse -
  - C SB 24 - In an effort to tackle the growing problem of “meth” abuse, this measure restricts the purchase of key ingredients used to manufacture the drug. Consumers will not be able to purchase more than three packages or 9 grams of a products containing ephedrine, pseudoephedrine or phenylpropanolamine in a 30 day period unless the product is in gel capsule form. Retailers must monitor purchases by requiring consumers to sign a purchase log and show a photo id when making the purchase or placing products in a shelf location viewable by video surveillance and monitored by store personnel at all times. The measure also requires ammonia dealers to inspect tanks and receptacles and criminalizes the use of anhydrous ammonia to make “meth”.
  - C SB 226 - Increases the penalties relative to the manufacture, possession or distribution of oxycontin to require that any prison sentence and/or fine be served without the benefit of probation, parole or suspension of the sentence. A criminal convicted of soliciting a minor to distribute or attempt to distribute the drug will face 10 to 30 years in prison.
  - C HB 20 - Creates the crime of unlawful production, manufacture, distribution, or possession of a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant. The measure does not apply to possession of such plants for aesthetic or landscaping purposes.
  - C HB 544 - Doctors intentionally assisting people in obtaining controlled drugs will face a five year prison sentence and up to \$5,000 in fines.
- C Child Abuse/Sexual Abuse
  - C HB 17 - Increases 10-year prescription for reporting sex crimes to 30 years. Prescription starts at victim’s 18<sup>th</sup> birthday.
  - C HB 56 - Criminalizes human trafficking (intentionally recruiting, harboring, transporting,

- another person through fraud, force or coercion to provide services or labor).
- C HB 547 - Creates the crime of computer-aided solicitation of a minor, defined as someone 18+ knowingly electronically communicating with someone under 18, trying to initiate sexual contact.
  - C HB 178 - Adds part time and temporary school employees to the list of people who can't be hired to work in schools if they're convicted felons. Also applies to employees who work in schools but not around children.
  - C SB 318 - This measure makes it a crime to give false information which results in the activation of an Amber Alert and directs public safety officials and social services officials to come up with a pre-Amber Alert Action Plan to educate parents and children about abduction. Implementation of the program depends upon available funding. Also applies existing state law that prohibits sex offenders from hanging around or living near schools, playgrounds, day care centers and other places where children congregate to sex offenders placed on probation or parole prior to August 15, 2004.
  - C SB 272 - An amendment added to this measure directs the state health department to develop policies and procedures requiring nursing homes and group homes for the mentally disabled to notify prospective residents about sex offenders living on the premises.
  - C HB 5 - Increases penalties for leaving children unattended in cars from up to \$25 to up to \$500 and jail time ranging from one month to two years and/or \$1,000 to \$2,000 in fines.
  - C "State of Emergency" Crimes -
    - C HB 272 - Looting during a period of a parish or state declared state of emergency now carries a fine between \$5,000 and \$10,000 and possible jail time ranging from three to fifteen years without the benefit of parole, probation or suspension.
    - C SB 162 - Prohibits price gouging during the time of a named tropical storm or hurricane that is threatening the Gulf of Mexico.

#### Highway Safety Issues

- C DWI/Underage Drinking -
  - C HB 101 - Permits suspension of one's driver's license for 180 days for minors caught trying to buy alcohol, and for adults caught buying alcohol for minors.
  - C SB 157 - Removes requirement that a judge must suspend a large portion of the jail sentence for certain repeat DWI offenders and order substance abuse treatment. For 3<sup>rd</sup> and 4<sup>th</sup> offense, the judge now has the *option* of suspending a portion of the jail time.
  - C HB 692 - Requires the installation of ignition interlock devices in vehicles driven by people released on bail who were convicted of: DWI (2<sup>nd</sup> and subsequent), underage DWI, vehicular homicide, vehicular negligent injuring.
- C Railroad Crossing Safety -
  - C SB 353 - Requires DOTD to study and prioritize a RR crossing improvement, relocation or closure plan. Allows the department to undertake such improvements, even on non-state roads. Requires notices and opportunity for public comment on any targeted

crossing. Local governments won't have to pay if crossing is deemed dangerous enough to be closed.

- C HB 285 - Creates the Railroad Crossing Safety Fund. Twenty-five dollars of each fine levied on RR crossing safety violators will be deposited into the fund. A first offense violation will carry a \$200 fine. DOTD will use the Fund monies to upgrade crossings on a priority basis.
- C Seat Belts/Motorcycle Helmet Requirements (HB 509) - Prohibits seat belt and helmet law violations from appearing on a motorist's official driving record for insurance purposes.

#### Corrections/Juvenile Justice Issues

- C Indigent Defense Reform (SB 323) - As a result of the work of the Louisiana Indigent Defense Task Force, this measure increases the membership on the state's Indigent Defense Board to broaden and diversify interests on the board. The board's operation is refocused to move away from a money distribution board to a management board reviewing case loads and expenditures of the 41 different public defender offices. The measure also defines an indigent defendant and sets a standard \$35 court fee except in those towns with fewer than 5,000 people. Eight out of every 10 defendants in Louisiana require public defender assistance. The Louisiana State Supreme Court recently ruled that the underfunding of the public defender system in Louisiana is depriving certain defendants of their constitutional right to adequate counsel. This measure is the first small step in a continuing effort to address that problem.
- C Innocence Compensation Fund (HB 663) - This fund will pay those wrongfully incarcerated in Louisiana and found to be factually innocent. Beginning September, 2005, ex-prisoners may apply to receive up to \$15,000 a year for a total maximum payment of \$150,000 from the fund. All applications must go through a review process before any financial awards are approved. The measure also provides job training skills, medical and counseling expenses and tuition assistance to the ex-prisoners. Louisiana joins 21 other states and the federal government that provide some kind of meaningful compensation to the wrongfully imprisoned.
- C Inter-Agency Efforts to Promote Juvenile Justice Reform (HB 880) - In order to reform and restructure the juvenile justice system and to improve the availability and quality of programs and services available to juveniles and their families, this measure requires the development of a procedure for the exchange of information among various state agencies and the integration of appropriate data regarding children and families. The system must be in place by January of next year.
- C Employment of Non-Violent First Offenders (SB 61) - Extends the current corporate income tax credit provided those businesses that hire non-violent first offenders under the age of 25 to include the hiring of *all* non-violent first offenders regardless of age. The \$200 credit per hire will also be available to individuals with this change in the law.

#### Government Operations/Elections

- C State Vehicle Purchases (SB44) - Requires statewide elected officials except the governor and

- lieutenant governor to submit a request to the Joint Legislative Committee on the Budget prior to the purchase of any luxury or full size vehicle for their personal use.
- C Collection of Debts Owed the State & Local Governments (HB 562) - Expands the authority of the attorney general to collect debts when requested by the state or local governments. Allows the AG to keep 25% of the funds collected under the program to enhance debt collection efforts.
  - C State & Political Subdivision Liability Limit (SB 258) - Limits the liability of the state and political subdivisions in injury and death lawsuits to \$500,000 in general damages, regardless of the number of plaintiffs. This measure clarifies existing state law in response to a 2004 state court ruling that viewed the \$500,000 limit on damages as a limit per plaintiff.
  - C State Resources Accountability Act (SB 132) - Requires notice and disclosure to the Joint Legislative Committee on the Budget within 30 days prior to the execution of any cooperative endeavor totaling \$1 million or more. Requires reports to the committee on cooperative endeavor agreements between the state and non-public entities and on litigation settlements.
  - C Outdated Boards & Commissions (HB 386) - Eliminates various boards and commissions created by state law that are no longer active.
  - C Election Changes -
    - C HB 336 - Changes absentee voting to "early voting" and allows any qualified voter to vote prior to election date without an excuse.
    - C SB 53 - Changes the dates for Louisiana congressional elections to eliminate the December general election which has placed Louisiana congressional members at a seniority disadvantage. Moves the primary election to October and the general election to November. Attempts to satisfy the federal requirement that all federal elections must be held at the same time by not officially declaring a winner until November even if a candidate wins outright in the October open primary.

#### Public Employees/Retirement

- C Retirement Reforms -
  - C HB 658 - Allows state public retirements systems to divest themselves of investments tied to countries identified by the federal government as terrorist sponsoring countries.
  - C HB 311 - Changes rules for participation in the state employment retirement system beginning with employees hired after July 1, 2006. New rules would raise the retirement age to 60 years of age with at least 10 years of state service. There is currently no age requirement with 30 years of service or more. Required employee contributions to the retirement system would increase to 8%. Retirement benefits would be based on 5 consecutive years of pay rather than three. Supporters of the reforms say the changes will eventually save taxpayers about \$68 million a year.
  - C Firefighter & Law Enforcement Officer Death Benefits (SB 51) - Increases the death benefit from \$50,000 to \$250,000 for the surviving spouse, children or named beneficiary of a firefighter or law enforcement officer killed in the line of duty. \*\*\*HB 30, which passed earlier in the session, raised the benefit to \$200,000\*\*\*



### Military Members & Families Assistance

The Senate began each day of the 2005 session honoring the men and women of our great state who sacrificed their lives in defense of our freedoms. Each day Senators took a moment to consider at least one resolution to individually honor the lives and sacrifices of each brave American. When Senators started the session, there were 44 different condolence resolutions set for our consideration. Unfortunately, more were added to the list as the session went on. To learn more about the Senate's tribute to Louisiana's fallen heroes, citizens can go to the Senate's website at <http://senate.legis.state.la.us/>.

Beyond those tributes, legislators also passed a series of bills to provide special assistance and benefits to members of the military and their families.

- C Military Family Assistance Fund (SB 216) - This fund, financed with direct donations and tax refund donations from businesses and individuals, will provide need-based financial assistance to the families of Louisianians on active military duty to help with such things as medical bills, utilities, housing payments and the such. The fund will also be able to provide an additional one-time payment of up to \$2500 to families who have lost a loved one during his or her active military service or who have a family member who has a permanent major disability as a result of his or her service.
- C Military Consumer Relief (SB 151) (HB 6) - These bills provide additional financial relief to military personnel by allowing them to cancel vehicle leases and cell phone contracts without penalty. The measures also limit interest and late fees in connection with charge accounts; allow additional time for payment of utility bills and prohibit the cancellation of life insurance policies for lapsed payments.
- C Free College Tuition Program ( HB 95) (HB 775) (SB 256) -The free college tuition program previously available to active members of the Louisiana National Guard is expanded to include inactive Guard members whose education was interrupted by a mobilization order; the spouse and children of members of the Louisiana National Guard who died while on active duty service and the children of any Louisiana military personnel killed as a result of the United States military operations in Iraq and Afghanistan or in connection with the war on global terrorism.
- C Property Tax Assessments (SB 89) - Voters will also have an opportunity to help our veterans severely disabled during their active service. A proposed change in the Louisiana State Constitution, set to be considered in a statewide election in the fall of 2006, would extend the current freeze on home property assessments granted to senior citizens on limited incomes to veterans with a service related disability of 50% or more or to veterans who were held as a prisoner of war for 90 days or more or to the spouse of a qualifying member of the military. The assessment freeze is also extended to any qualified Louisiana citizen who is 50% disabled.
- C Veterans Health Screening (HB 570) - Requires the Adjutant General of the Louisiana National Guard to institute a program to screen members of the guard for exposure to depleted uranium.

### Transportation & Highways

- C I-49 Financing (HB 654) - Authorizes the use of up to \$15 million a year from the unclaimed

property fund in the state treasury to back \$150 million in revenue bonds to help complete Interstate 49. The bond proceeds will help provide the needed 20% state match to generate \$600 million in federal funds for the project. The bonds will not be sold until the federal government puts up its share of the money. The total cost to complete the North and South legs of the highway is over \$2.3 billion. There is currently about \$272 million in the state's unclaimed property fund. We receive about \$30 million a year in unclaimed property monies.

- C Gasoline Tax Collection Reforms (HB 599) - Changes the way the state collects taxes on gasoline and motor fuels to collect the tax at the terminal or point of first import rather than at the point when the fuel is first sold to a retailer or end user. In states where this tax collection method has been instituted, the state has realized a 5-10% increase in special fuel tax collections and a 2% increase on gasoline tax collections. Louisiana estimates we will realize a \$15 million increase in tax collections which are dedicated to transportation and highway projects.
- C Port Development (SB 311) - Creates the Louisiana Waterways Infrastructure Development Fund and the Louisiana Waterways Infrastructure Development Bank. The new entities provide the framework for ways to finance and develop port improvements in the future.

#### Environment, Natural Resources, Fisheries & Agriculture Issues

- C Wetlands Conservation & Restoration Fund Changes (SB 187 -CA) (SB 195) - Proposed change in the state constitution and a new law to deposit the first \$600 million that the state may receive from any increased allocation of federal funds from federal offshore oil and gas activities be deposited in the fund. Voters will consider the constitutional change in the fall 2006 statewide election. Louisiana loses 25 square mile of coastal wetlands annually. The state's long range coastal conservation and restoration plans carry a \$14 billion plus price tag over 30 years.
- C Coastal Passes Stabilization & Restoration Program (HB 197) - Establishes the coastal passes stabilization and restoration program and fund within the state's coastal preservation and restoration program. Requires coastal passes parishes to submit proposed projects to the state and requires DNR to use dredge materials for the stabilization projects when appropriate. While there is no funding for the program at this time, the fund can accept donations and other grants.
- C Brownfields Restoration Incentives (SB 322) - provides state income tax credits for taxpayers who voluntarily investigate and/or act to restore certified brownfields sites.
- C Water Resource Management (HB 388) - Changes the current water resource management law to create a designation of "area of ground water concern". Existing designation of "critical" groundwater area will now only apply when the situation merits restricting water usage.
- C Wind Farms (HB 428) - Sets up a system for the lease of state lands and water bottoms for wind-farm development. Several studies in 2003 showed Louisiana offshore areas offer some of the best locations for wind-power generation.
- C Shrimp Gear License Fees (HB 124) - Increases the fees for commercial and recreational shrimp gear licenses and dedicates the funds to the Shrimp Trade Petition Account to continue the industry's battle against cheap, inferior imported shrimp. The commercial fee increases will be terminated if it is determined that Louisiana shrimpers are not eligible for federal assistance under

- the Byrd Amendment by November 14, 2005.
- C Crab Gear License Fees (HB 245) - Increases fees for commercial and recreational crab gear licenses to support the Derelict Crab Trap Removal Program and the Crab Promotion and Marketing Account.
  - C Closed Season Shrimping (HB 752) - Enhances the penalties and fines for those caught shrimping during a closed season.
  - C Fish & Seafood Roadside Sales (HB 154) - Prohibits towns of less than 25,000 population from banning the sale of fish or seafood at roadside markets as long as local and state health laws are followed.
  - C Crawfish Theft (HB 127) - Creates the crime of theft of crawfish. Penalties range from 6 months to 10 years in prison and \$500 to \$3000 in fines depending on the value of the crawfish. This is an effort to not only discourage such thefts, but also to draw attention to the growing problem and to encourage prosecution of such crimes.

#### Other General Issues

- C Gasoline Prices (HB 763) - Abolishes the mandatory 6% price markup on gasoline and diesel fuel as required under the state's 65 year old unfair trade practices law. Prevents the sale of fuels below cost to protect small retailers. Below cost sales are banned when "predatory" pricing is intended.
- C Saints Payments (HB 393) - Allocates \$6 million from the revenue the state expects to collect from operation of the slot machines at the Fairgrounds Race Track in New Orleans to help meet the state's contractual obligations to the Saints in future years. The state was some \$9 million short in meeting this year's obligations which state officials were able to satisfy through the issuance of revenue anticipation bonds by the Louisiana Stadium and Exposition District.
- C Direct Wine Sales (HB 338) - An amendment added to this bill dealing with the location of businesses selling alcoholic beverages, prohibits in-state wineries and breweries from shipping directly to consumers, restaurants, bars and the like. Requires them to sell only through wholesalers. The change was pushed by alcoholic beverage wholesalers in reaction to a U.S. Supreme Court ruling allowing out of state wineries and breweries to ship directly to consumers in Louisiana, if in-state operations are allowed to do so.

## In Memoriam - Louisiana Senators

This page is dedicated to the memory of the following Senators and former Senators who passed away since the end of the 2004 Regular Session:

John J. Hainkel, Jr. (1987 - 2005), Senate President, 2000-2004

Ron Bean (1992 - 2003), Senate Pro Tempore, 2003

J.D. DeBlieux (1956 - 1960), (1964-1976)

James E. Fontenot (1972 - 1976)

Jack Fruge (1956 - 1968)

## In Memoriam

This page is dedicated to the memory of our active military service men and women who have fallen since the 2004 Regular Session:

<a href="#"><u>Senate Resolution 14</u></a>	Sergeant Isiah J. Sinclair.
<a href="#"><u>Senate Resolution 15</u></a>	Specialist Warren A. Murphy.
<a href="#"><u>Senate Resolution 16</u></a>	Specialist Robert L. duSang.
<a href="#"><u>Senate Resolution 17</u></a>	Sergeant Rene Knox, Jr.
<a href="#"><u>Senate Resolution 18</u></a>	Staff Sergeant Robert J. Mogensen.
<a href="#"><u>Senate Resolution 19</u></a>	Sergeant Michael S. Evans II.
<a href="#"><u>Senate Resolution 20</u></a>	Lance Corporal Larry L. Wells.
<a href="#"><u>Senate Resolution 21</u></a>	Sergeant Jeffrey L. Kirk.
<a href="#"><u>Senate Resolution 22</u></a>	Specialist Charles "C.C." Persing.
<a href="#"><u>Senate Resolution 23</u></a>	Sergeant Paul M. Heltzel.
<a href="#"><u>Senate Resolution 24</u></a>	Sergeant Christopher J. Ramsey.
<a href="#"><u>Senate Resolution 25</u></a>	Sergeant Christopher J. Babin.
<a href="#"><u>Senate Resolution 26</u></a>	Corporal Bradley J. Bergeron.
<a href="#"><u>Senate Resolution 27</u></a>	First Lieutenant Christopher W. Barnett.

<a href="#">Senate Resolution 28</a>	Specialist Armand "Luke" Frickey.
<a href="#">Senate Resolution 29</a>	Specialist Craig L. Nelson.
<a href="#">Senate Resolution 30</a>	Sergeant Seth Randell Trahan.
<a href="#">Senate Resolution 31</a>	Lance Corporal Justin D. McLeese.
<a href="#">Senate Resolution 32</a>	Private First Class Torey J. Dantzler.
<a href="#">Senate Resolution 33</a>	Staff Sergeant Toby W. Mallet.
<a href="#">Senate Resolution 34</a>	Specialist Joseph C. Thibodeaux.
<a href="#">Senate Resolution 35</a>	Private First Class Wilfred D. Bellard.
<a href="#">Senate Resolution 36</a>	Private First Class David P. Burrige.
<a href="#">Senate Resolution 37</a>	Staff Sergeant William F. Manuel.
<a href="#">Senate Resolution 38</a>	Private First Class Lionel Ayro.
<a href="#">Senate Resolution 39</a>	Staff Sergeant Jonathan R. Reed.
<a href="#">Senate Resolution 40</a>	Sergeant Major Barbaralien Banks.
<a href="#">Senate Resolution 41</a>	Captain Gussie M. Jones.
<a href="#">Senate Resolution 42</a>	Specialist Levi B. Kinchen.
<a href="#">Senate Resolution 43</a>	Marine Lance Corporal Jeremiah Kinchen.

<a href="#">Senate Resolution 44</a>	Sergeant Nicholas J. Olivier.
<a href="#">Senate Resolution 45</a>	Command Sergeant Major Edward C. Barnhill.
<a href="#">Senate Resolution 46</a>	Specialist James P. Lambert.
<a href="#">Senate Resolution 47</a>	Sergeant Huey P. L. Fassbender.
<a href="#">Senate Resolution 48</a>	Staff Specialist Jeremy M. Heines.
<a href="#">Senate Resolution 49</a>	Sergeant First Class Kurt J. Comeaux.
<a href="#">Senate Resolution 50</a>	Sergeant Robert W. Sweeney III.
<a href="#">Senate Resolution 51</a>	Staff Sergeant Craig Davis.
<a href="#">Senate Resolution 52</a>	Sergeant Floyd G. Knighten, Jr.
<a href="#">Senate Resolution 53</a>	Sergeant Taft V. Williams.
<a href="#">Senate Resolution 54</a>	Private First Class Kristian E. Parker.
<a href="#">Senate Resolution 55</a>	Sergeant Lee M. Godbolt.
<a href="#">Senate Resolution 56</a>	Corporal David M. Fraise.
<a href="#">Senate Resolution 77</a>	Lt. Michael Scott Lamana.
<a href="#">Senate Resolution 92</a>	Marine Corporal Kyle J. Grimes.
<a href="#">Senate Resolution 109</a>	Corporal Richard P. Schoener.
<a href="#">Senate Resolution 113</a>	Sergeant Bernard L. Sembly.

[Senate Resolution 117](#) Sergeant Robin V. Fell.

[Senate Resolution 145](#) Linda J. Villar.

[Senate Resolution 149](#) Sergeant First Class Peter J. Hahn.

[Senate Resolution 152](#) Sergeant David J. Murray.