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# Legislative Highlights

1999 Regular Session

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## AGRICULTURE

(Contact: Amanda Jones, 342-0652)

### 1999 Regular Session

#### Pest Eradication

**Senate Bill 373 by Senator Irons (ACT 486)** creates and provides for the Formosan Termite Initiative for the suppression and control of the Formosan Termite. Funding for that initiative was provided for in **House Bill 1 by Representative LeBlanc (ACT 10)** in the amount of six million dollars. Of that appropriation, three hundred fifty thousand dollars was earmarked to Louisiana State University for research to control another pest, the imported red fireant, based upon a Senate Floor Amendment by **Senator Cain**.

#### Livestock

**Representative Hill's House Bill 159 (ACT 311)** provides for limitation of liability at livestock functions. This limitation of liability for activities at livestock functions is similar to provisions which already exist for equine activities.

#### Meat Labeling

**Senate Bill 945 by Senator Cain (ACT 487)** reenacts meat labeling requirement which is effective on January 1, 2000. Labeling requirement applies to processed, unprocessed, fresh, or frozen meat.

#### Cock-Fighting

Touted as the "cock-fighting" bill, **Senate Bill 885 by Senator Irons (Senate Comm)** would have

prohibited the use of cutting or piercing in certain animal contests. The bill would not have prohibited cock-fighting per se but would have made the use of blades and gaffs unlawful in such fights. The Senate Committee on Agriculture deferred the bill because of unanswered questions regarding the breadth of the bill's application into areas such as rodeoing and fishing.

### **Forestry**

To address the problem of timber theft, **House Bill 1018 by Representative Hill (ACT 9)** requires a person who transports or receives timber products to maintain appropriate records as required by the commissioner of agriculture and forestry. **House Bill 1248 by Representative Thompson (ACT 1284)** provides a preference for paper and paper products manufactured and converted in Louisiana.

### **Departmental Matters**

The Department of Agriculture and Forestry was recreated by **Senate Bill 988 by Senator Dyess (ACT 59)**. The number of members on the Agricultural Finance Authority was increased by **Senate Bill 38 by Senator Cain (ACT 18)** including the chairs of both the Senate Committee on Agriculture and the House Committee on Agriculture, who serve in an advisory capacity.

## BOARDS AND COMMISSIONS

(Contact: Tim Prather 342-8299)

### 1999 Regular Session

Workers' Compensation. Changing the way the workers' compensation advisory council reports, **Senate Bill 788 by Senator Cox (ACT 80)** requires the council to review and make recommendations to the governor, through the Department of Labor, instead of only the governor, on any proposed rules affecting the administration or resolution of claims.

Pardon/Parole. In an effort to improve the Board of Pardons, **House Bill 378 by Representative Windhorst (ACT 246)**, provides that no action on any pardon application may be taken by the board outside a public meeting of such board. Furthermore, if any pardon or commutation of sentence is granted by the board outside of such a meeting, the pardon or commutation will be null, void, and of no effect.

Another bill, **House Bill 507 by Representative Windhorst (ACT 7)**, prohibits the Board of Pardons from considering an application for a pardon, commutation, or clemency, until the appropriate district attorney is notified and has the opportunity to attend the hearing on the application. Further, the Act prohibits the board from considering an application for a hearing or for a pardon, clemency, or commutation until reasonable efforts to contact the victim or surviving family members have been made, including the mailing of notice to such victims at least 30 days before the hearing on the application.

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## CIVIL LAW AND PROCEDURE

(Contact: H. David Smith 342-0626)

### 1999 Regular Session

#### CIVIL PROCEDURE

**Senate Bill 156 by Senator Lentini (ACT 832)** is one of the few pieces of legislation in recent years which increases the prescriptive period for filing of suits for damages. The Act increases from one year to two years the period of time in which a person may file suit provided the injuries sustained are the result of a criminal act. The prescriptive period under this Act begins to run from the day of the injury or damage was sustained. **Senate Bill 473 by Senator Hainkel (Died in House Civil Law and Procedure)** would authorize the discovery of the contents of medical reports and records from physicians or other health care providers by verified petition whether or nor a suit has been filed. The legislation would provide that once the medical condition of a party is at issue a person may petition the court to compel an independent medical evaluation of the party. The premise behind this legislation is the idea that potential plaintiffs to a law suit who allegedly sustain injuries in an accident proceed to obtain treatment from a chiropractor or other health care provider for a period of time prior to filing of a lawsuit. After being treated and having recovered from the injuries, plaintiffs will then file suit prior to prescription and the defendant will not have had the opportunity to evaluate the injuries independently during the time the party was complaining of an injury. This legislation would preempt the unscrupulous plaintiff and allow the defendant to have an opportunity to independently evaluate the alleged injuries prior to suit and prior to alleged recovery. **Senate Bill 861 by Senator Dardenne (Died House Floor)** would provide that the court shall permit the introduction of evidence that failure to wear a safety belt or motorcycle helmet can be used in the determination of fault, or mitigation of damages. If you chose to imbibe and your blood alcohol

concentration exceed legal limits or you are under the influence of any illegal controlled dangerous substance while you are driving a motor vehicle, aircraft, watercraft, or vessel and you are injured or killed or if you actually refuse to submit to either a breath test, blood test or other test to determine the level of alcoholic content of the blood, under **Senate Bill 860 by Senator Dardenne (ACT 1224)** neither the state, a state agency, or a political subdivision of the state, nor any person shall be liable for any damages sustained as a result of the accident. However, the limitation on the recovery of damages shall not apply unless an operator is found to be in excess of 25% negligent and the negligence was a contributing factor causing the damage. Additionally, the limitation on the recovery of damages does not apply if the operator tests positive for any controlled dangerous substance and the operator was taking that substance pursuant to a valid prescription for the identified substance or a health care provider verifies that he has prescribed or furnished the operator with that particular substance. The damages include all general damages which may be recoverable by the operator for personal injury, death, or loss or damage to property including those otherwise recoverable in a survival or wrongful action by the category of people who would have such causes of action. The Act applies prospective only and shall not affect a cause of action which arose prior to the effective date of the Act.

**House Bill 1784 by Representative McMains (ACT 989)** made changes to Civic Code Article 2315, which forms the backbone of our tort law, relative to the ability to recover for damages as a result of the acts of others and obliges a tortfeasor to repair the damage and provides that damages may include loss of consortium, service, and society. The change made by the Act specifies that damages do not include costs of future medical treatment, services, surveillance, or procedures of any kind unless such treatment, services, surveillance, or procedures are directly related to a manifest physical or mental injury or disease. Further, the Act is to be considered as interpretative of Civil Code Article 2315 and intended to explain its

original intent, notwithstanding the contrary interpretation given in *Bourgeois v. A.P. Green Indus., Inc.*, and all cases consistent therewith.

In order to alleviate the reoccurring problem of money judgments affecting persons other than the person named in the judgment, **Senate Bill 984 by Senator Theunissen (Returned to the calendar House floor)** would provide that on or after January 1, 2000 a money judgment shall provide sufficient information to adequately identify the judgment debtor by requiring, if known, the race, gender, last known address, and any other information designed to more fully identify the judgment debtor. The proposed legislation further provided that if the information is not provided in the judgment, then the judgment debtor would be liable for all verifiable cost incurred by anyone with the same name or similar name in obtaining the necessary distinction documentation from the judgment creditor. Plus the judgment creditor would be liable for all verifiable costs incurred by anyone with the same name or similar name in obtaining the necessary distinction documentation from the judgment creditor, if the information was available to the judgment creditor prior to or at the time the judgment was prepared. Additionally, if an owner of immovable against whom a judgment has been attached provided verification that he was not the same person identified as the debtor in one or more judgments, lien, privileges, mortgages the attached judgment shall be removed at no cost to the owner.

After failing in prior years to eliminate the prohibition against jury trials in admiralty or general maritime cases, **Senate Bill 832 by Senator Romero (ACT 1363)** finally passed. The maritime industry in the state has long complained that without jury trials in admiralty cases the local judges were being persuaded by the "trial lawyers" to give large awards which perhaps would not be available under jury trials.

Another bill aimed at ending the proliferation of maritime cases being tried in Louisiana courts is **House Bill 858 by Representative Johns (ACT 536)** which provides that a district court may dismiss

without prejudice, a civil case which is predicated upon acts or omissions originating outside the territorial boundaries of the state, when it is shown that there exist a more appropriate forum outside of this state taking into account the location where the acts giving rise to the action occurred, the convenience of the parties and witnesses, and the interest of justice. However, the court may further condition the judgment of dismissal to allow for reinstatement of the action in the same forum in the event a suit on the same cause of action commenced in an appropriate foreign forum within 60 days after the rendition of the judgment of dismissal and such foreign forum is either unable to assume jurisdiction over the parties or does not recognize such cause of action or any cause of action arising out of the same transaction or occurrence.

#### **LIABILITY/CIVIL**

There have been suits filed against gun manufactures for the manufacture of firearms because they do not provide protective devices to prohibit the firing of the firearm. **House Bill 1094 by Representative McMains (ACT 291)** provides that the governing authority of any political subdivision or local or other governmental authority of the state is precluded and preempted from bringing suit to recover against any firearms or ammunition manufacturer, trade association, or dealer for damages for injury, death, or loss or to seek other injunctive relief resulting from or relating to the lawful design, manufacture, marketing, or sale of firearms or ammunition. However, the governing authority of a political subdivision or local or other governing authority of the state are not prohibited from bringing an action against a firearms or ammunition manufacturer, or dealer for breach of contract as to firearms or ammunition purchased by the political subdivision or local authority of the state. The legislation provides that the authority to bring such actions shall be reserved exclusively to the state. **Senate Bill 858 by Senator Dardenne (ACT 1223)** offers some degree of protection to the state in the numerous law suits which are filed against the Department of Transportation and Development and local government each year based on the concept that a road or bridge



is defective solely based on the proposition that the road or bridge was some how defective because it did not meet the most current standards and guidelines proposed by AASHTO. The legislation provides that the state, a state agency or political subdivision does not have any duty to maintain or repair, construct public roads, highways, bridges, or streets to a higher standard than the standard in effect at the commencement of the original design. The legislation lifts the liability currently imposed by certain court decisions upon DOTD for failure to maintain and/or construct existing highways to modern standards.

### **LIABILITY**

With the specter of "Y2K" looming over the December horizon, **Senate Bill 665 by Senator Ullo (ACT 774)** is designed to provide some protection from liability for the state, its departments, commissions, boards, state agencies, or political subdivisions or their employees for damages attributable to a year 2000 computer date failure. Personal injury claims are not covered by the limit of liability umbrella. The legislation further provides that all suits against the state are to be tried in the 19th Judicial Court in Baton Rouge, Louisiana.

**Senate Bill 507 by Senator Casanova (ACT 1351)** extends existing limitation of liability granted to gratuitous service by health care providers in community health care clinic or community pharmacy to include other health care providers to whom a community health care clinic refers patients. This extension of limitation is as a result of certain community health clinics who primarily make arrangements to supply facilities and volunteer staff to render services to the indigent.

### **PRESCRIPTION**

**Senate Bill 597 by Senator Schedler (ACT 539)** creates quite a controversy among both the "blood banks" and individuals like hemophiliacs who require blood and those individuals who have become infected by the use of blood contaminated by Hepatitis "B" and AIDS and other contaminated blood

products. The final motivating factor was the specter of the supply of blood drying up because of the threat of lawsuits by those who contracted diseases as a result of contaminated blood. When weighing the possibility of a dwindling supply of blood suppliers vs. the claims of those contaminated, the overall good of the many outweighed the rights of the few. The legislation provides that the plaintiff had the burden of proving all elements of his claim, including a defect in the blood sold and causation of his injuries by a preponderance of the evidence unaided by any presumption. The legislation applies to all persons whether or not infirm or under disability of any kind and including minors and interdicts.

## **CHILDREN**

### **Senate Bill 225 by Senator Jordan (Died in House committee on Civil Law and Procedure)**

attempted to correct a recent Supreme Court decision which pronounced that a child born dead is not considered to have existed for purposes of survival actions associated with its wrongful death. However, the bill was amended to limit recovery for all claims for the death of a child or children of a single pregnancy regardless of the number of claims to \$500,000.00. For those children who are subject to being aborted

**Senate Bill 1031 by Senator Greene (ACT 1232)** attempts to limit abortions after the unborn child has reached "viability". The legislation makes the expressed determination that abortion after viability shall be prohibited in the state and all terminations of pregnancies after viability shall be performed, unless physically impossible, in a manner and under such circumstances that will provide the greatest chance for survival and health of the unborn child. The Act further provides that termination of pregnancy after viability shall only be performed and made by a licensed physician in a manner that provides the best opportunity for the unborn child to survive the delivery. Further each physician who performs or induces the termination of pregnancy after viability shall certify the medical reasons for making the determination that termination is necessary and shall certify that the unborn child with a gestation age greater than or equal to twenty-two weeks has

no realistic possibility of maintaining life outside the womb.

**Senate Bill 595 by Senator Schedler (Died in House Committee on Civil Law and Procedure)**

would provide the mechanism for disinheriton of forced heirs. The legislation would retain most of the reasons for which a forced heir may be disinherited but eliminated a few which were considered outdated (like where a child refused to provide ransom where a parent is detained in captivity). The legislation would enumerate the specific acts, if committed against the parent, would be grounds for disinheriton. Specified no disinheriton can be made for marrying without consent of the parents. The bill would require that the testator shall express in the will for what reason he disinherited his forced heirs and the forced heir may prove by clear and convincing evidence that he was reconciled with the testator after the act or circumstance which constituted a cause for disinheriton.

**CIVIL/MANDATE**

**House Bill 1124 by Representative Schwegmann (ACT 1083)** creates a "conditional procuracy"

which is a power of attorney that becomes effective upon the disability of the principal and requires that the disability be established by affidavit of two physicians or only the attending physician and the agent agree and the power of attorney executed by the principal is set out in the affidavit. This legislation was introduced at the request of the elderly community and allows an older person to set forth the conditions and obligations of who is to administer their affairs when they are not capable of doing so and can be confected during a time while the older person is in control of their facilities.

**ATTORNEYS/FEES**

In order to limit the number of suits being filed, **House Bill 247 by Representative Fruge (Died on Senate Floor)** was introduced to provide for the recovery of expenses of litigation by defendants who successfully defend certain lawsuits and would require the court to allow recover the cost of defense if the

petition in the original action alleges facts which the petitioner, or the attorney, or both, knew, or should have known, do not state a compensable right or cause of action. A plaintiff could recover the cost of defense if the petition in the original action appears to have been filed for the purpose of encouraging the defendant to settle for the nuisance value of the suit or for an amount which is substantially less than the amount which is requested by the petition or the amount which would reasonably be expected to be awarded should the petitioner prove the facts alleged in the petition. The plaintiff could also recover cost of defense if the petitioner fails to prosecute the underlying case, including the failure to conduct discovery, or the failure to develop expert testimony, or similar inactivity, is some, but not the only, grounds for finding that this circumstance exists. A plaintiff could have recovered cost of defense if the petition in the underlying case appears to have been filed more for the purpose of causing the defendant in the underlying lawsuit to bear the costs of defending the underlying case than for the purpose of recovering damages. Finally a plaintiff could have recovered the cost of defense if they can show that the prosecution of the original action by compelling repetitious and needless discovery, or the filing of an excessive number of motions, may be some, but not the only, grounds for finding that this circumstance exists.

**COMMUNICATIONS & UTILITIES  
AND  
COMMERCE & INDUSTRY/CONSUMER PROTECTION**

(Contact: C. Kevin Hayes 342-0597)

**1999 Regular Session**

**COMMUNICATIONS & UTILITIES**

Telecommunications **House Bill 745** by **Representative Iles** (pending Senate Commerce and Consumer Protection Committee) would have enacted a "do not call list" within the consumer protection section of the attorney general's office. The bill was aimed at prohibiting telephone solicitors from calling telephone numbers of consumers who do not wish to be called and have registered their telephone number with the consumer protection section. Telephone solicitors do not include non-profits, public opinion pollers, callers in response to a consumers request, and calls where the sale is not completed until a face to face meeting. The telephone solicitors would have been required to obtain a "do not call" list from the consumer protection section by paying the applicable fee and maintaining a bond of \$50,000. The consumer protection section would have been authorized to investigate complaints and prosecute the case. The consumer would have been allowed to bring a civil action against the telephone solicitor and obtain an injunction and a civil penalty of \$500 for each violation. The bill was converted into a **Study Resolution** by **Senator Hollis**.

Telephones **Senate Bill 255** by **Senator Hollis** (Act 410) requires the Public Service Commission to adopt regulations to prohibit telecommunications service providers from engaging in "cramming". "Cramming" is the inclusion of any charges on a subscriber's telephone bill which the subscriber did not authorize.

**COMMERCE and INDUSTRY/CONSUMER PROTECTION**

Cigars/Cigarettes **Senate Bill 766 by Senator Heitmeier (ACT 304)** prohibits the affixing of a tax stamp to a package of cigarettes if the package does not comply with the Cigarette Labeling and Advertising Act, is labeled "For Export Only", has been altered in some way, has been imported into the U.S. after January 1, 2000, or violates federal trademark or copyright laws. The Act is an attempt to stop the "grey market" cigarettes which are those cigarettes labeled to be used outside of the U.S. and are purchased by a cigarette broker and imported back into the U.S. Requires the cigarettes which are seized and which are prohibited from having a stamp shall be destroyed. The sale of any unstamped cigarettes is an unfair trade practice under the Unfair Trade Practice and Consumer Protection Law and in addition to the penalties provided in that law there will be increasing penalties beginning with one dollar per article.

Commercial Regulations **Senate Bill 422 by Senator Hollis (pending House Commerce committee)** would have prohibited the use of false, misleading, deceptive, and hidden information in spoken advertisements. The "Truth in Advertising Law" would have required that any spoken advertisement be spoken in a distinct voice at a speed which makes the words easily intelligible to the average listener and any conditions of the sale are to be spoken at the same speed as the offer to sell or dispose is spoken.

Banks/Banking **House Bill 316 by Representative Green (Veto message read, by a vote of 28 yeas and 58 nays, veto sustained)** would have prohibited a bank from charging a fee for cashing an instrument at the place of business of the drawee bank. The bill was aimed at some banks which are charging a fee when a person who is not a customer at that bank presents a check at the bank where the check is written.

Credit **Senate Bill 188 by Senator W. Fields (ACT 67)** allows a consumer to cancel a mail and check solicitation sale. A "mail and check solicitation sale" is a consumer credit sale of a thing or service,

a consumer credit transaction, a revolving loan account, or a credit card if such sale, transaction, loan or the use of such credit card is contracted through the solicitation by mail or through the cashing of a check sent with the solicitation. The consumer may cancel a mail and check solicitation sale for 60 days and receive a refund for the return of unused and undamaged goods or cancellations of unused services.

Seizures/Sales **Senate Bill 650 by Senator Dardenne (pending House Civil Law and Procedure Committee)** known as the "Self-Help" bill, would allow the seizure of collateral by secured parties without judicial process after written notification to the debtor by certified mail, filing with the recorder of mortgages in the parish where the collateral is located a "Notice of Seizure" at least 7 days prior to taking possession, and at the time of repossession, notification to the chief law enforcement officer of the municipality where the repossession occurred. The repossession would be authorized only when it can be done without "breach of peace" which is the unauthorized entry by the reposessor into a closed structure or fenced property, or oral protests by the debtor prior to the seizure.

Credit/Consumer Loans **House Bill 1919 by Representative Travis (ACT 1315) [Senate Bill 132 by Senator Campbell (deferred in House Commerce Committee)]** establishes the Louisiana Deferred Presentment and Small Loan Act to regulate the "pay day" loan industry. It provides for a "deferred presentment transaction" where a licensee accepts a check which is less than \$350 from an issuer and agrees to hold the check for a time period not to exceed 30 days and pays to the issuer of the check the amount of the check less the allowable fee. The Act allows the licensee to charge a fee not to exceed 16.75% of the face amount of the check issued and in no case shall the fee exceed \$45 and was amended by **Senator Campbell** on the Senate floor to make the fee no greater than 72% per annum. The licensee is required to accept partial loan payment of \$50 dollars or greater. The licensee shall not renew, roll-over or otherwise consolidate a deferred presentment transaction or small loan with the proceeds of another deferred

presentment transaction or small loan. Only when the deferred presentment transaction or small loan is completed can a consumer enter into a new transaction with the licensee. The licensee is required to post in a conspicuous manner at the lending location a notice provided by the commissioner of financial institutions which includes a toll free number to the commissioner's office.



## CONSTITUTION & CONSTITUTIONAL AMENDMENTS

(Contact: Diane M. Burkhart 342-6144)

### 1999 Regular Session

#### CRIMINAL PROCEDURE

Several constitutional amendments were proposed and acted on in the area of criminal procedure most of which altered existing provisions so as to further limit the access of persons convicted of crimes to avoidance of a portion of their sentences. **Senate Bill 217 (ACT 1398) by Senator Malone** clarifies that the automatic pardon for a first offender never previously convicted of a felony upon completion of his sentence, without a recommendation of the Board of Pardons and without action by the governor is available only for those convicted of non-violent crimes or a limited number of other crimes. **House Bill 424 (ACT 1401) by Representative Windhorst** specifies that the recommendation by the Board of Pardons upon which a governor relies and which has long been required in the constitution as a condition of the governor acting to commute sentences, pardon persons convicted of offenses against the state, and remit fines and forfeitures imposed for such offenses must be a favorable **recommendation**.

**House Bill 650 (pending on House calendar) by Representative Windhorst** would have added to the series of authorities and limitations on authorities of the legislature with regard to dealing with juvenile offenders to permit the legislature, by majority vote, to provide for incarceration of certain offenders adjudicated as juveniles as provided by law. **House Bill 651 (pending on House calendar) by Representative Windhorst** would have authorized the forfeiture and disposal of contraband and derivative contraband as well as contraband drugs in a criminal proceeding, a civil proceeding, or as otherwise provided by law.

**DISCRIMINATION**

Several significant Supreme Court decisions have been made in the last several years regarding what rights are protected in Article I of the constitution. **House Bill 656 (pending on House calendar) by Representative DeVille** would have addressed some of the issues raised in such cases by prohibiting laws that discriminate because of age against persons of the age of majority in the purchase, possession, ownership, use, or sale of any item, product, material, or other goods or services.

**JUDICIARY/JURY**

The perennial issue of merit selection of judges was raised in this session as it has been for many sessions in the past. **Senate Bill 295 by Senator Hainkel (withdrawn from the files of the Senate)** proposed a constitutional amendment to provide for the merit selection for justices of the supreme court and judges of the courts of appeal, district courts, parish courts, family courts, juvenile courts, city courts including the city courts of New Orleans, and municipal or traffic court of New Orleans. The proposal was based on being nominated by a judicial nominating committee and, after appointment and service, being subject to a retention election.

**House Bill 641 by Representative LeBlanc (ACT 1406)** provides that persons who are 70 years of age or older shall be exempt from jury service and may decline to serve as jurors, but may elect to serve as jurors if they meet the other qualifications for service as a juror.

**LEGISLATION SESSION & PROCEDURES**

Many different proposals were presented to alter the length, subject restrictions, order, and other procedures governing legislative sessions. Among those proposals was **Senate Bill 9 by Senator Campbell (withdrawn from the files of the Senate)** which proposed to limit to the number of bills a legislator may introduce in a regular session of the legislature to fifteen.

**Senate Bill 25 by Senator Cox (tabled on House final passage)** sought to address issues sometimes raised regarding the purview of the legislature in a special session. The proposed constitutional amendment specifically empowered the legislature to legislate to amend, enact, repeal or suspend any law which is germane to objects enumerated in the proclamation for an extraordinary session.

**Senate Bill 245 by Senator Hines (ACT 1391)** alters the present constitutional provisions with regard to the consideration of bills and the items that may be introduced in regular session. This proposal was conformed to make it a duplicate of **House Bill 2277 by Representative Windhorst (pending on the House calendar)**.

As amended the Senate proposal provides for the following:

- 1) Moves the prefile deadline for bills back from by 5 p.m. on Friday before the first day of session to before 5 p.m. on the Wednesday before the first day of session.
- 2) Adds a requirement that no regular session extend beyond June 30th of any year.
- 3) Changes the convening day for sessions in even-numbered years from the last Monday in April to the third Monday in April.
- 4) Increases the length of the regular session in even-numbered years from 30 legislative days in a 45 calendar day period to 45 calendar days in a 60 calendar day period.
- 5) Limits per diem to members for regular sessions to 85 days in an odd-numbered year and 60 days in an even-numbered year.
- 6) Changes the deadline for introduction of bills in regular sessions in odd-numbered years from midnight of the 30th calendar day to 6 p.m. on the 23rd calendar day. Changes such deadline for even-numbered years from midnight of the 10th calendar day to 6:00 p.m. of the 10th calendar day.
- 7) Extends the deadline for consideration on third reading and final passage in odd-numbered year regular sessions from midnight of the 55th legislative day to 6 p.m. of the 57th legislative day or the 82nd calendar day, whichever occurs first (except by 2/3rds vote). Extends such deadline for even-numbered year regular sessions (for which an extension of overall time is proposed as noted in item 3 above) from midnight of the 27th legislative day to 6 p.m. of the 43th legislative day or the 58th calendar day, whichever occurs first (except by 2/3rds vote).

- 8) Adds to subject matter limitation for even-numbered year regular sessions consideration of legislation to levy, authorize, increase, decrease, or repeal a fee, or to dedicate revenue. Also permits consideration of no more than five prefiled bills by a member which are not within the subject matter restrictions in any regular session or are local or special bills.
- 9) Changes subject matter limitations for odd-numbered year regular sessions by limiting the prohibition against legislating with regard to tax exemptions, exclusions, deductions, or credits by making the prohibition applicable only to measures which result in or have the effect of an increase in tax liability.
- 10) Authorizes the legislature to modify by a joint rule adopted by a two-thirds vote of both houses the provisions of the constitution relating to legislative sessions, except for the restrictions on the number of legislative days, the fact that the legislature meets in annual regular sessions, the definition of a legislative day, the limit on any regular session extending beyond June 30th, the limit on the days for which per diem may be paid, and the subject matter restrictions.

## PROPERTY

The constitution generally prohibits the loan, pledge or donation of the funds, credit, property, or things of value of the state to any person, association, or corporation, public or private, except as permitted by the constitution. Two proposals have been passed to add items to those things that are permitted.

**Senate Bill 116 by Senator Cain (ACT 1396)** permits the state, pursuant to a cooperative agreement between the state and a local governing authority, to donate asphalt removed from state roads to the parish or municipality where it was removed.

**House Bill 601 by Representative John Smith (ACT 1395)** specifies that the donation or exchange of movable surplus property between or among political subdivisions whose functions include public safety is permitted.

## REFERENDUM

**House Bill 2271 by Representative Dewitt (pending on House calendar)** was one of several referendum proposals introduced during the 1999 Regular Session. The present constitution provides that

the legislative power of the state is vested in the legislature, consisting of a Senate and a House of Representatives. The proposed constitutional amendment retained present constitutional provisions except that it would have allowed the legislature to submit any law to the electors of the state as a public referendum for approval or rejection until December 31, 2003, and provided that the enactment of such law was contingent upon its approval by a majority of the electors of the state voting in such public referendum. It additionally provided that such a referendum instrument might only provide for the enactment of a new law proposed as such by a favorable record vote of two-thirds of the elected members of each house. It required any referendum instrument to be prefiled no later than 5 p.m. on the fifteenth calendar day prior to a regular session or prefiled no later than 5 p.m. on the fourth calendar day prior to an extraordinary session and required it to be prefiled as such and prohibited a legislative instrument from being amended to make it or any other instrument a referendum proposal. The proposal provided that if a referendum instrument provided for a new source of state revenue it had to provide for the specific dedication of such revenue; if a referendum instrument provided for a reduction in state revenue, it had to provide for the specific services or programs which would be reduced or eliminated and the specific amount of funds associated with each reduction or elimination; if a referendum instrument provided for a new or expanded program or service, it had to provide for the specific source of revenue to provide the funds for such new or expanded program or service and if the source of revenue was a current source of revenue, it had to provide for the specific services or programs which shall be reduced or eliminated and the specific amount of funds associated with each reduction or elimination in order to provide the funds for the new or expanded program or service. The proposal prohibited a referendum instrument from providing for a general reduction in the budget in order to provide for a reduction in revenue or from providing for a current source of revenue for a new or expanded program or service. The proposal provided that a referendum instrument

which affects revenue would not become effective until the beginning of the fiscal year following its approval by the electorate, unless the referendum specified otherwise and it required the legislature to implement such proposals as contained in the referendum instrument if approved by the electors. The proposal required any referendum instrument and the provisions of and actions taken pursuant to a law enacted by referendum to be consistent with the provisions of present constitution. The proposal provided that no more than two referendum instruments could be adopted by the legislature during a calendar year in which there is a regularly scheduled statewide election and specified that those instruments had to provide for the submission of the referendum proposal at such an election in the same calendar year in which the instruments are adopted. It specified that after the legislature had adopted two referendum instruments for submission at a regularly scheduled statewide election in a calendar year, no other referendum instrument could be adopted by the legislature during such calendar year. The proposal restricted submission of referendum proposals to regularly scheduled statewide elections.

## SCHOOLS

A variety of proposals reconfiguring the governance or jurisdiction of school boards were introduced and discussed. **Senate Bill 237 by Senator Hainkel (pending in Senate committee)** proposed to replace the elected Orleans Parish School Board, beginning with the term that begins Jan. 1, 2003 with a seven member board appointed by the mayor of New Orleans, following the example provided in a number of urban areas around the country.

**Senate Bill 257 by Senator Dyess (ACT 1399)** deletes from the present constitution the provisions applicable to Wards 9, 10, and 11 of Rapides Parish in the constitution that would have provided the basis for the establishment of an independent school district in the area. On the other hand, **House Bill 568 by Representative Travis (ACT 1403)** establishes the constitutional underpinnings for the establishment of

an independent school district based in the city of Zachary. It provides that for the effects and purposes of Art. VIII, §13, the Zachary community school system in East Baton Rouge Parish shall be regarded and treated as a parish and shall have the authority granted parishes.

**House Bill 359 by Representative Pratt (pending on Senate calendar)** addressed the issue of a local school being able to hire the superintendent of its choice regardless of qualifications by providing that each parish school board, rather than BESE, shall fix the qualifications and prescribe the duties of the parish superintendent.

#### **TAXES/BUDGETS**

**House Bill 170 by Representative Alario (failed on House final passage)** focused on the issue of homestead exemption. The proposal authorized a procedure for increasing the homestead exemption applicable to ad valorem taxes levied solely within the parish and by a special ad valorem taxing district located solely within a parish by authorizing the assessor of each parish, or in the parish of Orleans, the Board of Assessors, to propose to the governing authority of the parish an increase in the amount of the homestead exemption not to exceed \$15,000 of the assessed valuation.

**House Bill 663 by Representative LeBlanc (ACT 1393)** authorizes the legislature to adopt a biennial budget.

#### **TOBACCO SETTLEMENT**

One of the major issues of the session was the matter of how best to manage the money accruing to the state attributable to the settlement of the litigation involving most of the states, including Louisiana, and several tobacco companies. A number of proposals were made. Three bills and the concepts contained in each became the focus of the debate and the grist milled into the ultimate resolution.

At the conclusion of Senate action, the Senate focused on two bills which together accounted for 100% of the tobacco settlement money. **Senate Bill 224 by Senator Campbell (remained in House committee)** proposed that 30 % of the tobacco settlement money be used for the establishment of a permanent trust fund for each city and parish school system, the La. School for the Visually Impaired, the La. School for the Deaf, the La. Special Education Center, the La. School for Math, Science, and the Arts, and, when it is operational, the Louis Armstrong High School for the Arts, and for private elementary and secondary schools approved by BESE out of 30% of the tobacco settlement money received by the state plus 20% of the investment earnings and gains on such money.

The proposal provided that 15% of the settlement money dedicated to such funds be credited to the trust fund for the private schools, and \$250,000 be deposited into the funds of each of the state special schools and provided that of the remainder, 30% be distributed among the city and parish systems' funds in proportion to each systems participation in the state portion of the MFP. The proposal required that the money in the school funds be collectively invested by the state treasurer, authorized such investment to include stocks just as is authorized for the 8(g) fund, and required that investment earnings not required to be deposited into the permanent school funds be credited by the treasurer in a fund created in the treasury called the Louisiana Educational Excellence Fund, the LEEF Fund. The proposal provided for the money to be annually disbursed to each city and parish school system, upon the warrant of its superintendent, and each special state school, upon the warrant of its chief executive officer, accompanied by affidavits that the systems' and schools' plan for the expenditure of the money have been filed with the state Dept. of Education and to the state superintendent on behalf of the school children attending state approved private schools. The proposal required the superintendent to distribute the money among the private schools when each had filed its expenditure plan in an equal amount per child enrolled in each school. The proposal



contained prohibitions on supplanting state or local money and required the money be used to enhance instruction or academic achievement. **Senate Bill 293 by Senator Ewing (remained in House Committee)** proposed that 70% of the tobacco settlement money be divided among three funds: 30% to the Higher Education Support Fund, 30% to the Health and Science Support Fund, and 10% to a direct support fund directing money to the city and parish school systems. The proposal provided that monies in the direct support fund be distributed to local school systems to assist education initiatives at the local level; that monies in the Higher Education Support Fund be used to protect against economic downturns and allows monies in the fund to be used for state higher education tuition assistance programs; and for one-time non-recurring higher education expenses; and that monies in the Health and Science Support Fund be used to advance health care science, health care programs for tobacco-related illnesses, and smoking cessation programs.

The preferences of the House of Representatives were reflected in **House Bill 640 by Representative Downer (ACT 1392)** as it came to the Senate. The proposal provided for the establishment of three funds out of the tobacco settlement money: the TOPS Trust Fund (TOPS Trust) and the Health Trust Fund (Health Trust), as special permanent trust funds in the state treasury, and the Louisiana Fund (the La. Fund), as a special fund in the state treasury out of which principal money could be appropriated. The proposal provided for graduated and increasing percentages of the tobacco settlement money to be deposited in the two trusts funds over a three year period. The proposal provided for the following deposits: FY 2000-2001 - 15% of such settlement proceeds into each fund, FY 2001-2002 - 20% of such settlement proceeds into each fund, FY 2002-2003 and thereafter - 25% of such settlement proceeds into each fund and provided that all remaining money be deposited in the Louisiana Fund.

The proposal authorized appropriation from the TOPS Trust exclusively for support of the state's program for financial assistance for students attending Louisiana institutions of postsecondary education and authorized appropriation from the Health Trust for health-related purposes, including initiatives for optimal development of Louisiana's children health care, initiatives in health care through advanced health care sciences, and management of chronic diseases.

The proposal authorized appropriation, up to no more than 50% of the total appropriations for such purposes and no more than 30% for direct health care to 30% in FY 2001-2002 and 20% in FY 2002-2003 and thereafter, from the La. Fund for the following purposes:

- (1) Initiatives to ensure optimal development of Louisiana's children through enhancements in education and health care, including early childhood intervention programs, the children's health insurance program, school-based health clinics, and rural and primary care clinics.
- (2) Initiatives in health care through innovation in advanced health care sciences, management of chronic diseases, and capital outlay for the state's health care facilities.
- (3) Provision of direct health care services for tobacco-related illnesses.
- (4) Initiatives to diminish tobacco-related injury and death through educational efforts, cessation assistance services, promotion of a tobacco-free lifestyle, and enforcement activities of the attorney general relative to the settlement agreement.
- (5) Expenses related to the investment of the TOPS Trust and Health Trust.

Senators Schedler and Romero brought an investment model favored by the state treasurer into the discussion of the management and investment of the tobacco money. Broad authority to invest in equities together with authority to use the tobacco settlement money as security for revenue bonds as a means to provide large sums of money available without diminishing the principal were the hallmarks of this proposal.

As it finally resolved itself, the legislature acted on the conference committee report, **House Bill 640** by **Representative Downer and others (ACT 1392)** provides as follows:

Establishes the Millennium Trust as a permanent trust out of:

- In FY 2000-01 = 45% of the tobacco settlement money
- In FY 2001-02= 60% of the tobacco settlement money
- In FY 2002-03 and thereafter = 75% of the tobacco settlement money
- Plus all investment earnings
- Permits money to be invested with the same authority and restrictions as 8(g) money
- Permits the legislature by a 2/3rds vote to permit investment of up to 50% in stocks
- Permits the legislature by a 2/3rds vote to increase the amount of tobacco settlement money deposited into the Millennium Trust

In the Millennium Trust one-third of the funds and one-third of the investment earnings go to each of the following special funds established within the Millennium Trust and provides for the appropriation of investment money (minus an amount to protect the balance from inflation determined by the Revenue Estimating Conference) from each fund as follows:

- The Health Excellence Fund for:
- Initiatives to ensure the optimal development of La. children through the provision of appropriate health care.
- Initiatives to benefit the citizens of La. with respect to health care through pursuit of innovation in advanced health care sciences.

The TOPS Fund for financial assistance for students attending La. institutions of postsecondary education.

The Education Excellence Fund for:

- Distribution as follows:
- 15% to private elementary and secondary schools approved by BESE for academic and qualifying for state money purposes.
- \$75,000 plus the average statewide per pupil amount of those funds distributed to local school systems for each student to the La. School for the Deaf, the La. School for the Visually Impaired, the La. Special Education Center in Alexandria, the La. School for Math, Science, and the Arts, and, if and when they become operational, the Louis Armstrong High School for the Arts, and the New Orleans Center for the Creative Arts.
- The average statewide per pupil amount of those funds distributed to local school systems for each student to each BESE and local school system approved independent public school (charter schools) and each BESE approved alternative school which is not a local school system school.

- To city, parish, and other local school systems the remaining amount of Education Excellence Fund money available for appropriation:
- For Fiscal Years 2000-2001 through 2006-2007, 30% to each local system in equal amounts and 70% according to each system's proportionate share of the total state share of the MFP.
- For Fiscal Year 2007-2008 and thereafter, 100% to each local system on a pro-rata basis which is based on the ratio of the student population of each local system to the total student population as contained in the MFP.
- In addition, for Fiscal Years 2000-2001 through 2002-2003, 10% of the tobacco settlement money shall be appropriated to the local systems using the 30/70 split.
- Distributed money to all schools and school systems may be expended for pre-K through 12th grade instructional enhancement for students, including early childhood education programs focused on enhancing the preparation of at-risk children for school, remedial instruction and assistance to children who fail to pass required tests. Prohibits expenditure on capital outlay-type purposes and employee salary enhancements.
- Requires every Education Excellence Fund recipient to annually prepare and submit a prioritized plan for expending the money. Requires, prior to distribution of money to any education recipient, that the plan be approved by the education department and the legislature.
- Prohibits any state and local money from being supplanted with Education Excellence Fund money.

Establishes the Louisiana Fund out of all tobacco settlement money not placed in the Millennium

Trust. Restricts appropriations from the La. Funds to:

- Initiatives to ensure the optimal development of La. children through enhancement or educational opportunities and the provision of appropriate health care.
- Initiatives to benefit the citizens of La. with respect to health care through pursuit of innovation in advanced health care sciences, provision of comprehensive chronic disease management services, and expenditure of capital improvements for tobacco-related illnesses.
- Provision of direct health care services for tobacco-related illnesses.
- Initiatives to diminish tobacco-related injury and death to La. citizens through educational efforts, cessation assistance services, promotion of a tobacco-free

lifestyle, and enforcement of the requirements of the Settlement Agreement by the AG.

Establishes the Millennium Leverage Fund

- Authorizes the legislature by a 2/3rds vote of the legislature to provide for the deposit of all or any portion of the tobacco money in the Millennium Leverage Fund instead of in the Millennium Fund or by a 2/3rds vote to reduce or stop such deposits.
- Authorizes up to 50% in the leverage fund be invested in stocks.
- Authorizes the State Bond Commission to use the money in the leverage fund to issue revenue bonds, up to the amount authorized by a 2/3rds vote of the legislature, secured by a pledge of a money in the leverage fund and to deposit bond proceeds in the leverage fund.
- Provides that all revenue bond proceeds and all investment earnings credited to the leverage fund may be appropriated and, if appropriated must be appropriated for the purposes provided for the TOPS Fund, the Health Excellence Fund, the Education Excellence Fund, and the La. Fund in the amount of 25% for each set of purposes.

**House Bill 1547 by Representative Downer and others (ACT 1295)** is a statutory bill that is designed to work in concert with the constitutional amendment proposed by HB 640.

Establishes the Millennium Trust and the three funds: the Heath Excellence Fund, the TOPS Fund, the Education Excellence Fund and the La. Fund and provides for the same distributions and purposes.

- Specifies that the Health Excellence Fund money be used for initiatives to benefit the citizens of La. with respect to health care through pursuit of innovation in advanced health care sciences and the provision of chronic disease management services includes a program of research grants and projects that encourages the pursuit of innovation in advance health care sciences: such program shall support clinical and laboratory research efforts based in La. universities, as well as institutions represented in the membership of the Medical Education Commission and shall fund grants for both basic and applied research in advanced health care sciences administered by the Board of Regents through an objective, competitive process subject to peer review.
- Establishes a system of effective dates that provides for the existence of a fund into which the tobacco money may be deposited whether or not the constitutional amendment is finally adopted.

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## CRIMINAL LAW AND PROCEDURE

(Contact: Jean Lord Clyburn 342-0604)

### 1999 Regular Session

#### CRIMINAL LAW

**Alcoholic Beverages. Senate Bill 694 by Senator Cain (pending House committee)** would have reduced the blood alcohol level from .10 to .08 percent for various offenses and suspends a person's driver's license as the penalty for the unlawful purchase and possession of alcoholic beverages. As the bill was originally introduced it provided penalties for certain offenses involving alcoholic beverages; however, it was amended on the Senate floor to reduce the blood alcohol level.

**Armed Robbery. House Bill 176 by Representative Kennard (ACT 932)** increases the minimum sentence for armed robbery will be from five to ten years. Armed robbers will face at least ten years in jail, or at least fifteen years if they carry a gun.

**DWI. House Bill 1279 by Representative DeWitt (ACT 1103)** addresses situations where an individual has prior serious offenses, such as DWI, vehicular negligent injuring, or first degree vehicular negligent injuring. If the individual becomes involved in an accident within ten years of the offense, causing death or serious injury, the person doesn't have the right to refuse to submit to a breath alcohol content test.

**Firearm-free Zones. Senate Bill 1078 by Senator Wilson Fields (ACT 1236)** creates the crime of communicating of false information of planned bombing on school property or in a fire-arm free zone. The bill was modeled after the arson statute and provides for communicating of false information of a bombing threat on school property, at a school sponsored function, or in a firearm-free zone whether or not the threat involves fake explosives, as the intentional impartation or conveyance, or causing the impartation or conveyance by the use of the mail, telephone, telegraph, word of mouth, or other means of

communication, of any such threat or false information knowing the same to be false. A person found guilty of this crime is subject to imprisonment with or without hard labor for not more than twenty years. One year of the term shall be served without benefit of probation, parole, of suspension of sentence.

**Harmful to Minors Act. Senate Bill 814 by Senator Ewing (Pending House committee)** would have amended the existing law which limits materials that are considered obscene or inappropriate for a minor. A minor is any unmarried person under the age of seventeen. The bill further restricted the dissemination of materials which are harmful to a minor by live or recorded telephone messages, electronic mail, the Internet or a commercial online service. The bill sought to provide a balance to protect the First Amendment rights of adults while restricting information considered harmful to minors.

**Identity Theft. Senate Bill 113 by Senator Ewing (ACT 1337)** provides for the crime of identity theft. The crime is defined as the intentional use or attempted use with fraudulent intent by any person of any personal identifying information of another person to obtain credit, money, goods, services, or anything else of value without the authorization or consent of the other person. It includes an individual's social security number, driver's license number, checking account number, savings accounts number, credit card number, debit card number, electronic identification number, digital signatures, birth certificate, date of birth, mother's maiden name, or armed forces identification numbers. Penalties are graduated depending on the amount of the theft.

**Sex Offenses. Senate Bill 511 by Senator Cravins (ACT 1209)** seeks to address the problem of recidivism among sex offenders. The incidence of reoccurrence is reported in the eighty percentile range. Serial sex offenders would be sentenced to life imprisonment without benefit of probation, parole, or suspension of sentence. A serial sexual offender is defined as a person who has on two or more occasions pleaded guilty, nolo contendere, or has been found guilty of violating or attempting to violate certain sexual



offenses. Sex offenders would not be eligible to earn good time, and therefore, would be required to serve the full term of their sentence.

**Victims. House Bill 732 by Representative Toomy (ACT 979) and Senate Bill 676 by Senator Heitmeier [withdrawn]** creates a statewide automated victim notification system. The legislation was spearheaded by Victims and Citizens Against Crime in an effort to provide crime victims or their families with notice when there is a change in the status of the offender accused or convicted in a crime against that victim. The Louisiana Commission on Law Enforcement and Administration of Criminal Justice is charged with the creation, maintenance and operation of the system contingent upon receipt of adequate funding.

**Video Voyeurism. House Bill 67 by Representative Hunter (ACT 1240) and Senate Bill 716 by Senator Fields (returned to House calendar)** creates the crime of video voyeurism. These bills addressed the problem where a person has an expectation of privacy that is violated. The material can then be used by the person who made the videotape for his own use or it can be transferred via Internet or other electronic device. Video voyeurism is defined as the use of any camera, video tape, photo-optical, photo-electric, or any other image recording device for the purpose of secretly observing, viewing, photographing, filming, or video-taping a person where that person has not consented to the observing, viewing, photographing, filming, or video-taping and it is for a lewd or lascivious purpose. It also includes the transfer of an image obtained by activity described above by live or recorded telephone message, electronic mail, the Internet, or a commercial online service.

**Weapons. Senate Bill 830 by Senator Bajoie (Withdrawn)** would have required firearm dealers, manufacturers or importers to provide, when available, safety locking devices when selling or transferring firearms. There was concern about requiring gun dealers to have knowledge and to be able to provide safety locking devices for all guns that they sell.

**House Bill 1421 by Representative Triche (ACT 1290)** makes changes in existing law governing the issuance of state permits to carry concealed handguns. Information concerning applications for permits and information contained in those applications are not confidential and are public record. Information may be exchanged between law enforcement agencies, information necessary to perform background investigation, or statistical information which does not identify individual applicants or permittees may be released. If false or misleading information is given on the application or any documents submitted with the application it provides grounds for the denial or revocation of a concealed handgun permit. If a person fails to notify the Dept. of Public Safety and Corrections within thirty days of a name or address change their permit can be suspended. A person suffering from a physical infirmity due to disease or illness which prevents the safe handling of a handgun may be denied a permit on those grounds. Also, having been found guilty or DWI or having been admitted for treatment as an alcoholic at any time after the application has been submitted is grounds for denying or revoking a permit. Authority is given to the deputy secretary of the Office of Public Safety Services to enter into reciprocity agreements with other states so that peace officers of one state will have the privileges granted under concealed handgun permits in other states. Primarily, legislators were concerned about the confidentiality of information provided on applications and whether the names of people who had obtained a handgun permit were confidential.

### **CRIMINAL PROCEDURE**

**Evidence in jury room. Senate Bill 157 by Senator Lentini (Pending House committee)** would have permitted jurors in criminal cases to take notes during the trial and to refer to those notes during deliberation. When the jury returned a verdict the notes would have been destroyed so they could not become the basis for appeal. It also authorized the jury to take written instructions of the law into the jury room during their deliberations.

**Penalties. House Bill 1523 by Representative DeWitt (Act 575)** provides enhanced penalties when a firearm is involved in the commission of certain crimes. Presently, when the district attorney alleges that a firearm was used in the commission of a felony and it is proven at trial, the defendant is subject to enhanced penalties. Crimes of violence, felony theft, production, manufacturing, distribution, dispensing, or possession with the intent to produce, manufacture, distribute, or dispense a controlled dangerous substance, or certain misdemeanors, the court is required to impose a sentence of two years. If the maximum sentence for the offense is less than two years, then the court must impose the maximum sentence. The new law would include the following crimes as violent felonies: aggravated sexual batterers, aggravated burglary, car jacking, armed robbery, second degree kidnaping, manslaughter, or forcible rape. If the firearm is discharged during the commission of any of these crimes the minimum sentence imposed is twenty years.

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## CULTURE, RECREATION & TOURISM

(Contact: Frankie King 342-8893)

### 1999 Regular Session

#### COMMISSIONS

**House Bill 1266 by Representative LeBlanc (ACT 1099)**, creates the Louisiana Retirement Development Commission. The Office of Lieutenant Governor, the Department of Culture, Recreation and Tourism and the Department of Economic Development recognize the existence of an emerging retirement industry, and that the state has a role and responsibility in developing Louisiana as a retirement community state. Because the Retirement industry is a potential source of economic growth for Louisiana, it is necessary and essential to create the Louisiana Retirement Development Commission to engage in developing, promoting and marketing Louisiana as a retirement destination.

**House Bill 324 by Representative Walsworth (ACT 944)**, creates the Louisiana Bicentennial Commission. The Commission will plan and develop activities to commemorate and celebrate the bicentennial of the Louisiana Purchase in 2003. The commission will also serve as a clearinghouse for collecting and disseminating information about bicentennial events and plans throughout the state. The legislature recognizes that Louisiana should take the lead in celebrating this historic event. This commission will cooperate and coordinate with any similar commissions created by the United States government or any other state.

#### TOURISM FUNDING

**House Bill 2086 by Representative DeVille (ACT 1025)**, the Louisiana Tourism Promotion District is a statewide taxing district with authority to levy a sales and use tax not to exceed 3/100 of 1 cent. State law provides that the tax proceeds be used for costs of collection and for tourism promotion by the

Department of Culture, Recreation and Tourism through the purchase of out-of-state media advertisement and other tourism promotion by the department except in-state media advertising. The dedication for these purposes is limited to \$16 million annually and any excess collected over the \$16 million is transferred to the state general fund. Proposed law would allow a phased-in increase in the amount of funding available to the Tourism Promotion District.

Beginning in FY 2000-2001 an additional \$500,000 will be available for out-of-state advertising, increasing to \$1,000,000 in FY 2001-2002 and \$1,500,000 in FY 2002-2003.

### **CAPITAL OUTLAY**

**House Bill 2 by Representative Alario (ACT 20)**, provides funding for development and expansion, as per the Governor's four-year plan, of our state parks throughout the state and for renovations and repairs at various state museums and tourist welcome centers.

### **MISCELLANEOUS**

**Senate Bill 798 by Senator Boissiere (ACT 1360)**, creates the Louisiana Hospitality Research program within the Department of Culture, Recreation and Tourism. This program is designed to provide research and the formulation of statistical data concerning the travel industry and its effect on our tourism efforts and the state's economy.

**House Concurrent Resolution 212 by Representative Weston (Enrolled)**, requests the Department of Culture, Recreation and Tourism to develop a plan for a golf trail in the state. The department has completed a feasibility study of a golf trail in Louisiana which indicated that an economic impact similar to other regional states could be realized by its development. The plan would include implementation of a golf trail in association with state parks, using private/public source of financing and this plan will have to be submitted to the Legislature before the 2000 Regular Session.

## EDUCATION

(Contact: Sherri Breaux, 342-6145)

### 1999 Regular Session

#### TOPS PROGRAM

With the TOPS program in full swing, legislators have listened to their constituents by committing to fund the program and acting on several measures to assist deserving students. One of the most important measures correcting fairness issues under the program is **House Bill 413 by Representative Montgomery and Senator Greene (ACT 438)**. The Act provides a "safety net", so to speak, for those students who choose to receive Performance or Honors award payments and who maintain a certain GPA in college. Under prior law, a Performance and Honors student whose average falls below the required 3.0 GPA in college loses the benefit of the award, i.e. the student loses the tuition award and the stipend. The Act eliminates provisions requiring a student who qualifies for multiple award levels to choose his award irrevocably and provides instead that the student will automatically get the highest award for which he qualifies unless he chooses a TOPS Tech award. If at any time a student receiving a Performance Award or an Honors Award fails to have a cumulative GPA of at least 3.00 at the end of any academic year but has and continues to maintain a cumulative GPA at least equal to that required for continued participation by a recipient of an Opportunity Award, the student receiving a Performance Award or an Honors Award will remain eligible for the payment of tuition only as provided to a recipient of an Opportunity Award. A student receiving an Opportunity Award must have a cumulative GPA (at the end of each academic year) of at least 2.30 after completion of 24 credit hours and at least 2.50 after completion of 48 credit hours. These changes will apply to all TOPS awardees, including award recipients from the beginning of the program.

When the original TOPS measure was enacted in 1997, the residency requirement provided that a student must have actually resided in the state during the 24 months preceding college or university enrollment. The following year, in the 1998 special session, that provision was changed to require that a student must have actually resided in the state for 24 months preceding the date of his high school graduation. After last year's enactment, some students were caught in the transition, who would have otherwise qualified under the original requirement. Therefore, **Senator Wilson Fields** authored **Senate Bill 198 (ACT 1196)** which retains the current law residency requirements for those students graduating during the 1999-2000 school year and thereafter, but the bill makes an exception for the 1997, 1998 and 1999 graduates, whereby these student must have actually resided in the state during the 24 months preceding college or university enrollment, however the provisions only apply to the 1997 and 1998 graduate if he actually enrolled in an eligible institution and received a TOPS award letter.

Another measure supported by both houses was **Senate Bill 1040 by Senator Thomas (ACT 805)** which was crafted to allow increased participation by students who are residents of Louisiana, but attend out-of-state high schools. The problem is faced by the parents and students who live near bordering states. Currently, the only out-of-state schools that are eligible to participate are those which are approved by their state board of education. Since each state has a different process and differing criteria by which the schools are approved, the Act will allow, as an alternative criteria for TOPS participation, the out-of-state school to participate if it is accredited by the Southern Association of Colleges and Schools (SACS) Secondary and Middle School Commission.

Another significant TOPS measure, by **Representative McDonald**, who authored the original legislation in 1997, will make a number of revisions to the program by the passage of **House Bill 1725 (ACT 1302)** .



Among some of the substantive changes are:

- (1) Requires that the student be a U.S. citizen. A student who is not a U.S. citizen but is eligible to apply for such citizenship will be deemed to satisfy the citizenship requirement if within 60 days after the date the student attains the age of majority, the student applies to become a U.S. citizen and obtains such citizenship within one year after the date of application.
- (2) Requires, beginning with the 2002-2003 school year, that a student meet the minimum GPA requirements (2.5 for the Opportunity Award and 3.5 for the Performance and Honors Awards) by using only the grades obtained by the student in completing the core curriculum requirements.
- (3) Authorizes the administering agency to establish guidelines directing that when tuition is paid from a source other than the TOPS award, the award must be applied by the institution attended by the student toward payment of expenses other than tuition which are described as "cost of attendance".
- (4) Beginning with 1999-2000 school year and thereafter, provides that no state payments made on behalf of any TOPS awardee shall be used by an institution to supplant the granting of a Tulane legislative scholarship.
- (5) Provides eligibility of a student graduating from a high school approved by the U.S. Dept. of Defense.
- (6) Allows a 1998 graduate who submitted his qualifying ACT score on an authorized testing date after the date of the student's high school graduation but prior to July 1, 1998, to be eligible for an award, provided all other requirements are met.
- (7) Provides that no dependent student will be ineligible for an award due solely to the fact that the student's parents became nonresidents during the student's senior year in high school provided that the parents were residents of La. during the 24 months preceding the date they became nonresidents.
- (8) Requires the administering agency to notify all appropriate public and nonpublic school personnel of changes in TOPS law or agency rules no later than 60 days after such change.
- (9) To be eligible, a BESE-approved nonpublic high school must also be in compliance with the mandates of the *Brumfield, et al. v. Dodd, et al.* decision.

And finally, **Senate Bill 1044 by Senator Wilson Fields (House committee, deferred)** would have revised the requirements for out-of-state graduates to allow them to qualify by meeting the same ACT, high school GPA, and core curriculum requirements as in-state students who graduate from high school.

**ELEMENTARY AND SECONDARY EDUCATION**

Accountability. Several measures were supported by the administration this year as components of the School and District Accountability Program. **Senator Dardenne** authored **Senate Bills 249, 251, 252, and 253** to provide greater accountability in our school systems and to provide the necessary assistance to those students needing additional help in school. **Senate Bill 249 (ACT 643)** adds the requirement that summer school remediation programs be provided and offered to every student who does not meet the LEAP test achievement level required by BESE rule for promotion to the fifth or ninth grade. A student may be exempt from a summer program if the parent or guardian signs a form and accepts certain responsibilities with regard to providing remediation for that student.

**Senate Bill 251 (ACT 407)** provides, in place of the criterion-referenced and norm-referenced tests as required in current law (not later than 7/1/00), for an alternate assessment to be administered to those students with disabilities who meet specific criteria developed by the Dept. of Education. The determination of whether a student meets the eligibility criteria will be made by the student's IEP committee and noted in the student's IEP. The alternate assessment will be a part of the LEAP and used for information, accountability, compliance, and planning purposes as provided by BESE.

**Senate Bill 252 (ACT 408)** requires every approved private school, nonapproved private school, and publicly funded adult education program, to provide written notice within 10 days of the enrollment of a student in grades K-12 who was enrolled in a public school to the public school where the student last attended. In each case, the notice must be a written notice containing the student's name, date of birth, gender and race. Every public school receiving a notice must notify the local school board.

**Senate Bill 253 (ACT 409)** requires the state Dept. of Education to establish, as part of the School and District Accountability Program, a program for the identification and assignment of qualified persons

as distinguished educators to work in and improve low performing schools. Individuals with academic credentials or work experience in fields other than education may apply for distinguished educator positions, beginning with the 2000-2001 school year.

Athletics. A bill that would have banned all 19-year old high school athletes from participating in any interscholastic athletic activity was deferred by the House Education Committee. **Senate Bill 268 by Senator Casanova (House committee, deferred)** had the full attention of high school coaches and the Louisiana High School Athletic Association (LHSAA), the entity that governs high school athletics. Current LHSAA rule allows 19-year olds to play high school sports as long as their birthday occurs on or after September 1 in a given year.

BESE. Members of BESE will receive an increase in their per diem to the same per diem as is provided by law for members of the legislature under **House Bill 1613 by Representative Long (ACT 722)**.

Charter schools. **House Bill 2014 by Representative Salter (ACT 14)** makes a number of revisions to the charter school law including:

- (1) A proposal for such school must clearly demonstrate that the educational program proposed to be offered will improve the achievement levels of the students enrolled at the school.
- (2) Includes in definition of a Type 2 charter school, the conversion of a preexisting public school. Also adds a requirement that prior to the creation of a charter to convert a preexisting school, the charter must be approved by the professional faculty and staff of the preexisting school and by the parents or guardians of children enrolled in the school.
- (3) Requires local school boards to make available to chartering groups any vacant school facilities slated to be vacant for lease or purchase at fair market value. In the case of a Type 2 charter school created by conversion, all property within the existing school must also be made available to a chartering group under similar terms. Further provides that if such facilities were constructed at no cost to the local school board, then the facilities including all equipment, books, instructional materials, and furniture within such facilities must be provided to the charter school at no cost.

- (4) Allows a Type 3 charter school proposal to be made to BESE.

**Senate Bill 170 by Senator Hainkel (ACT 1339)** provides that, if a Type 3 charter proposal is rejected by a local school board, but has been approved by the faculty and parents of the school, then BESE must consider the proposal and, if approved, the resulting charter is a Type 2 charter. The measure will also allow admission requirements in certain schools to include mission-specific criteria such as auditions for schools with a performing arts mission or the achievement of a certain academic record for schools with a college preparatory mission.

In current law, 75% of the charter school's instructional staff must be certified. Under the Act, those teachers who are certified by the French Ministry of Education may be included in meeting the 75% requirement. Also, in calculating the at-risk percentage of a charter school, students with French passports would be excluded from such count.

**Senate Bill 546 by Senator Hines (ACT 1210)** permits students outside the parish to enroll in a Type 4 charter school provided an agreement with any other affected local school system is reached. Further, the Act specifies that there is no age limit on students attending a charter school as long as the student is pursuing a regular high school diploma or a GED. And finally, the measure also provides, subject to appropriation, for new charter schools, created as a new school rather than as a conversion school, to receive five years of funding for facility acquisition and construction services.

Compulsory School Age. Currently, a child entering the first grade must be six years old by September 30 of the calendar year in which the school year begins, with Orleans Parish being excepted from such requirement and allowed to vary from the age requirement by adopting its own rule. **House Bill 1472 by Representative Pratt (Senate calendar)** would have repealed the Orleans Parish exception, making the compulsory school age now a statewide requirement.

Curricula. **House Bill 156 by Representative Farve (ACT 688)** required BESE to develop and implement a pilot program to improve English and language arts instruction in public schools.

Discipline. **Senate Bill 178 by Senator Dyess (House, failed)** would have prohibited the possession or use of laser pointers by students in public schools and on school buses. Policies and rules would have been adopted by local school boards for compliance.

In an attempt to restore respect to the classroom, **Senator Cravins** authored **Senate Bill 1098 (ACT 917)** which requires, beginning next school year, that each local school board require student in each public school, in kindergarten through fifth grade, to address and respond to a teacher or administrator by using the respectful terms "Yes, Ma'am" and "No, Ma'am" or "Yes, Sir" and "No, Sir", as appropriate, or "Yes, Miss, Mrs., or Ms. (Surname)" and "No, Miss, Mrs., or Ms. (Surname)" or "Yes, Mr. (Surname)" and "No, Mr. (Surname)", as appropriate. Each local school board will be required to incorporate such requirements into any existing discipline policy or policies or any code of conduct of the school system or of each school within its jurisdiction. Phases-in such student conduct requirements for the 6th through 12th grades over a period beginning with the 2000-2001 school year and completing the process with the 2006-2007 school year.

**House Bill 604 by Representative Thompson (ACT 969)** requires each local school board to adopt a student code of conduct for the students in its school system. The code of conduct must contain all existing student discipline policies and include any necessary disciplinary action to be taken against any student who violates the code of conduct.

Dress codes. **House Concurrent Resolution 192 by Representative Willard (enrolled)** requests local school boards to adopt policies prohibiting students from wearing pants too loosely on the hips. The policies may be incorporated into any existing policies of a local school board relative to dress codes for

students and may include appropriate disciplinary action to be taken against students who violate any policy.

Internet access. **House Bill 2048 by Representative Perkins (ACT 1014)** requires each governing authority of a public school to adopt policies, in accordance with state and federal law, regarding access by students and employees to Internet and online sites that contain or make reference to harmful material the character of which is such that it is reasonably believed to be obscene or child pornography, conducive to the creation of a hostile or dangerous school environment, pervasively vulgar, excessively violent, or sexually harassing in the school environment all as defined by any applicable state or federal laws and the policy adopted. Any policies must include prohibitions against accessing sites containing information on the manufacturing or production of bombs or other incendiary devices.

Local school systems. Under **Senate Bills 257 (ACT 1399) and 1079 (ACT 812) by Senator Dyess**, provides that the authority to establish a local school system in Wards 9, 10, and 11 in Rapides Parish will be removed from the constitution and from statutory provisions, subject to approval by voters in the next statewide election. In the same election, voters will be considering allowing a community school system to be set up in Zachary. **House Bills 568 (ACT 1403) and 2100 (ACT 1027) by Representative Travis** provides that for certain effects and purposes the Zachary community school system in East Baton Rouge Parish will be regarded and treated as a parish and have the authority granted parishes, including the purposes of funding and the raising of certain local revenues for the support of elementary and secondary schools.

**House Bill 542 by Representative Faucheux (ACT 857)** requires local school boards to advertise the vacancies for positions of local superintendents and solicit applications prior to filling a vacancy.

LSU Lab School. **House Bill 1920 by Representative Alario and Senator Hainkel (ACT 991)** authorizes the LSU Board of Supervisors to increase tuition at the university lab school by the following

amounts:

- (1) For the 1999-2000 school year, by an amount not to exceed \$500.
- (2) For the 2000-2001 school year, by an additional amount not to exceed \$500.
- (3) For the 2001-2002 school year, by an additional amount not to exceed \$265.

Dedicates the first year of the increase to faculty salaries, and also eases the burden of certain families in their ability to shoulder the tuition increase as follows:

- (1) For families with a gross annual household income less than \$50,000 - they would not pay the increased tuition amount;
- (2) For families with a gross annual household income \$50,001 to \$60,000 - pay 25% of the increase;
- (3) For families with a gross annual household income \$60,001 to \$75,000 - pay 50% of the increase; and
- (4) If the family is eligible for free or reduced lunch, then they are exempt from the increase.

School Buses. **House Bill 2050 by Representative Montgomery (Act 377)** requires the development and implementation of a program for the training and certification of school bus operators for the purpose of increasing the number of certified school bus operators in the state.

School Prayer. Two bills were brought before the legislature this year seeking to reinstate prayer in the schools. Under current law, local school boards are required to permit school authorities to allow an opportunity, at the start of each school day, for students and teachers desiring to do so to observe a brief time in silent prayer or meditation. A measure by **Representative Willard, House Bill 2123 (ACT 904)**, removes the restriction of current law requiring that the prayer be silent. Whereas, **House Bill 2135 by Representative Farve (Senate calendar)** would have placed the issue on the ballot and allowed the voters to adopt or reject such a law authorizing prayer in schools by referendum.

School Principals. **House Bill 1555 by Representative Pratt (Senate, failed)** would have required each local school board to incorporate into any evaluation of school principals a method requiring each

classroom teacher subject to supervision and management by a school principal to participate in the evaluation process relative to the job performance of that principal.

Tuition exemption programs. **Senate Bill 1054 by Senator Cox (ACT 807)** requires BESE to adopt rules establishing a pilot program in the Dept. of Education to assist school support personnel who work in public schools to meet the qualifications for certification as a teacher. The pilot program includes provisions under which such personnel may apply to be exempt from tuition for required teacher training courses at a public college or university in the state or at a nonpublic institution. The exemption would be limited to no more than one course per applicant per semester and to no more than two courses in a summer session, with certain exceptions. Funds for the purpose of reimbursing colleges and universities under this program will be from monies specifically appropriated or otherwise made available for this purpose.

**House Bill 1595 by Representative Pratt (ACT 580)** changes the current tuition exemption pilot program for paraprofessionals to a standing program in the department, subject to available funds, and adds the requirement that in addition to the tuition exemption, a participant in the program can receive a stipend beginning of the semester in which the participant performs the student teaching in an amount equal to the amount of the salary which would otherwise have been paid by the school board if the person was not participating in the program.

Truancy. In an joint effort to curb truancy among juveniles, **Senator Ullo** authored **Senate Bill 1008 (ACT 1372)**, resulting from a year-long study during the interim by the Senate Committee on Judiciary A. The committee members traveled to several parishes that demonstrated an interest in participating in a pilot being proposed by the committee that would establish truancy and assessment and service centers, beginning August 1, 1999 until June 30, 2002, subject to continuation. The parishes of Caddo, Calcasieu, East Baton Rouge, Jefferson, Orleans, St. Tammany and Tangipahoa demonstrated a willingness to address truancy and



provided the committee with physical locations in each parish where personnel from local schools, law enforcement, judicial courts exercising jurisdiction over juveniles, district attorneys, correction and substance abuse counselors, and family and child-serving agencies could work in a collaborative, coordinated manner. Each parish selected, based on an interagency agreement, will provide specific services as enumerated in the agreement. The parishes selected will design programs tailored to address the underlying problems causing truancy by pooling existing resources of family and child serving agencies with treatment resources. The Families in Need of Services (FINS) program and like programs will serve in a pivotal role as coordinators and facilitators in each center and the LSU office of social services research and development will provide monitoring and evaluation.

As provided in the Act, the development of the truancy assessment and service centers is predicated not only on the participation by such parishes, but also on sufficient funding from the state together with services currently provided by the state.

However, during the legislative process, funding was cut in **House Bill 1 (ACT 10)** for this proposed program leaving only the initial funding for two parish programs. The parishes of Caddo and Jefferson will participate in the pilot and split the appropriation of \$785,000 for the operation of its programs, providing that LSU office of social services research and development is responsible for all monitoring, assessment and related administrative services and as such is responsible for providing notification to the Dept. of Education for program approval for release of funds to approved fiscal agents. Funds to be disbursed quarterly on the recommendation of LSU, of the total appropriation, \$35,000 shall be transferred to LSU for such purposes. The pilot program, as placed by the appropriations Act, will now be under the Board of Regents, rather than the Dept. of Education. Programs in the other parishes as specified in the Act may be funded as funding becomes available.

Vouchers. **Senate Bill 964 by Senators Dean and Greene (Senate, tabled)** would have established the La. Opportunity Scholarship Program which would have required the state to make available opportunity scholarships for attendance at eligible nonpublic schools or opportunities for alternative public school enrollment as options for parents and guardians whose children attend a school found by the state accountability program to be an unacceptable. The parent or guardian of an eligible student would have been allowed to request and receive from the state an amount of money equal to 100% of the average state share per student (which is about \$3000), or the amount of tuition and fees at the nonpublic school where the student enrolls, whichever was less minus the cost per student to the La. Office of Student Financial Assistance of administering the program. The program would have allowed participation by those 1st through 8th grade students attending a public school determined by to the school accountability system to be academically unacceptable, provided that the student and his parent or guardian are La. residents.

Under the Act, the parent or guardian of a student enrolled in or assigned to a school that has been designated academically unacceptable would be permitted to choose as an alternative to enroll the student in and transport the student to an eligible nonpublic school or a public school not so designated or otherwise subject to a correction action pursuant to a school and district accountability system that has available space in a school district adjacent to his district of residence provided the district accepts such student.

## **K-12 FUNDING**

Minimum Foundation Program. The State Board of Elementary and Secondary Education adopted the most recent formula on June 10, 1999 and submitted a resolution to the legislature for approval, **Senate Concurrent Resolution 159 by Senator Dardenne (enrolled)**. The major revisions to the formula are as follows:

- (1) The projected cost of continuing in 1999-2000 the formula adopted by HCR 104 of 1998 is approximately \$88 million above the amount initially appropriated in 1998-99. This

resolution contains language that will provide a one-time reduction of \$19 million based on three other separate and independent actions. Those actions are: a) the employer's contribution rate to the Teachers' Retirement System of Louisiana is reduced from 16.5% to 15.2%; b) the legislature creates an Employer Credit Account for the Louisiana School Employees' Retirement System and funds are available for paying the employer's contribution amount; and c) no legislation is passed or enacted in the 1999 Legislative Session that would require local school boards to expend MFP and/or local funds on local school board employee pay increases.

- (2) In the preamble section, references to the School and District Accountability Program in the Goals Section have been added to tie the MFP and student and school performance together.
- (3) Funding of LSU and SU Laboratory Schools have been added in a special section based on legislation passed in 1997.
- (4) A section has been added establishing an expenditure requirement for the annual salary paid to Foreign Associate Teachers.
- (5) References to Conversion funding for State Funded Minimum Foundation Program Level 1 and 2 Amount has been revised to provide 100% state share funding. The funds for the final payment to fully implement the state share of the formula in 1999-2000 is in the Appropriations bill and will result in 54 local school systems or approximately 82%, finally being "on formula".
- (6) References to the 1998-99 Level 3, Legislative Pay Raise Enhancements and Required Expenditure Amount for Pay Raise for Certified Staff have been eliminated.
- (7) References to the Required Local Support for Level 1 and proportionate percentage reduction in Level 1 state share has been eliminated. This issue along with the issue of the Hold Harmless has been referred by BESE to a newly established School Finance Commission.

Tobacco Settlement. *(Please refer to the "Constitution & Constitutional Amendments" highlights for more information)*

Other K-12 funding. **House Bill 1242 by Representative Holden (ACT 1283)** establishes the La. Education Facilities Authority program to provide financial assistance to school boards in the upgrade, rehabilitation, repair, and construction of their infrastructure in order to provide a clean, safe, and productive learning environment for the children of the state (financial assistance means purchase of bonds

of the school board, grants, loans, and loan or bond guarantees).

## TEACHERS

Senator Tom Greene authored two measures reforming teacher leave policies, **Senate Bills 296 and 297**. The two bills were drafted as a result of a number of meetings held by the Senate education and finance committees throughout the interim, and talks with representatives of the teacher unions, school boards and superintendents.

The first of the reforms, **Senate Bill 296 (ACT 1341)**, makes no change to the required allowance of a minimum of 10 sick leave days each year for teachers, school bus drivers and school employees which may be accumulated without limitation. Under current law, employees may also be granted extended sick leave, commonly referred to as "Gayle Pay", named for a teacher who sued for the benefit in 1969, which grants teachers an unlimited number of sick days once they've exhausted their 10 regular sick days and allows the teacher to collect their salary less the cost of hiring a substitute. The prior law prohibited the deduction of any amount from the salaries of teachers employed in state and in city and parish schools when a teacher's absence continued beyond his available sick leave unless a substitute was actually hired and then only to the extent of the amount paid to the substitute. The prior law also prohibited the deduction of any amount from a school bus operator's salary when such operator was on approved leave, unless a substitute was actually hired and then only to the extent of the amount paid to the substitute.

Senate Bill 296 *replaces* the Gayle Pay provisions as to state and city and parish teachers and school bus operators with provisions requiring employing school boards to provide up to 90 days of extended sick leave in each six year period to any such employee who has no remaining regular sick leave balance as follows:

- (1) Provides for pay at 65% of the employee's pay at the time the leave begins.

- (2) Specifies that unused days from the 90 authorized in each six year period do not carry forward and provides that the six year period counts all service time whether interrupted or not.
- (3) Prohibits working while on extended sick leave unless:
  - the job is part-time (20 hours or less) and is a job held at least 120 days prior to the beginning of the leave
  - the certifying doctor approves
  - the employing board approves
- (4) Penalizes violation of the prohibition on working during the extended leave by providing that the employee may be required to reimburse his employer the compensation received by him during any week of extended leave in which the employee worked more than 20 hours.
- (5) Provides that all time served while on extended sick leave is regular service time for all purposes for which such time is calculated or used.
- (6) Permits such extended leave to be taken for personal illness or illness in the immediate family that is serious enough to require the presence of the teacher or school bus operator.
- (7) Requires a doctor's certification of medical necessity to cover every occasion of the use of extended sick leave whether personal or for the immediate family member.
- (8) For any extended sick leave day, provides that the local board has the option to require (in addition to a doctor's certificate of medical necessity documenting the need for extended leave on each occasion) that a second doctor of the board's choice be consulted and if the first two don't agree, require the employee to see a third doctor whose name is next on a rotating list established by the local medical society and maintained by the board. Requires board to pay all costs of a second and third. Provides that the third doctor's opinion controls.
- (9) Specifies all doctors' opinions shall be submitted as sworn statements subject to penalties for the crime of false swearing.
- (10) Retains present sick leave provisions to authorize employing boards to grant such additional leave at such compensation as they may decide. Requires them to adopt a policy providing for employees suffering from catastrophic and long-term illness. Authorizes each board, as part of a collectively bargained agreement or by their own policy to provide additional compensation or extended leave in excess of what is otherwise required.
- (11) Retains provisions that any savings be used by local boards for future salary increases.

The Act also provides for each full-time certificated classroom teacher to receive an increase funded from the monies saved as a result eliminating the mandate granting of extended sick leave. Any increase

in teacher compensation will be in addition to any other increase granted to teachers funded through MFP or otherwise. The manner in which the increase may be applied to teacher compensation will be determined by the employing school board.

**Senate Bill 297 by Senator Greene (ACT 1342)** maintains professional improvement sabbatical availability and reduces the undergraduate minimum to nine hours provided such hours directly improve the teacher's skills and knowledge as a teacher and to six graduate hours for all teachers. The Act replaces provisions for rest and recuperation sabbaticals with provisions for medical leave sabbaticals that are uniform as to teachers in state special schools and city and parish schools who have a regular sick leave balance of not more than 25 days as follows:

- (1) Provides for eligibility to apply for such medical sabbatical leaves based on the same years of service as is currently required in present law which is basically, one semester for every three years of service or one year for every six years of service.
- (2) Requires every application to be accompanied by a by a sworn statement from a physician of the applicant's choice that the leave is medically necessary. Also, authorizes the local board, if it questions the validity of the certification to require that the applicant be examined by a second doctor of the board's choice ir the first two don't agree, a third doctor whose name is next on a rotating list established by the local medical society and maintained by the board. The board pays all costs of a second and third. A third doctor's opinion controls.
- (3) Specifies that all information contained in a physician's statement is confidential. Each such statement must be submitted in the form of a sworn statement, as referenced in the criminal law which makes false swearing a crime.
- (4) Prohibits employees on medical leave sabbatical from being gainfully employed during the leave unless:
  - the work is part-time (20 hours or less) and has been held at least 120 days prior to the beginning of the leave
  - the certifying doctor approves
  - the employing board approves
- (5) Provides that a violation of this prohibition results in rescinding the leave.
- (6) Provides a set salary for everyone on sabbatical leave of 65% of the salary the employee was receiving at the time the leave is initiated.

- (7) Specifies that the employing board may grant such additional leave and/or compensation as it may establish and fix.
- (8) specifies any savings resulting from the elimination of rest and recuperation sabbaticals will be used by employing boards for teacher salary increases.
- (9) Specifies that no sabbaticals granted prior to Aug. 15th will be affected.

The final measure in the leave reform package, **Senate Bill 632 by Senator Hainkel (ACT 663)**, provides that the acquisition of sick leave is predicated on a school employee working from the beginning of the school year. The Act prorates the acquisition of ten days of sick leave according to which month of the school year, an employee begins work: 10 days from the beginning, nine days from the second month, eight days from the third month and so on down to a minimum of three days of sick leave when work begins in the eighth month or thereafter.

Compensation. **House Bill 2044 by Representative Barton (Senate committee, deferred)** would have required, in any year in which there is an increase in state funds appropriated pursuant to the MFP for any local school system over the amount of the appropriations for that system for the prior year, that the local school system increase teacher salaries and support personnel salaries so that the average teacher salary and support personnel salary paid to such employees in that system increases by either of the following, whichever is less:

- (1) The percentage increase in total state funds appropriated pursuant to the applicable MFP for all school systems as compared with the total state funds appropriated pursuant to the applicable MFP for all school systems for the prior year, all as determined by the state Dept. of Education.
- (2) The percentage increase in total state funds appropriated pursuant to the applicable MFP for that school system as compared with the total state funds appropriated pursuant to the applicable MFP for that school system for the prior year, all as determined by the state Dept. of Education.

Also the bill would have provided that in any year in which there is an increase in state funds appropriated pursuant to the applicable MFP for any local school system over the amount of such appropriations for that system for the prior year and such appropriations are insufficient to fund the teacher salary and support personnel salary increase, then the increase in the average teacher salary and support personnel salary paid in that school system would be as determined by the Dept. of Education.

**House Bill 2111 by Representative Hebert (Senate committee, deferred)** would have required each local school board receiving state funds for school year 1999-2000 that exceed the amount of state funds received for school year 1998-1999 to budget and expend such "excess" funds as follows:

- (1) The school board may budget and expend 30% of excess funds for any purpose.
- (2) The school board shall budget and expend 70% of excess funds solely and exclusively for pay increases and related retirement benefits for school system employees. Of the 70% allocated for pay increases, 85% must be budgeted and expended solely and exclusively for pay increases and related retirement benefits for certificated school system employees and 15% for noncertificated system employees.

The proposed pay increases would be granted pursuant to a plan formulated by each school board to provide the maximum benefit to each system. Also, any city or parish school system that does not receive "excess funds" (as defined in the bill) for the 1999-2000 school year must budget and expend at least 85% of the savings provided from the reduction in the Teachers' Retirement System employer contribution rate for 1999-2000 and thereafter for an increase in salaries for certificated personnel employed by the system.

**Senate Bill 1000 by Senator Hollis (ACT 825)** authorizes a local system to establish a program for awarding incentive pay to its teachers for not using sick leave. The local board may determine the amount of incentive pay and such additional pay shall be in addition to any other salary the teacher is entitled to receive from the local system, the state, or any other governmental entity. Any incentive payment must be nonrecurring and made solely from local funds.



Under **House Bill 1503 by Representative Thompson (ACT 1128)**, a local school board may adopt policies and procedures to establish and implement an incentive compensation program for certain school employees providing for monetary awards based on performance as determined by the meeting or exceeding of standards established for a school or the school district, or both, pursuant to the school and district accountability system.

**House Bill 718 by Representative Daniel (ACT 975)** provides, effective for the 1999/2000 school year and thereafter, that a full-time teacher holding both a valid La. regular teaching certificate and a valid certificate issued by the National Board for Professional Teaching Standards (NBPTS) and who is employed by a school board to provide instruction to students shall receive from the school board an annual amount of not less than \$5,000, in addition to the teacher's annual salary. Subject to the appropriation of funds, the salary adjustment provided by a school board to a teacher will be reimbursed to the school board annually by the state Dept. of Education.

Certification. **House Bill 904 by Representative McDonald (Act 147)**, relative to teacher certification, provides that the qualifications established by BESE for certification of any applicant who completes an approved teacher education program in Louisiana shall include a requirement that, as a condition for entrance into a teacher education program, the applicant shall have attained a 2.2 average on a 4.0 scale.

**House Bill 2213 by Representative McDonald (ACT 1052)** authorizes BESE to establish requirements and procedures consistent with the Child Protection Act for the state Dept. of Education to determine whether an applicant for or the recipient of any certificate or license issued in accordance with state law or board policy, or both, by the department or by the board and who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children has been convicted

of or pled nolo contendere to certain crimes. The Act provides for such criminal history checks.

## HIGHER EDUCATION

Tuition. **House Bill 2154 by Representative Daniel and Senator Dardenne (ACT 493)** will authorize specified increases in tuition and fee amount for the Paul M. Hebert Law Center, the School of Veterinary Medicine, the Executive Master of Business Administration program, the schools of medicine in New Orleans and Shreveport, and the School of Dentistry.

LSU-Alexandria. Dating back to the 1970s, the people in central Louisiana have supported and proposed converting LSU-A to a 4-year campus. Senator Dyess, a staunch supporter of such a conversion, introduced **Senate Bill 73 (Senate committee)** for that purpose. However, because of the constitutional mandate requiring a feasibility study prior to the passage of any bill, the bill stalled in committee, making way for **Senate Concurrent Resolution No. 83 by Senator Dyess and Representative Dewitt (enrolled)** requesting the Board of Regents to study and assess postsecondary programmatic and workforce needs of central La., the utilization of previously authorized baccalaureate program offerings presently available to the citizens of central La., the effectiveness of the University Center for Rapides Parish, and the need for and feasibility of converting LSU-A from a college limited to offering degrees of a lower rank than baccalaureate to a college authorized to offer baccalaureate degrees or establishing LSU-A as a branch campus of an existing baccalaureate degree-granting institution, and further requesting the Board of Regents to submit a report to the Senate and House education committees by 12/31/99.

LSU Medical Center. **Senate Concurrent Resolution No. 34 by Senator Greene (enrolled)** grants legislative approval to and paves the way for the LSU Medical Center to change its name to the LSU Health Sciences Center. The board of supervisors had previously put its stamp of approval on the measure, but statutory mandates require the legislature to approve any name change by resolution.

Additionally, **Senate Bill 1025 by Senator Greene (ACT 802)** makes all changes in the Louisiana Revised Statutes by simply changing the name of the center where it occurs in law.

Proprietary Schools. **Senate Bill 1016 by Senator Hainkel (ACT 800)** allows an applicant proprietary school, upon written approval by June 1, 2000, to advertise and solicit student enrollment under certain circumstances. Any monies received from prospective students by an applicant proprietary school prior to receipt of its license, whether for application fees, tuition or otherwise, must be placed in an escrow account.

Student loan Repayment. **House Bill 470 by Representative Copelin (Senate, failed)**, subject to appropriation of funds for this purpose, would have provided for the establishment and administration of a loan repayment program for loans made under the Federal Family Education Loan Program for costs of graduate level work in social work for persons who meet the following eligibility criteria in return for those are employed by the state or a political subdivision of the state to provide certain social work services for three to five years, such as social work services in public schools, mental health facilities, medical hospitals and clinics, community youth and family centers, or health units. The bill also would have made a change to the tuition payment program for medical school students, pursuant to an amendment in Senate committee, changing the administering agency of such program from the La. Student Financial Assistance Comm. to the LSU medical center.

## **LIBRARIES**

In yet another effort to focus on literacy among Louisiana citizens and promote reading initiatives, **Senator Wilson Fields** authored **Senate Bill 1077 (ACT 682)** to authorize each public library to dispose of any superseded, obsolete, unused or otherwise unnecessary book by making it available to be claimed. A library book which has been out of use for over a year may be claimed by any hospital, correctional

facility, public or private institution, nonprofit organization, adult education program, youth organization, school, or any individual for private use free of charge. The public library will provide a convenient location in the library to make the books available to persons who want them.

## **NON-LEGISLATIVE K-12 ISSUES**

### LEAP 21 Test Results

The LEAP 21 tests are designed to measure how well Louisiana students perform on the new state content standards. The content standards for each subject specify the concepts and skills that Louisiana students are expected to know and be able to do.

Results of the state's new LEAP 21 tests given to 4th and 8th graders this spring showed public school students in those grades fared better than state education officials originally anticipated on the new, tougher tests:

- 55% of 4th graders scored Basic or higher in English language arts  
24% scored Approaching Basic  
21% scored Unsatisfactory (compared to 24% originally projected by state officials)
- ▶ 42% of 4th graders scored Basic or higher in mathematics  
24% scored Approaching Basic  
35% scored Unsatisfactory (compared to 38% originally projected)
- ▶ 43% of 8th graders scored Basic or higher in English language arts  
36% scored Approaching Basic  
21% scored Unsatisfactory (the same as originally projected)
- ▶ 38% of 8th graders scored Basic or higher in math  
21% scored Approaching Basic  
40% scored Unsatisfactory (compared to 44% originally estimated)

Students' scores were reported only as pass/fail in the past. Under the new LEAP 21 tests, student Scores are reported in one of five achievement levels to provide more information for parents, students, and educators:

<b>ADVANCED</b>	A student at this level has demonstrated superior performance beyond the proficient level of mastery.
<b>PROFICIENT</b>	A student at this level has demonstrated competency over challenging subject matter and is well prepared for the next level of schooling.
<b>BASIC</b>	A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.
<b>APPROACHING BASIC</b>	A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.
<b>UNSATISFACTORY</b>	A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Next year, the tests become "high stakes", which means that students in 4th and 8th grades who are judged Unsatisfactory in English language arts and math face summer school and being held back if they don't improve.

#### The Iowa Tests

Iowa tests results were also released showing that Louisiana's public school 6th and 9th graders' test scores improved from last year on the 1999 administration of The Iowa Tests, a national exam used to judge student achievement. The Iowa Tests allow for comparison of scores in reading, language arts, math, social studies, science and the use of reference materials, with those of students throughout the United States.

This year, because the state changed the grades tested, comparison data is available only for 6th and 9th grades. The Iowa Tests showed that, compared to a national average percentile rank of 50:

- La. public school 6th graders had a composite score rank of 45, up from 44 in 1998.
- La. public school 9th graders had a composite score rank of 44, up from 43 in 1998.

According to the publisher of the test, scores in this range are considered in the average range. Percentile ranks range from 1 to 99, with an average of 50 being the national average. A "composite score" is an average of a student's performance on all subjects tested and provides a general indication of how well the student performed on the test.

#### Graduation Exit Examination

Results released this spring for the Graduation Exit Examination (GEE) are as follows:

- 85% of 10th graders passed English/language arts, compared to 87% last year.
- 74% of 10th graders passed mathematics, compared to 76% last year.
- 93% of 10th graders passed written composition, compared to 95% last year.
- 80% of 11th graders passed science, compared to 84% last year.
- 88% of 11th graders passed social studies, compared to 88% last year.

These numbers do not reflect the number of students who will not graduate this year. Other factors such as number of Carnegie units, classroom grades, and attendance also impact graduation.

Students begin taking the GEE in the 10th grade and have several opportunities to take and pass each section before graduation. Students have six chances to pass writing, English and math beginning in the 10th grade, they have four chances to pass science and social studies beginning in the 11th grade.

Accountability

Under Louisiana's new School and District Accountability System, the state will use results of the LEAP 21 tests, The Iowa Tests, and student attendance and dropout rates to calculate "performance scores" for public schools. Scores for the LEAP 21 tests will make up 60% of the schools' scores, scores for The Iowa Tests will make up 30%, attendance will make up 10% for K-6 schools and 5% for 7-12 schools, and dropout rate will count for 5% for 7-12 schools.

K-8 public schools will receive school performance scores in September, and those that perform poorly will given assistance. High schools will receive their school performance scores in 2001.

A school's 10-year goal is to have an average achievement level of Basic, while an average level of Proficient represents the 20-year goal.

**\*Source: Louisiana Department of Education. Further information may be obtained at <http://www.doe.state.la.us>**

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## ENVIRONMENT

(Contact: Christy Barbier 342-8370)

### 1999 Regular Session

The Louisiana Legislature dealt with numerous environmental issues during the 1999 Regular Session ranging from waste disposal, hazardous materials regulation and transport, and environmental cleanup to air and water quality, departmental structure and organization, and enforcement of environmental laws and regulations. The following is a summary of some of the major environmental bills of the session, some of which have become law and some of which failed to pass through the legislature.

### ENVIRONMENTAL CONTROL

In an effort to address the fact that used oil facilities are virtually unregulated by DEQ, **Senate Bill 720 by Senator Wilson Fields (House committee)**, as reported by the Senate Environmental Quality Committee, would have required used oil collection centers, transfer facilities, and transporters to obtain hazardous waste licenses or permits authorizing such facilities to handle used oil. The bill was amended on the Senate Floor to eliminate the requirement that such facilities obtain a more stringent hazardous waste permit and instead merely required that such facilities obtain a permit authorizing their operation in accordance with rules and regulations promulgated by DEQ. Despite this attempt to make the bill more palatable to all parties, the bill was killed in the House Environment Committee.

However, the bill was revived by an amendment added to **House Bill 1592 by Representative Damico (ACT 1296)** on the Senate Floor. **House Bill 1592** was a department-sponsored bill authorizing DEQ to charge participation fees of up to \$500 per application for approval of an investigation plan and fees of up to \$500 per application for approval of a remedial action plan relative to DEQ's voluntary investigation and remedial action program. As the bill left the Senate, the provisions of **Senate Bill 720**

were included in **House Bill 1592**, but the House quickly rejected the Senate amendments, sending the bill to conference committee, where it would have died had the conferees not agreed to a compromise amendment to **House Bill 1592** that limited the permit requirement for used oil facilities to any such facilities located in St. Helena Parish.

Litter/Littering. Litter concerns are regularly addressed by the Louisiana Legislature each session, and this session was no different. **Representative Baylor** presented **House Concurrent Resolution 19 (Enrolled)**, requesting, on behalf of the legislature, the Louisiana Municipal Association, and the Louisiana Municipal Black Caucus Association, that state and local officials enforce litter laws and renew efforts to beautify the communities of Louisiana. The measure sailed through the legislature unopposed.

Solid/Hazardous Waste Disposal. **Representative Curtis** tried to push through a measure that would have expanded the prohibition against new commercial solid or hazardous waste disposal facilities or new commercial solid waste or sanitary landfills in Rapides Parish within two miles of any municipality. **House Bill 686 (House - withdrawn)** would have amended existing law to also prohibit new commercial solid or hazardous waste disposal facilities or landfills within two miles of the city of Alexandria or within any portion of House of Representatives District 26, which is the district Representative Curtis represents. The measure also would have defined “commercial solid or hazardous waste disposal facility” to include recyclable solid waste separating facilities and solid waste transfer facilities and pick-up stations. However, after the Senate amended the bill, the author withdrew the legislation from further consideration.

Another measure addressing solid waste disposal was **House Bill 2049 by Representative Kenney (ACT 1015)**, which defines, for purposes of the Solid Waste Recycling and Reduction Law, “off-road vehicle” as construction, farming, industrial, mining, and other vehicles not normally operated on the roads of the state, and defines “tire” as a continuous rubber covering encircling the wheel of a motor vehicle or

off-road vehicle. By providing these definitions, the act includes tires from off-road vehicles within the waste tire program. The measure further amends current law to tie the amount of the new tire fee to the size of the tire, providing that the existing two dollar fee would apply to tires weighing 100 pounds or less, and that a one dollar per 20 pounds fee would apply to tires weighing more than 100 pounds.

## **ENVIRONMENTAL QUALITY**

Air Quality. After years of debate, discussion, and rejection of a federal mandate requiring the implementation of an enhanced automobile inspection and maintenance (“I/M”) program for the five-parish “serious” ozone nonattainment area, including the Baton Rouge metropolitan area, the legislature finally agreed to a compromise with the federal government for a “low-enhanced” I/M program. **House Bill 1524 by Representative Damico (ACT 576)**, requires motorists in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, which constitute the Baton Rouge “serious” ozone nonattainment area, to obtain an extra inspection during their annual vehicle safety inspection and to pay an additional three dollars for such inspection. The new inspection consists of a gas cap integrity test and a fuel inlet pressure test. Although the legislature was philosophically opposed to imposing this burden on drivers in the five-parish area, the members approved the measure in order to avoid federal sanctions which would have threatened federal highway funds in the nonattainment area.

In another measure addressing air quality in Baton Rouge, **Senator Cleo Fields** introduced **Senate Concurrent Resolution 44 (Enrolled)**, which urges and requests DEQ to prohibit Rhodia, Inc., located in North Baton Rouge, from importing, off-loading, and burning napalm unless certain conditions are met, including the following:

1. A risk management plan ("RMP") consistent with federal law is conducted with public input through hearings and written or oral testimony or comments.

2. Chemical specific air monitors are installed at Southern University's campus, in the potentially affected community, and at the smoke stacks and storage and transfer stations and the fence line at Rhodia Incorporated's facility to monitor the air quality of the area.
3. A Community Alert System is installed to provide siren and loudspeaker warnings of chemical accidents
4. An evacuation program is established for Southern University.

**Senator Cleo Fields** also proposed an air quality bill which authorizes continuous monitoring of toxic air pollutants at times and places deemed appropriate by DEQ, but the bill was amended in House Environment Committee to authorize such monitoring on a "continuous or periodic" basis, thereby limiting the intended effect of the bill. **Senate Bill 743 (ACT 780)**.

**Representative Wiggins** brought a measure that would have restricted open burning of yard waste, trees, brush, grass, or other vegetable matter in parishes with less than 90,000 or less than 300,000 people if the burning creates a persistent or recurring nuisance to surrounding landowners or occupants, or if it creates or intensifies a fire hazard, safety hazard, or traffic hazard due to impairment of visibility, as defined by DEQ rule. **House Bill 1548 (Senate committee)** would have also required that violators be given a warning prior to issuance of a citation or imposition of a civil fine, but the bill was deferred by the Senate Environmental Quality Committee.

In further efforts to improve our air quality, **Senator Johnson** chose to focus on indoor air quality at the legislature's home, introducing a measure that prohibits smoking within the confines of the Louisiana State Capitol. **Senate Concurrent Resolution 121 (Enrolled)** is intended to make our state capitol a "smoke-free" building.

While many legislators were addressing problems with air quality in the state, **Senator Dean** introduced a measure asserting that Louisiana's and the nation's air quality is good. **Senate Concurrent Resolution 69 (House committee)** would have memorialized the United States Congress to refuse to ratify

the Kyoto Protocol on global warming, declaring that global warming is a “myth.” Apparently, the House Environment Committee disagreed with the assertions of the resolution and refused to send it to the House Floor for a vote.

Environmental Facilities. Continued concerns about the citizens and environment of the state due to production and distribution of toxic chemicals prompted **Representative Morrell** to introduce **House Concurrent Resolution 4 (House Committee)**, a measure which would have requested DEQ to impose a five-year moratorium on the construction of new chemical plants in Louisiana. The resolution, however, died in the House Environment Committee.

Hazardous Materials. Addressing concerns regarding the location of rail cars containing hazardous materials in residential communities, **Senate Bill 551 by Senator Cleo Fields (Senate committee)** would have prohibited the storage of hazardous materials in rail freight cars, freight containers, cargo tank cars, or portable tank cars located within 1,000 feet of a residence, would have imposed a civil penalty of up to \$100,000 per day of violation plus any response costs necessitated by any spill, and would have imposed a criminal penalty, upon a showing that the stored materials or substance would endanger human life or health, of not less than \$1,000,000 plus the costs of prosecution, or imprisoned at hard labor for not more than ten years, or both. The bill was considered and killed by the Senate Environmental Quality Committee on the grounds that such measure would violate the Interstate Commerce Clause of the United States Constitution.

A similar measure, **House Bill 396 by Representative Guillory (House committee)**, would have prohibited the storage of hazardous materials in rail cars in railroad switching yards for more than twelve hours. This bill also died in committee based on the Interstate Commerce Clause arguments. However, **Representative Guillory** authored a companion resolution, **House Concurrent Resolution 134**

(**Enrolled**), which memorializes Congress to enact legislation allowing Louisiana to impose more stringent requirements on the storage and transport of hazardous materials by rail car, attempting thereby to solve any constitutional problems with his proposed bill in future legislative sessions.

Hazardous Materials/Right-to-Know. Urging that state law is too stringent, **Senator Barham** proposed **Senate Bill 358 (House Committee)**, which would have revised reporting requirements under the Right-to-Know Law to conform with federal reporting requirements. Currently, state reporting requirements are more onerous than federal reporting requirements, and this bill would have equated state requirements with federal requirements. However, the bill died in the House Environment Committee.

**Representative Martiny** authored a measure, **House Bill 1739 (ACT 1166)**, which provides inventory reporting exemptions for certain gasoline and diesel stations that have complied with all applicable underground storage tank requirements during the previous calendar year. The measure exempts any retail gas station at which gasoline has been stored underground in tanks with no more than a 75,000-gallon capacity and any retail gas station at which diesel fuel has been stored underground in tanks with no more than a 100,000-gallon capacity from the inventory reporting requirements of existing law. This exemption will take effect on March 1, 2001 for the year 2000 reporting requirements. The bill requires, however, that any reports that retail gas stations do submit to DEQ must also be provided to the Department of Public Safety and Corrections, office of state police, and to local emergency planning committees.

Hazardous Materials Transit. Prompted by concerns of transportation of hazardous materials near schools and residential areas, **Senator Bean** authored **Senate Bill 126 (ACT 829)**, which provides a hazardous materials transportation route around Shreveport-Bossier City and prohibits the transportation of hazardous materials within 300 yards of an elementary or secondary school. The measure provides exceptions for carriers making local deliveries or pickups, carriers using the route to reach a local pickup

or delivery point, or carriers using the route to reach maintenance or service facilities within the parish.

In an effort to provide assistance to state police in responding to and preparing for hazardous materials incidents, **Senator Malone** authored **Senate Bill 660 (ACT 819)**, which creates the Hazardous Materials Emergency Response Fund for utilization by the Department of Public Safety and Corrections, office of state police, hazardous materials response unit. The Act provides that monies in the fund are to be used to develop resources of the office of state police's hazardous materials unit that are necessary for use in training, purchasing equipment, and supporting the state police hazardous materials response unit.

In an attempt to address problems with identifying hazardous materials that are being transported on commercial vessels on the navigable waters of the state, **Representative Ansardi** introduced **House Concurrent Resolution 15 (Enrolled)**, which memorializes federal and state authorities, including the United States Departments of Commerce and Transportation, the National Transportation Safety Board, the Environmental Protection Agency, the Louisiana Departments of Economic Development, Transportation and Development, Environmental Quality, and Public Safety and Corrections, the Governor's Office of Maritime Advisor, and the Offshore Terminal Authority, to require all barges, cargo ships, and commercial vessels transporting hazardous materials on navigable waters of the state to identify such materials by utilizing a placarding system recognized by the United Nations or the North American Placarding System.

## **ENVIRONMENTAL QUALITY DEPARTMENT**

Department Organization. The Louisiana Department of Environmental Quality is attempting to become more efficient, effective, and "consumer friendly" by reorganizing its structure according to functions rather than media. This reorganization has been accomplished by the provisions of **House Bill 1582** by **Representative Damico (ACT 303)**, which provides that the office of the secretary continue to

oversee and supervise the department, but adds that the office of the secretary is to further provide internal audits, technical advisory support, and communications, and is to also include the department's legal division. The measure abolishes the offices of air quality and radiation, waste services, and water resources and replaces them with the offices of environmental assessment, environmental compliance, and environmental services. The reorganization streamlines the department, providing "one-stop" shopping. For example, permit applicants will be able to work with a "team" from the department that will cover all aspects of the permit, from air and water to solid and hazardous waste.

Civil Penalties/Enforcement. Current law restricts DEQ, in the enforcement of environmental laws, to imposing civil fines and penalties, including any cleanup costs incurred due to a violation, but the department sponsored a bill to expand its authority in civil penalty assessments. **Senate Bill 402 by Senator Lambert (House committee)** would have authorized the secretary of DEQ to allow the performance of "environmentally beneficial projects" in lieu of or in addition to civil penalties when settling civil penalty assessments. The secretary would have to promulgate rules and regulations in accordance with the APA to define the parameters of such projects and to include environmental mitigation as an aspect thereof. Additionally, the secretary would have to report to the Senate Environmental Quality Committee and the House Environment Committee by March first of each year regarding any environmentally beneficial projects allowed during the year.

The bill was never scheduled for a hearing in the House Environment Committee, but the provisions of **Senate Bill 402** were included in an amendment to **House Bill 2262 by Representative Damico (ACT 1184)**, which also deals with enforcement by DEQ. The Act amends current law relative to procedures for issuance by the secretary of cease and desist orders to clarify that the department may issue such orders in cases where a pending violation is threatening "significant" damage to public health or the environment.



The measure, which includes the environmentally beneficial projects provisions, was signed into law.

Another measure addressing enforcement of environmental violations is **Senate Bill 844 by Senator Johnson (ACT 791)**, which would have doubled the criminal penalties for the illegal discharge, emission, or disposal of substances harmful to human life or health, but was amended in the Senate Environmental Quality Committee to delete the references to criminal penalties and to increase the civil penalties from \$25,000 per violation to \$27,500 in accordance with federal civil penalty provisions.

**House Bill 1588 by Representative Damico (ACT 351)** is a department-backed bill that authorizes the secretary, by rule, to establish classifications or levels of violations of environmental laws, regulations, or permits, and to provide appropriate enforcement responses. Prior law merely authorized the assessment of either civil or criminal penalties but did not delineate or categorize particular offenses. This new law permits the secretary to categorize offenses based upon seriousness to public health and the environment in order to assist in prioritizing the department's enforcement efforts.

Crimes/Enforcement. **Senate Bill 987 by Senator Landry (House committee)** would have created the crime of environmental fraud by state employees, which would consist of any intentional action, inaction, omission, or falsification of environmental documents or reports by a state employee that causes or will cause damage to life or health of a person, or any action of a state employee which causes the concealment of environmental data that contributes to or will contribute to damage to life or health of a person. The bill would have imposed a fine of between \$5,000 and \$50,000, imprisonment with or without hard labor for no more than five years, or both, against any person who commits the crime of environmental fraud. The measure would also have obligated any state employee with knowledge of the commission of an environmental fraud to report such offense to the local D.A. and would have authorized a citizen suit in the event the D.A. does not prosecute the matter. The bill died in the House Administration of Criminal Justice

Committee.

Enforcement. Hoping to pursue the recovery of state dollars expended for cleanups when the attorney general chooses not to do so, **Senate Bill 399 by Senator Lambert (ACT 505)** allows DEQ attorneys to act in lieu of and with the permission of the attorney general in actions to recoup state monies expended for cleaning up hazardous waste sites. The measure expands the enforcement efforts of the department, allowing pursuit of state monies if the attorney general assents.

Another enforcement measure, **House Bill 1791 by Representative Damico (ACT 1172)**, addresses damages allowed to employees who suffer retaliation for reporting environmental violations. The bill clarifies that “triple damages” allowed under current law are limited to the actual period of damage, not to exceed three years, and are to include lost wages and lost anticipated wages from a lost wage increase or lost promotion, lost property from lost wages, lost benefits, and any physical or emotional damages resulting from the retaliation. The measure further provides that if the actual period of damage exceeds three years, the employee is entitled to actual damages only, not triple damages.

Due to the ongoing problem of waste tires in the state, **Representative Guillory** sponsored **House Bill 2195 (ACT 1049)**, which establishes incentives, including financial rewards, for the reporting of incidences of unauthorized disposal of waste tires.

**Representative Guillory** also attempted to establish an Environmental Watchdog Program, which would have provided assistance in the detection and reporting of the illegal disposal of hazardous waste by tank truck, trailer, or other vehicle and would have provided rewards or incentives to individuals for providing information used in detecting and combating such illegal disposal. The Senate Environmental Quality Committee, however, deferred **House Bill 2211 by Representative Guillory (Senate committee)**.

**House Bill 2230 by Representative Damico (ACT 1333)** protects from liability any operator of monitoring equipment operating such property on behalf of the department for damages to third parties resulting from the data or information obtained or failed to be obtained. The measure also protects DEQ from liability for damages stemming from the operation or failure to operate monitoring equipment owned by the department but located on another person's property and operated by someone other than a department employee.

### **FEES/LICENSES/PERMITS**

Fees. As of August 15, 1999, the propane gas industry will no longer have to pay chemical accident prevention program fees. **Senate Bill 345 by Senator Ellington (ACT 839) [House Bill 1554 by Representative Morrish (House subject to call calendar - designated duplicate of Senate Bill 345)]** prohibits DEQ from imposing fees pursuant to the chemical accident prevention program against storers of liquefied petroleum gas whose facilities are permitted or inspected by the Louisiana Liquefied Petroleum Gas Commission or who use liquefied petroleum gas as fuel in an agricultural process, but such storers still must submit a risk management plan to DEQ in accordance with the chemical accident prevention program provisions.

Permits. Fearing continued environmental problems by the establishment of a hazardous waste incinerator in South Louisiana, **Senator Robichaux** and **Representative Baudoin** sponsored duplicate resolutions that would have requested DEQ to place a moratorium on the issuance, renewal, major modification, or transfer of permits authorizing the incineration of hazardous waste. **Senate Concurrent Resolution 13 by Senator Robichaux (Senate - indefinitely postponed)** and **House Concurrent Resolution 100 by Representative Baudoin (House committee)**. The resolutions were prompted by DEQ's issuance of a permit to GTX, Inc. in Amelia, Louisiana authorizing the facility, which is located at

the old Marine Shale Processors site, to incinerate hazardous waste. The Senate Concurrent Resolution was reported unfavorably by the Senate Environmental Quality Committee and failed an attempt to pull it from the calendar for final passage, and the House Concurrent Resolution died in the House Environment Committee.

## **HAZARDOUS WASTE**

Environmental Cleanup. **Senate Bill 552 by Senator Lambert (ACT 209) [House Bill 1208 by Representative Morrish (House subject to call calendar) designated a duplicate of Senate Bill 552]** requires payment for emergency medical services, including standby services, provided in hazardous substance emergencies. Current law requires the persons responsible for a hazardous substance or materials spill to pay all cleanup costs, but the law was not clear that such cleanup costs include EMS services provided at the request of state police or firefighters who actually perform the cleanup of the site. This new law clarifies that when an emergency medical services provider is called to the site of a spill by an emergency responder, even if called there solely to provide “standby” services, such EMS provider is entitled to recover the costs of its services from the party responsible for the spill.

Another measure aimed at hazardous waste cleanups and control was **House Bill 2258 by Representative Damico (ACT 383)**, which requires any owner, operator, or other responsible person who obtains information that indicates hazardous waste or hazardous waste constituents are leaching, spilling, discharging, or otherwise moving into or onto the land, subsurface strata, air, or water, to report such information to DEQ in accordance with regulations to be adopted by the department. This obligation would not apply when the incident has previously been reported.

Tax/Hazardous Waste. **Representative Holden** would have eliminated the industrial tax exemption for hazardous waste incinerators after December 31, 1999, imposing a significant impact on state revenues

over the next ten years. **House Bill 559 (House subject to call calendar)**, which was a constitutional amendment, died on the House Floor.

## **OIL/GAS**

Drilling, Oil & Gas. **Senate Bill 533 by Senator Robichaux (Senate committee)** would have prohibited land disposal or treatment of certain “associated wastes” derived from exploration and production of oil and gas except in compliance with Louisiana’s Hazardous Waste Control Law and regulations adopted pursuant thereto. Prohibited oilfield wastes would have included drilling, workover, and completion fluids, production pit sludges, production storage tank sludges, production oily sand and solids, natural gas plant processing waste which is or may be commingled with produced formation water, waste from approved salvage oil operators who only receive oil from oil and gas leases, and crude oil spill cleanup waste. The bill was deferred by the Senate Environmental Quality Committee.

## **SUNSET LAW**

Environmental Quality Dept. This session, the legislature had to decide whether or not to recreate the Louisiana Department of Environmental Quality, and with only one nay from the entire legislature, **House Bill 1593 by Representative Damico (ACT 187)** sailed through the legislature, recreating DEQ for three more years, until July 1, 2002.

## **WATER QUALITY**

Sewerage Treatment. In an effort to address sewerage problems in the state, **Representative Fontenot** introduced **House Bill 1403 (Senate committee)**, which would have increased the sewage tag fee on individual sewerage treatment systems from \$50 to \$100, with 30% of the fees collected to be used solely for enforcement of the Sanitary Code and 20% to be remitted to a newly-created Sanitary Code Enforcement for the Indigent Fund, such fund to be used solely for purposes of repairing, maintaining, and

replacing individual mechanical sewerage plants for indigent citizens of the state. After a lengthy debate in the Senate Environmental Quality Committee, the bill was deferred due to a reluctance of the members to increase yet another fee imposed on the citizens of Louisiana.

**House Bill 2026 by Representative Triche (ACT 399)** is also aimed at sewerage problems, particularly addressing privately owned sewage treatment facilities. Currently, some communities have been faced with the problem of operators of such facilities failing to maintain them or effectively abandoning them, creating a threat to public health, welfare, or the environment. The Act requires all applicants for or transferees of a permit to discharge effluent from a privately owned sewage treatment facility regulated by the Public Service Commission to provide and maintain a bond or other acceptable financial security, payable to DEQ and conditioned upon satisfactory compliance with Louisiana's Water Control Laws. The Act further authorizes the secretary to issue an order forfeiting such bond or security upon a determination

that:

- (1) The continued operation or lack thereof of the facility represents a threat to public health, welfare, or the environment.
- (2) Reasonable and practical efforts have been made to obtain corrective action by the permittee.
- (3) It does not appear that corrective actions can or will be taken.

The proceeds of any forfeiture are to be utilized to address or correct the deficiencies at the facility or to maintain and operate the system.

Water Supply. **Senate Bill 441 by Senator Cox (ACT 1203)**, in its original form, would have required annual testing of public water supplies for contaminants identified in the federal Safe Drinking Water Act. However, due to the extreme cost of annual testing of all public water supplies in the state, the bill was amended to require annual testing only in certain municipalities, including Lake Charles, Sulphur, Vinton, Westlake, and DeQuincy. Additionally, the bill was amended to rename the Lake Pontchartrain-

Catherine Sewage and Water Management District as the Lake Catherine Sewage and Water District, to decrease the membership of the board of commissioners of the district from eleven to nine members, and to revise the appointments of certain members of the commission.

**Senate Concurrent Resolution 9 by Senator Cox (House committee)** would have requested EPA to take the following actions to promote safe drinking water in Calcasieu Parish:

- (1) Consider prohibiting the issuance or renewal by the federal government or any authorized state or local governmental entity of any permits authorizing the emission, discharge, or disposal of any waste or pollutant until the cumulative impacts of the existing pollution and contamination are reduced and the contaminated sites are successfully remediated.
- (2) Require testing for the full spectrum of suspected chemicals in the groundwater and Chicot Aquifer, which is the sole source of drinking water for Calcasieu Parish, at least once a year.
- (3) Conduct a parish-wide study to identify the location and concentration of contaminants in the groundwater, including monitoring and recovery wells that penetrate deep into the aquifer, and to assess all possible sources of contamination, including but not limited to railcars, trucks, tankers, and agricultural sources.
- (4) Require the restoration of historical sources of drinking water, such as the formerly fishable, swimmable, and drinkable Calcasieu River, and the location of new sources of drinking water for the parish and other affected persons who utilize the waters of the Chicot Aquifer.

The resolution did not make it beyond the House Environment Committee.

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## FINANCE

(Contact: Senate Fiscal Staff 342-8895)

### 1999 Regular Session

#### THE OVERALL STATE BUDGET

There are several appropriation bills that comprise the state budget for Fiscal Year 2000 (beginning July 1, 1999 and ending June 30, 2000):

General Appropriation Bill **ACT 10 (House Bill 1)**;

Capital Outlay Bill (Cash portion) **ACT 20 (House Bill 2)**;

Ancillary Appropriation Bill (House Bill 301);

Judiciary Expense Bill (House Bill 900);

Legislative Expense Bill (House Bill 233); and,

Revenue Sharing Bill (House Bill 2145).

An additional appropriation bill provides for the use of previously unbudgeted revenue accruing during FY99 – due to modest expenditure savings.

House Bill 2027 appropriates monies for supplemental operating expenditures for FY99. Also contained in this act was an appropriation of \$49.6 million that was used to accomplish a three-year defeasance plan. The defeasance will generate operating budget savings of roughly \$32 million in FY00, \$10 million in FY01 and another \$10 million in FY02.

House Bill 1, the General Appropriation Act, provides for the general operating expenses of the executive branch of state. The act contains funding adjustments in various program areas to account for unavoidable costs, workload changes, means of financing adjustments, and a number of enhancements.

Configuring of the FY00 Executive Budget and fiscal initiatives of the 1999 Regular Session relied heavily on the use of Tobacco Settlement Revenues (see next section for details), Casino Revenues, and the FY98 Surplus Funds. The Revenue Estimating Conference recognized \$67 million in land-based casino

revenues as nonrecurring; of the \$67 million, \$6 million was “set-aside” for the Casino Support Service Contract along with \$500,000 for the Compulsive Gambling Fund. Thereafter, the legislature allocated approximately \$15 million to the Budget Stabilization Fund, and the remaining was appropriated for capital outlay projects such as the Capitol Complex project. The FY98 surplus was \$94 million; as required by the Constitution, Art VII, §10(D)(2), 25 percent (\$23.5 million) was deposited into the Budget Stabilization Fund, and the remaining funds were used for Capital Outlay projects and debt defeasance — \$20.8 million and \$49.6 million, respectively.

During the 1999 Regular Session, deposits into the Budget Stabilization Fund were accomplished for the first time since the creation of the fund. The fund will receive 25% of the Surplus Funds, 25% of non-recurring Tobacco Settlement Revenue, and 25% of the non-recurring Casino Revenue proceeds — Total Rainy Day Deposits equal roughly \$50 million by the end of FY00.

The State budget for FY00 approximates **\$13.7 billion** with financing provided as follows:

\$5.89 billion from State General Fund (Direct);  
\$0.99 billion from Fees and Self-Generated Revenues;  
\$2.26 billion from Statutory Dedications; and,  
\$4.58 billion from Federal Funds.

The following section highlights some of the major budgetary enhancements and accomplishments during the 1999 Regular Session in Education, Health and Hospitals, Corrections, and General Government.

#### **K-12 EDUCATION FUNDING** (in millions)

\$69.0 Minimum Foundation Program (MFP): This item, combined with a reduction in school system retirement contribution costs, enables Louisiana to attain full funding of the MFP formula.

\$5.4 High Stakes Testing Remediation and Summer School: These programs are geared toward providing educational assistance to those students scoring unsatisfactory grades in English and Math on the state's educational achievement test. During the last fiscal year, \$2.0 million had been appropriated for these

purposes. The entire \$7.4 million in FY00 represents full implementation of these programs.

\$4.0 School and District Accountability Initiatives: These efforts develop a statewide system of accountability for schools and school districts to include both incentives and corrective actions to encourage excellent performance. With the \$6.0 million previously appropriated, these efforts will be funded at \$10.0 million in FY00.

**TOPS FUNDING** (in millions)

\$45.0 Tuition Opportunity Program for Students (TOPS).

This funding covers two (2) items:

\$29.3 This amount represents the FY99 shortfall that faced the TOPS program earlier in the current year. (TOPS was originally appropriated only \$36.3 million). The shortfall has been addressed in the current fiscal year and must be covered in FY00 also.

\$15.7 This amount represents the funds necessary to provide new TOPS awards to approximately 6,500 incoming freshmen students in FY00.

In total, TOPS will be funded at \$81.3 million in FY00 in order to provide awards to 34,000 students.

**HIGHER EDUCATION FUNDING** (in millions)

Higher Education Uses of Tobacco Settlement Revenues

\$15.0 Health Care Sciences Grants for the improvement of health and quality of life in Louisiana.

The grants are to enhance health and science initiatives related to the health consequences of tobacco use.

\$10.0 Endowed Chairs and Professorships to be matched with \$15 million from private and corporate donors to establish endowed chairs and professorships at Louisiana's universities.

\$5.0 Cancer research at the Louisiana State University Medical Center sites in both New Orleans

and Shreveport.

**Additional Higher Education Highlights (in millions)**

\$16.5 Higher education formula enhancement to be distributed by the Board of Regents. This is in addition to \$30.1 million added in the last two fiscal years.

\$16.0 Higher Education Faculty Pay Raises to raise the state's higher education faculty salaries closer to the Southern Regional Education Board average. This is in addition to \$58.0 million added in the last three fiscal years.

\$4.5 Instructional equipment and process technology laboratories for the Technical College System in order to meet the demands of increasingly complex technical industries. These one-time funds are in addition to \$4.0 million in one-time funds added in FY99.

\$3.6 Technical College System Instructional Pay Plan. This is in addition to an earlier \$3.6 million in the last fiscal year.

\$2.0 Higher Education Strategic Initiatives Fund supports joint economic development and research projects in the areas of medicine and bio-medicine, micro-manufacturing, information technology; food technology; materials technology; oil, gas, and petrochemical technologies; and Louisiana culture and history.

\$1.7 Baton Rouge Community College for increased enrollment at this new institution. This is in addition to \$3.9 million provided for this new institution over the last three fiscal years.

\$1.5 Higher Education Initiatives Fund, Distance Learning Program includes one-time funds for the continued development of 25 distance learning classrooms throughout the state. This is in addition to \$5.0 million in one-time funds added in the last two fiscal years.

\$1.0 Higher Education Initiatives Fund, Center for Innovative Teaching and Learning includes

one-time funds for the purpose of improving university-based teaching and training programs in Louisiana. This is in addition to \$2.0 million in one-time funds provided in the last two fiscal years.

### **HEALTH CARE FUNDING** (in millions)

#### Health Care Uses of Tobacco Settlement Revenues

\$88.3 Medicaid Program support generates \$209.3 million in matching Federal Funds for a combined total of \$297.6 million. This combined total represents 8.8% of Medicaid's FY00 proposed budget.

\$13.2 Louisiana Children's Health Insurance Program (LaCHIP) generates \$38.8 million in matching Federal Funds for a combined total of \$52.0 million. The combined total includes \$8.7 million in new funds to extend Medicaid eligibility and services to all children under age 19 living at or below 150% of the federal poverty level.

\$4.2 School-based health centers to ensure that all children have access to health services, includes a \$1.0 million enhancement for FY 99-00.

\$3.7 State mental health services to meet consumer and family demands for treatment programs.

\$3.0 Smoking prevention program including community collaboration services, counter-marketing efforts, partnership grants, cessation, and evaluation.

\$1.2 Disease Management Program matched with \$9.3 million in Medicaid Uncompensated Care Costs for a combined total of \$10.5 million. This program will stress long-term management of asthma, diabetes and congestive heart failure at the state's charity hospitals.

#### **Additional Health Care and Social Services Highlights**

\$13.0 MR/DD Waiver Program includes additional Medicaid funds for an additional 800 slots (over the existing 1,040) to cover case management and medical services.

\$9.8 Tax Equity and Fiscal Responsibility Act (TEFRA) Medicaid option to provide health care services to disabled children.

\$6.1 Federal Ryan White Funds to provide HIV medications (over the existing \$4.2 million) for Medicaid eligible, indigent, and Department of Corrections patients treated at the state's charity hospitals.

\$2.6 Elderly and Disabled Waiver Program includes additional Medicaid funds (over the existing \$1.3) to help 200 elderly and disabled people stay in their own homes rather than be institutionalized in a nursing home.

\$2.0 Additional state funds (over the existing \$0.3 million) to reduce the number of state and parish inmates awaiting admission to Feliciana Forensic Facility.

\$1.7 Home Nurse Visitation Program includes additional Medicaid funds to reduce infant mortality rates and child abuse in at-risk families in a pilot program to serve 552 families across the state.

\$1.0 Additional Medicaid and Federal Funds for a 20-bed medical detoxification unit at the Charity Hospital and Medical Center of Louisiana at New Orleans.

\$1.0 Drug Courts includes additional state funds (over the existing \$2.25 million) for using the coercive power of the criminal justice system to achieve abstinence from drugs and to alter criminal behavior.

**GENERAL GOVERNMENT & ECONOMIC DEVELOPMENT FUNDING - (in millions)**

- I. \$6.0 Formosan termite initiative
- II. \$3.0 Rural Development Bridge Repair
- III. \$2.0 Safe Drinking Water Fund
- IV. \$3.0 Municipal Facilities Revolving Loan Fund

- V. \$0.8 Motor Vehicle Toll Free Hotline to be answered by a person
- VI. \$5.0 Economic Development Award Program.
- VII. \$3.1 U.S. Navy Information Technology Center Phase III.
- VIII. \$6.5 Workforce Development and Training Fund.
- IX. \$0.4 Louisiana Partnership for Technology and Innovation (LAPTI).
- X. \$0.3 Economically Disadvantaged Business Development Program.
- XI. \$0.4 Regional economic development projects in northeast, northwest and north central Louisiana.
- XII. \$0.2 Macon Ridge Economic Development Region.

#### **CORRECTIONS FUNDING (in millions)**

In the Department of Corrections, Sheriffs' Housing of State Inmates was increased significantly in FY00 as a result of a rising number of state inmates being housed in local facilities (\$21.8 million) and an increase of \$1 in the sheriffs' per diem (\$5.6 million). The overall budget for this program is \$137.4 million for FY00, an increase of \$27.4 million over FY99, which reflects the increases for state inmates and sheriffs' per diem.

A significant issue from the FY00 Executive Budget for the Department of Corrections was a 14%, across-the-board pay raise request for Corrections personnel from the rank of cadet through colonel. The department included this measure as a response to the fact that Louisiana's correctional officers are the lowest paid in the United States. Despite efforts to include a pay raise at a lower percentage level, the provision was not funded in the General Appropriation Act.

#### **TOBACCO SETTLEMENT REVENUE**

Louisiana will receive roughly \$4.6 billion over 25 years based on initial settlement projections. In FY00 Louisiana will receive \$199 million. The Revenue Estimating Conference recognized \$156 million

as recurring and the remaining \$43 million as non-recurring revenue. Of the \$43 million recognized as non-recurring, roughly \$10.8 will be deposited in the Rainy Day (Budget Stabilization) Fund. The remaining funds for FY99 were appropriated for health and education purposes and capital outlay projects. Table A indicates a complete listing of how Tobacco Settlement Revenue was appropriated in FY00.

Senate Fiscal Services is in the process of producing a small pamphlet highlighting the FY00 budget in greater detail than this summary. Additionally, future Tobacco Settlement Revenue Dedications will be outlined. This pamphlet will discuss the budget issues for FY00 and beyond that will be important to legislators as the FY00 budget changes and evolves over the course of the fiscal year and as preparation for the development of the FY01 budget begins.



## GAMING

(Contact: Tracy Sudduth 342-8896)

### 1999 Regular Session

#### RIVERBOATS

**Senate Bill 1023 by Senator Jordan (pending House committee) and House Bill 2024 by Representative Perkins (pending Senate final passage)** would have reduced the number of authorized riverboat gaming licenses and the number of licenses which can be issued within any one parish. House Bill 2024 was amended on the Senate Floor by Senator Jordan to include the revocation of the fifteenth riverboat license and to reduce the number of licenses that may be granted for the operation of gaming activities on a riverboat for operation from any one parish from six to five licenses. Read by title and failed to pass as amended, 19 yeas and 18 nays. Reconsidered and returned to the calender subject to call as amended.

**Senate Bill 678 by Senator Heitmeier (pending Senate committee), House Bill 481 by Representative Ansardi (pending House committee), House Bill 522 by Representative Copelin (failed House final passage), House Bill 1701 by Representative Martiny (pending House committee), and House Study Request 5 by Representative Copelin (adopted)**, all dealt, in one way or another, with the mandatory cruises or excursions a riverboat must make each year or the prohibition of the Gaming Control Board from authorizing simulated or phantom cruises. House Study Request 5 requests the House Committee on Administration of Criminal Justice to study the practice of conducting phantom or simulated cruises and determine the impact such practices would have on the overall gaming industry and economy of the state if implemented in Louisiana.

**House Bill 1647 by Representative Barton (ACT 1387)** prohibits the Gaming Control Board from adopting any rule which would allow phantom or simulated cruises, or any similar activity.

#### **INDIAN COMPACTS**

**Senate Bill 954 by Senator Hollis (pending Senate committee), Senate Bill 758 by Senator Hines (withdrawn from the files of the Senate), House Bill 1826 by Representative DeWitt (pending Senate committee), and House Bill 1036 by Representative J.D. Smith (failed Senate final passage)** all dealt, in one way or another, with Indian tribes renegotiating gaming compacts with the state. The tribes would be allowed to increase their compact term from 7 years to 15 years or 18 years for a contribution of 15% or 18.5% to the state.

#### **CHARITABLE**

**House Bill 1365 by Representative Windhorst (ACT 568)** abolishes the Division of Charitable Gaming Control, office of state police within the Department of Public Safety and Corrections, and transfers its powers, duties, functions, responsibilities, programs, and operations to the office of charitable gaming within the Department of Revenue.

#### **VIDEO POKER**

**Senate Bill 879 by Senator Ellington (ACT 490)** extends the term of video poker license from one year to five years and increases the 60-day deadline for the issuance of a video poker license when a bar or restaurant is sold to a 180-day deadline. Each license issued is contingent upon the payment by July 1st of each year of the annual fees. Failure to submit the annual fee before July 1st of each year is cause for immediate suspension and/or revocation of the license.

#### **SLOT MACHINES AT RACETRACKS**

**Senate Bill 1047 by Senator Cravins (ACT 307) and Senate Bill 1051 by Senator Malone**

(ACT 308) both create local taxing district and authorize it to levy a tax, not to exceed 18.5%, on net slot proceed and transfer the proceeds to the state. Act 307 applies to St. Landry Parish, where Evangeline Downs plans to relocate and Act 308 applies to Bossier Parish, which is the home of Louisiana Downs. Most tax related bills are reserved for fiscal sessions only, but because these are local bills creating a tax district, the decision was made that they could be heard during the 1999 Regular Session and they required only 20 Senate votes each for passage. Both passed the Senate 20 yeas to 19 nays.

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## HEALTH AND HOSPITALS

(Contact: Donnie Broussard 342-6162)

### 1999 Regular Session

#### HEALTH CARE FACILITIES

Hospitals. Several bills, including **Senate Bill 681** (Senate committee) and **Senate Bill 965** (Senate committee) by Senator Schedler, **Senate Bill 944** by Senator Hainkel (Senate committee), **House Bill 1722** by Representative Barton (House committee), and **House Bill 2280** by Representative Alario (Senate committee) would have allowed hospital service districts to promote the general health of the community by setting up satellite facilities and provide services at any location, both inside and outside of the district, provided the services are in accordance with the objectives and purposes of the district.

Rural Health Clinics. A rural health clinic that meets the definition of the Health Care Financing Administration as hospital-based and is operated by a hospital will no longer be required to secure a separate license from the hospital license under **House Bill 1184 (ACT 1279)** by Representative Thompson.

Abortion Clinics. In order to protect the public health and to better control the operation of abortion clinics and other facilities used for abortion procedures, effective July 1, 1999, such facilities will no longer be exempt from meeting licensure laws and minimum standards for "ambulatory surgical centers" with the passage of **House Bill 320 (ACT 696)** by Representative Perkins.

End Stage Renal Disease Facilities. **Senate Bill 429 (ACT 650)** by Senator Bean requires any person or entity who wishes to open, operate, manage, or maintain an end stage renal disease facility must have a license, issued by the Department of Health and Hospital, to do so, effective July 15, 2000.

Nursing Homes. **House Bill 1383 (ACT 336)** by Representative Alexander authorizes the Department of Health and Hospitals to extend the moratorium on Title XIX certified beds for nursing

facilities until July 1, 2005 and provides that the department shall not approve any additional nursing facilities or additional beds in nursing facilities for participation in the Title XIX program.

Inspections. The state health officer and the office of public health will have the authority to conduct health, safety, and sanitation inspections through state employed licensed sanitarians of any place upon receipt of a complaint that the Department of Health and Hospitals determines show appropriate and sufficient grounds to indicate a health hazard or sanitary code violation with the enactment of **House Bill 1925 (ACT 993)** by Representative R. Alexander.

### **HEALTH CARE PROVIDERS**

As in years passed, numerous bills were introduced affecting health care providers and their scope of practice as follows:

Physician Assistants. **Senate Bill 8** by Senator Bean (Senate committee) and **House Bill 1143** by Representative Wiggins (failed on House floor) would have authorized a physician-assistant-PAC to prescribe, dispense, and administer certain drugs and medical devices to the extent delegated by his supervising physician.

Psychologists. A psychologist who has undergone specialized training in clinical psychopharmacology and has passed a national proficiency examination in psychopharmacy approved by the State Board of Examiners of Psychologist would have been authorized to prescribe and distribute certain drugs and other procedures related within the scope of practice of psychology according to rules promulgated by the board under **Senate Bill 677** by Senator Heitmeier (withdrawn) and **House Bill 1286** by Representative Riddle (House calendar).

Physicians. A physician's license may be revoked, suspended, or placed on probationary status for failure to self report, in writing to the Louisiana State Board of Medical Examiners, any violation of his

practice act within 30 days of the occurrence under **Senate Bill 592** by Senator Schedler (**ACT 660**). Exempts violations related to a physician's ability to practice medicine with reasonable skill and safety because of substance abuse or psychiatric condition if he enters into a treatment contract with the La. State Medical Society's Physician Health Program and is compliant with such contract.

Dentists/Dental Hygienists. Dentists and dental hygienists will be prohibited from soliciting, paying, or receiving payment for referring or soliciting patients by **Senate Bill 772** by Senator Dardenne (**ACT 782**).

Pharmacists/Pharmacies. **Senate Bill 620** by Senator Hines (**ACT 767**) provides a major revision and reorganization of the Pharmacy Practice Act. This Act, developed collaboratively with the National Association of Boards of Pharmacy, represents model legislation and makes the act more compatible with national laws and current practices. **House Bill 2126 (ACT 1328)** will also allow a pharmacist to have up to two pharmacy technicians under his direction and immediate supervision at any time to assist in the filing of prescriptions. This Act will help address the shortage of licensed pharmacists.

Social Workers. **House Bill 1848 by Representative R. Weston (ACT 1309)** [**Senate Bill 903 by Senator Dardenne (withdrawn)**] and revises the social worker practice act and establishes three tiers of social workers, which includes registered social workers, graduate social workers, and licensed clinical social workers and qualifications thereof. Specifies that social workers are not authorized to administer or interpret psychological tests, practice psychology, or prescribe drugs.

## **HEALTH CARE PROGRAMS/SERVICES**

La. Kidney Health Care Program. The financial criteria for eligibility for the program is increased under **Senate Bill 6 by Senator Bean (ACT 820)** to enable residents of the state who suffer from end stage renal disease to participate who have an adjusted income of less than the following: \$75,000 if filing a joint

return; \$60,000 if filing a single return; and \$50,000 if married and filing a separate return.

LaCHIP Program. Under **Senate Bill 256 by Senator Hines (ACT 1197)**, the LaChip Program, enacted in 1998 R.S. to provide health coverage to children from low and moderate income families, will be expanded effective July 1, 1999 to include children, birth to age 19, in families whose income does not exceed 150% of the federal poverty level. Further provides after July 1, 2000, DHH shall expand eligibility to include children, ages birth to 19, in families whose income does not exceed 200% of the federal poverty level. Requires implementation of such expansions no later than October 1, of each year. This Act will help considerable in the state's effort to provide health insurance coverage to over two hundred fifty thousand children who have no insurance.

Breast Cancer Treatment Alternatives. On or after July 1, 2000, physicians and surgeons will be required to provide a written summary of treatment alternatives to their patients diagnosed with breast cancer and to discuss such alternative methods of treatment under **Senate Bill 234 by Senator Bajoie (ACT 199)**.

Gene Therapy. The Gene therapy Research Center Task Force, created in the 1998 Regular Session to study the feasibility of developing a comprehensive gene therapy research center in the metropolitan New Orleans area to study gene therapy, will continue in existence to support, monitor, and assist with the creation of the La. Genetic Research Consortium to foster genetics and gene therapy research and business development in the state under **Senate Concurrent Resolution 62 by Senator Hines (Enrolled)**.

## **ABORTION**

Abortion after Viability. The United State Supreme Court in "Pennsylvania Casey v Casey" clearly acknowledges a limit on the right of a woman to abort her pregnancy after the developing child has reached the age of viability and allows the states to regulate abortion and to regulate and proscribe abortion



subsequent to viability of the unborn child except where it is necessary, in appropriate medical judgment, for the preservation of the life of the mother. Under **Senate Bill 1031 by Senator Greene (ACT 1232)**, the performance or inducement of an abortion and termination of a pregnancy shall be prohibited when an unborn child is viable. Allows the termination of pregnancy after viability only in the case of a medical necessity to preserve the life or health of the mother or when the medical condition of the unborn child is such that there is no realistic possibility of maintaining and nourishing the life of the unborn child outside the womb. In such cases, the termination must be performed by a licensed physician in a licensed hospital and in such manner which provides the best opportunity for the unborn child to survive the delivery and which is consistent with preserving the life and health of the mother. The Act defines "viable" as the point where there is a realistic possibility of maintaining and nourishing the life of the unborn child outside the womb which is required to be presumed when it is determined by an ultrasound test that the child has a gestational age of great than or equal to 22 weeks.

## MISCELLANEOUS

Automated External Defibrillator. In an effort to reduce out-of-hospital deaths due to sudden cardiac arrests **Senate Bill 100 by Senate Hines (ACT 825)** provides for the use of automate external defibrillator (AEDS), establishes certain requirements of any person or entity who possesses an automated external defibrillator, and provides civil immunity to persons for civil damages arising from acts or omission of acts related to the operation of an AED that do not amount to willful or wanton misconduct or gross negligence.

Human Cloning. **Senate Bill 825 by Senator Hines (ACT 788)** prohibits cloning or attempting to clone a human being, purchasing or selling an ovum, zygote, embryo, or fetus with the intent to clone and provides a fine for such violation of not more than \$10,000,000 or imprisonment, without or without hard labor for not more than 10 years, or both.

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## INSURANCE

(Contact: Tammy M. Smith 342-9127)

### 1999 Regular Session

#### MENTAL HEALTH COVERAGE

**House Bill 1300** by Representative Donelon and **Senate Bill 235** by Senator Bajoie force insurance companies to recognize mental illness as a disease and mandates coverage for treatment. **House Bill 1300 (ACT 1285)** by Representative Donelon requires minimum coverage for a variety of serious mental illnesses including schizophrenia, anorexia, bulimia and depression. This coverage must include at least 45 days of inpatient care and 52 days of outpatient care. However, coverage is limited to companies with 35 or more employees. **Senate Bill 235 (pending Senate Committee)** by Senator Bajoie would have required payment for costs involving treatment of mental disorders, including substance abuse. This bill would require insurers to include the same mental health coverage already offered to state employees and the legislators through state employees group benefit.

#### CANCER CLINICAL TRIALS

**Senate Bill 761 (ACT 1357)** by Senator Bean provides health insurance coverage for costs involved in cancer clinical trials. The idea is to give more cancer patients access to the newest treatments and advance medical progress in the fight against cancer. The trials have to be approved by specific federal agencies.

#### TRANSPLANT CENTERS

**Senate Bill 417 (ACT 207)** by Senator Bean requires insurers to allow certified transplant centers located in Louisiana to be included in preferred or exclusive provider networks. Before the center could

be considered, the center must follow certain certification guidelines.

## **CONTRACEPTIVES**

Legislators also offered legislation for preventative measures. **Senate Bill 1034 (pending Senate Committee) by Senator Irons** would have required insurers to include contraceptives and contraceptive services as part of their health plans. Coverage would have to be provided for any contraceptive drug or device approved by the U.S. Food and Drug Administration as long as its obtained by prescription. It would require companies to charge the same co-payment for contraceptives as for other prescription drug. This bill excluded businesses operated by church related groups or church affiliated insurance companies opposed to birth control.

## **IMPOUNDMENT**

**Senator Cleo Fields** introduced **Senate Bill 231 (pending Senate Committee)** which would have repealed the state towing requirement for noncompliance with the compulsory motor vehicle law. This bill would instead issue a citation to the violator and give an insurer ten days to prove proof of insurance.

## **FRAUD INVESTIGATION UNIT**

**Senate Bill 955 (pending House Call Calendar) by Senator Lentini** would have created a fraud investigative unit within the Department of Public Safety and Corrections, office of state police. This unit would work in conjunction with the Department of Insurance and the Attorney General's office to investigate and prosecute insurance fraud. Investigations would target violators such as doctors, lawyers and clients staging scams by faking accident reports to collect bogus claims.

## JUDICIAL AFFAIRS

(Contact: Tim Prather 342-8299)

### 1999 Regular Session

#### JURISDICTION

Justice of the Peace. In an effort to expand the jurisdiction of justice of the peace courts, **Senate Bill 904 by Senator Schedler (ACT 678)**, allows such courts to exercise incidental jurisdiction over matters before them and would, in the instance of any good faith incidental demand or other pleading which exceeds the jurisdictional amount of the justice of the peace court, transfer the entire case to another court with proper jurisdiction.

Duty Judges. Instead of providing that all pleadings be randomly assigned to a particular division, **House Bill 331 by Representative Murray (VETOED)**, would have allowed a district court to adopt rules to authorize a duty judge to hear and sign orders related to the following: Emergency matters such as protective orders and TROs; Entry of preliminary defaults; confirmation of defaults; unopposed rules; stipulated matters; uncontested cases; and preliminary injunctions (N.O. District Ct. Only).

Studies. **Senate Concurrent Resolution 50 by Senator Jones (pending Senate Calender)**, would have created a special committee to study the constitutional powers and authorities of the tree branches of government with respect to execution of clemency power.

#### COURTS

Cost. In an effort to keep in step with inflation, **Senate Bill 382 by Senator Dardenne (ACT 740)**, increases the court cost in city and municipal courts in criminal matters from \$10 to \$15 to defray operational expenses of the marshal or constable of the court and for maintenance and improvement of jail facilities.

Another instrument, **House Bill 608 by Representative Chaisson (ACT 1259)**, increases the amount a justice of the peace receives for filing and service of new suits in civil matters from \$60 to \$80.

## LABOR

(Contact: Billie Larry 342-6150)

### 1999 Regular Session

#### EMPLOYMENT DISCRIMINATION

Employment. **Senate Bill 999 by Senator Irons (withdrawn from the files of the Senate)** would have provided prohibitions against discrimination in employment or employment opportunities on the basis of actual or perceived sexual orientation and provided for certain exemptions. In addition, this legislation sets forth the "clear and convincing evidence" standard as the burden of proof in any civil action filed pursuant to this legislation.

#### UNEMPLOYMENT COMPENSATION / JOB TRAINING

Unemployment Compensation. **House Bill 1651 by Representative Murray (ACT 197)** provides for a 20% increase in unemployment compensation benefits and a twenty percent reduction in state employers' unemployment compensation taxes. In addition, this legislation provides an extra \$44 million dollars a year from the state's unemployment compensation tax receipts to the Worker Training Fund (a statutorily created job training program in the Department of Labor) to upgrade skills of incumbent workers.

Specifically, maximum unemployment compensation benefits will increase by twenty percent January 1, 2000 from \$215.00 a week to \$258.00 a week. The average benefit will increase from \$163.00 a week to \$191.00 a week. Unemployment compensation taxes will reduce by an average of twenty percent.

This legislation also decreases unemployment compensation taxes by approximately \$35 million a year and increases the cost of unemployment benefits by approximately \$30 million a year. This legislation also increases the Worker Training Fund from six million dollars a year to \$50 million. The plan further includes five million dollars for administration expenses and fraud investigations.

**WORKERS' COMPENSATION CORPORATION**

Workers' Compensation. **House Bill 482 by Representative Dewitt (ACT 1256)** extinguishes the full faith and credit guarantee of the state to the Louisiana Workers' Compensation Corporation (LWCC) resulting in LWCC functioning as an ordinary mutual insurance company.

House Bill 482 was part of a package of bills which would eliminate the state as the financial backer for LWCC. The various bills, all by Representative Dewitt, are as follows:

**House Bill 492 (ACT 1405)**, a proposed constitutional amendment, requires LWCC to participate in the Louisiana Guaranty Association (LIGA), which sets money aside to cover claims of failed insurance companies.

**House Bill 493 (ACT 855)**, the statutory companion to the LIGA requirement, kicks in when state backing of LWCC claims cease.

**House Bill 497 (ACT 1404)**, a proposed constitutional amendment, which provides for methods of dissolution or sale of the corporation.

**Senate Bill 670 by Senator Jones (ACT 776)** permits a lump sum or compromise settlement to be presented by recitation and acknowledgment by the parties in open court which is capable of being transcribed from the record of the proceedings. This legislation further deletes the requirement of 25% disability (loss of anatomical use or amputation or loss of physical function of body) as an eligibility requirement for permanent partial disability benefits.

**Senate Bill 560 by Senator Jordan and Senate Bill 787 by Senator Cox (both pending Senate committee)** would have exempted employers who fail to secure workers' compensation insurance or proper certification of self-insurance status from statutory immunity from recovery for all legal damages to an injured employee.



## LEGISLATIVE AFFAIRS

(Contact: Yolanda J. Dixon 342-6184)

### 1999 Regular Session

#### CAMPAIGN FINANCE

After an interim study of the levels of campaign contributions, the legislature increased the political committee contribution limits for district office candidates, which includes members of the legislature, from \$35,000 to \$48,195. The increase was based on the rate of inflation since the last adjustment to the contribution limit. Additionally, **Senate Bill 145 by Senator Cain (ACT 830)** requires the Supervisory Committee on Campaign Finance to calculate and adjust the contribution limit for district office candidates based upon the rate of inflation as measured by the Consumer Price Index.

#### ELECTED OFFICIALS

Adopting a method similar to that used by the judiciary, the legislature created the Compensation Review Commission in **House Bill 2153 by Representative Alario (ACT 1040)** to review and recommend the salaries for statewide elected officials and members of the legislature. The commission will consist of nine members: two appointed by the president of the Senate; two appointed by the speaker of the House of Representatives; one by the chief justice of the Louisiana Supreme Court; and four selected by a majority of the statewide elected officials. The commission will study the salaries of these officials, and submit recommendations relative to the salaries to the legislature sixty days prior to the commencement of any regular session of the legislature in even-numbered years. After the initial recommendation, a report may be submitted every two years at any regular session of the legislature. If approved by concurrent resolution by a majority vote of the legislature, the salaries recommended in the report shall take effect on July 1st of the year in which the report was submitted.

## ELECTIONS

The legislature made several attempts to resolve the problem of the dates of congressional elections in an effort to comply with the United States Supreme Court decision in *Love v. Foster*. **House Bill 1699 by Representative Bruneau, (pending Senate calendar)** would have provided that the name of an unopposed candidate for United States senator or representative who has qualified for the general election before the primary election shall not be printed on the ballot in the primary election, but shall instead be printed on the ballot in the general election. In a very different approach, **Senate Bill 994 by Senator Fields, (pending second House committee)** would have changed our present method of electing members of Congress by implementing a closed primary system for the election of those members only. After the bill was dual referred to the Appropriations committee just shortly prior to the 55th legislative day of the session, the provisions for the closed primary system were then amended on to **House Bill 1634 by Representative Lancaster**. That bill was then tabled by the House of Representatives during the final days of session.

## ETHICS

**Senate Bill 905 (ACT 2) by Senator Ewing** changes the manner in which financial disclosure for legislators is made by requiring members of the legislature to file financial disclosure statements with the clerical officer of the house to which the member was elected by July 1 of each year of his term. The Act requires disclosure by legislators of any income exceeding \$250.00 by the member, his spouse, or any business enterprise in which the member and/or his spouse owns at least ten percent which is received from the state or any political subdivision, and services performed for, or in connection with, a gaming interest. The Act requires the members to file a certification that the member has filed his federal and state income tax return, or has filed for an extension of time for such return.

**House Bill 1141 by Representative Waddell (Act 164)** provides that reports to the Board of Ethics shall be deemed filed when hand delivered or delivered using a commercial delivery service. The Act also specifies that electronic receipt of papers is made by facsimile or e-mail, clarifies that no report will be due on any federal or state holiday, and that any such report will be deemed timely filed if filed on the first working day after the due date which is not a federal or state holiday.

### LEGISLATION

Amending the constitution to limit the number of bills a legislator may introduce in a regular session of the legislature to fifteen was proposed by **Senate Bill 9 by Senator Campbell (withdrawn)**.

### LEGISLATIVE PROCEDURE

The procedure for the manner in which the legislature may convene itself in an extraordinary session would have been simplified under the provisions of **House Bill 1596 by Representative Windhorst (VETOED)**. While current law authorizes the legislature to be convened by the presiding officers of both houses upon written petition of a majority of the elected members of each house, **House Bill 1596** would authorize the circulation of multiple copies of the petition to gather the requisite number of signatures, and additionally allows the petition to be contained within a concurrent resolution introduced in any session or within separate House and Senate resolutions introduced in the same session. When a resolution is used, the vote of a majority of the elected members of each house shall constitute a written petition of the majority of the elected members for purposes of convening an extraordinary session. Additionally, **House Bill 1596** specified that an extraordinary session convened by the presiding officers may overlap or run concurrently with a regular session of the legislature.

### LEGISLATIVE SESSIONS

There were several proposed constitutional amendments to make changes relative to sessions of the

legislature. **Senate Bill 25 by Senators Cox (tabled)** would provide for the power of the legislature to legislate with regard to objects enumerated in the proclamation for extraordinary sessions. **Senate Bill 245 by Senator Hines (ACT 1392)** provides relative to sessions of the legislature as follows:

1. Changes the prefiling deadlines for bills, (not constitutional amendments) to 5 p.m. the **Wednesday** prior to the first day of a regular session.
2. Changes the convening time for sessions in even-numbered years to the **third** Monday in April.
3. Changes the length of the regular session in even-numbered years to not more than **45** legislative days in a period of **60** calendar days.
4. Changes the deadline for introduction of bills in regular sessions convening in odd-numbered years to **6 p.m.** of the **23rd calendar day**.
5. Changes the deadline for introduction of bills for regular sessions in even-numbered years to **6 p.m. of the 10th calendar day**.
6. Changes the deadline for consideration on third reading and final passage of matters intended to have the effect of law in regular sessions in odd-numbered years to **6 p.m.** of the **57th legislative day or the 82nd calendar day**, whichever occurs first (except by 2/3 vote of both houses).
7. Changes the deadline for consideration on third reading and final passage of matters intended to have the effect of law in regular sessions in even-numbered years to **6 p.m.** of the **43rd legislative day or the 58th calendar day**, whichever occurs first.
8. Retains current constitution subject matter limitations for regular sessions in even-numbered years, **but** additionally provides for the consideration of legislation if its object is to levy, authorize, increase, decrease, or repeal a fee, or to dedicate revenue, or to enact a local or special law.
9. Provides for the consideration of five prefiled bills which are not within the subject matter jurisdiction for the session.
10. Authorizes the legislature to modify by joint rule adopted by a 2/3 vote, the procedural matters of the constitution relating to legislative sessions, except for the restrictions on the number of legislative days in a session; the subject matter restrictions for each session; the fact that the legislature shall meet in annual regular sessions, and the definitions of a legislative day.

11. Specifies that no regular session shall continue beyond June thirtieth of any year.
12. Limits the per diem paid to members in regular sessions to 85 days in an odd-numbered year and to 60 days in an even-numbered year.
13. Changes prohibition in odd-numbered years against legislating with regard to tax exemptions, exclusions, deductions, or credits by making it applicable only to such measures which result in or have the effect of an increase in tax liability.
14. Provides that in odd-numbered years, the legislature may legislate with regard to tax exemptions, exclusions, deductions or credits, but only as to such measures which result in, or have the effect of an increase in tax liability.
15. Specifies that the ballot proposition for this proposed constitutional amendment be the first of such propositions to appear on the ballot.

**Senate Bill 1114 by Senator Dardenne (withdrawn)** would have flipped the substantive content of the annual sessions of the legislature to provide that regular sessions convening in even-numbered years shall be general in nature, and would prohibit the introduction or enactment in regular sessions in even-numbered years of legislation which levies or authorizes a new tax by the state; increases an existing tax by the state or such a statewide political subdivision or which legislates with regard to tax exemptions, exclusions, deductions, or credits. The amendment would provide for the consideration in such sessions of legislation which levies, authorizes, increases, decreases, or repeals a fee, which dedicates revenue, or which provides for the enactment of local or special laws, if properly advertised . The constitutional amendment would also allow the consideration of five prefiled bills per legislator which are not within the subject matter limitation for the session. The amendment changes the prefiling deadline for bills, the deadlines for third reading and final passage of matters intended to have the effect of law, and allows the legislature to modify by joint rule, adopted by a 2/3rd's vote of both houses, the provisions of the constitution relative to legislative sessions, except for the prefiling deadlines, the restrictions on the number of legislative days in a session, and the subject matter restrictions for each session.

**Senate Bill 282 by Senator Schedler (pending Senate committee)** would have provided for a regular limited subject matter session prior to the regular session in the third year of each term. The subject matter of such a session would be limited to legislation which has the effect of reducing state government regulation and the enactment of local laws which was properly advertised.

## **LOBBYING**

**Senate Bill 698 by Senator Dardenne (tabled)** would have redefined what is a "lobbyist" to mean any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is primarily employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. The definition of "lobbyist" also included a person who testifies for or against legislation before the legislature, or any of its committees on a regular basis, or seeks to influence the passage or failure of legislation by appearing before the legislature or any of its committees on a regular basis.

**Senate Bill 708 by Senator Dardenne (ACT 37)** changes the date for termination of lobbyist registrations from January 31 to December 31.

## **PUBLIC RECORDS**

**Senate Bill 892 by Senator Ewing (pending House committee)** would have provided penalties for the disclosure of certain confidential legislative information.

## **SENATE**

**Senate Resolution 28 by Senator Ewing (pending Senate calendar)** would have provided deadlines for Senate Bills and joint resolutions to be reported from committee and to be considered on final passage. The rule change would have required such instruments to be reported from committee in odd-numbered years on or before the forty-sixth calendar day, and in even-numbered years, on or before the

twenty-fifth calendar day. Additionally any such instrument would have to be considered on third reading and final passage by the 53rd day in odd-numbered years and the 32nd day in even numbered years. A similar measure, **House Resolution 37 by Representative Downer (pending House calendar)** was also introduced.

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## LOCAL GOVERNMENT AND SPECIAL DISTRICTS

(Contact: Ann S. Brown 342-0333)

### 1999 Regular Session

#### DEDICATION

Public buildings/grounds This legislative session began with the death of one of Louisiana's most notable servants. Representative Avery C. Alexander was known as a minister, a great civil-right leader, and a long term member of the Louisiana 's House of Representative. Efforts began immediately to pay tribute to this hero through **Senate Bill 1039 by Senator Bajoie (ACT 1234)** by creating the "Reverend Avery C. Alexander Plaza" and erecting a bust or other likeness of him upon public lands surrounding City Hall in New Orleans where his "stand for justice" made national history. Also **House Bill 530 by Representative Morrell (ACT 1258)** honors his memories by naming Charity Hospital in the University Medical Center in New Orleans as the "Reverend Avery C. Alexander Charity Hospital".

#### SPECIAL DISTRICTS

Hospital Service District Various instruments were introduced as "legislative clarification" in regards to hospital service districts. Such instruments provided that a hospital service district may operate one or more satellite facilities outside of its' district boundaries including, but not limited to, the operation of one or more such facilities within the boundaries of another parish or another hospital service district. Satellite facility was defined as any medical or health care facility operated by a hospital service district which provides health care and related services and is not located on the hospital service district's main campus. Bills introduced were: **Senate Bill 608 by Senator Lentini (Senate committee), Senate Bill 681 by Senator Heitmeier (Senate committee), Senate Bill 944 by Senator Hainkel (Senate committee), Senate Bill 965 by Senator Schedler (Senate committee), House Bill 1722 by Representative Barton**

**(House committee), and House Bill 1853 by Representative Alario (Substitute House Bill 2280).**

**House Bill 2280 by Representative Alario (Senate committee)** would have provided that any district may exercise any authority, except taxing authority, which is consistent with its objects and purposes within or outside of the district. Specifically authorized promotion of community health, competition in the market for health care services, and entering joint ventures to offer, provide, promote, establish, or sell hospital services outside the district.

Communication Districts Present *federal rule* requires that wireless phone service providers begin the process of making technical enhancements necessary to provide caller information (number and location) to 911 call answering centers. Further requires that a mechanism be developed for funding such enhancements. Several bills were introduced with the intent of establishing such a funding mechanism by levying a service charge on wireless telecommunication services which are 911 accessible. Bills introduced toward this effort were: **Senate Bill 939 by Senator Ewing (Senate committee), House Bill 1129 by Representative Barton (House committee), and House Bill 1947 by Representative Weston (House committee).** **House Bill 2102 by Representative Barton (ACT 1029)** authorizes the governing authorities of two or more parishes to create a communication district. Such district authorizes the governing authority of the district to select the method to be used to respond to emergency calls. Further authorizes each communication district to levy a service charge on Commercial Mobile Radio Service (CMRS). Defines CMRS to include wireless telecommunications service, such as cellular and personal communications service, which provides access to 911 service.

## NATURAL RESOURCES

(Contact: Ben Bradford 342-0331)

### 1999 Regular Session

#### PUBLIC PROPERTY

**Senate Bill 548 by Senator Romero (ACT 38)** provides that there shall not be any shell dredging on any state owned waterbottom, but does not apply to any oyster harvesting or seeding activities.

**Senate Bill 1076 by Senator Dean (ACT 1378)** requires that the Department of Natural Resources provide, on or before January 1, 2000, written certification to the Board of Levee Commissioners of the Orleans Levee District of all owners of property and mineral rights and the successors of such owners from whom property, in that area known as the Bohemia Spillway in the parish of Plaquemines, was acquired only by expropriation or by purchase under threat of expropriation. SB 1076 also provides that all payments of revenue and interest be paid by July 1, 2009.

**House Bill 1572 by Representative John Smith (Pending Senate Natural Resources Committee)** would have provided for the transfer of certain property from the Dept. of Public Safety and Corrections to the Dept. of Wildlife and Fisheries, the transfer of certain property from the Dept. of Culture, Recreation and Tourism to the Dept. of Wildlife and Fisheries, and the transfer of certain property from the Dept. of Wildlife and Fisheries to the Dept. of Culture, Recreation and Tourism in West Feliciana Parish in the tunica hills area.

**House Bill 2194 by Representative Schneider (ACT 499)** prohibits expropriation of any property abutting said section of Bayou Liberty by any public agency or private entity for any purpose, and further provides that if in case a court finds the prohibition on expropriation unenforceable, no public funds may be used to expropriate and no expropriation shall take place without a court determining that a great loss

or inconvenience to the public would result in its absence.

## **MINERALS**

### **Senate Bill 1094 by Senator Malone (Pending Senate Revenue and Fiscal Affairs Committee)**

would have created the "New Field Discovery Incentive Program" which authorized the commissioner of conservation to enter into cooperative agreements with oil and gas producers and developers to encourage the further discovery and production of oil and gas from new fields on the public and private lands of the state. The bill required the deposit of 5% of the state portion of the severance tax on oil and gas in the New Field Discovery Incentive Fund to be used solely for the implementation of the program by the commissioner. The lesser of 10% of the fund or \$2 million may be used to administer the program. The bill provided that severance tax on production from "certified new discovery oil and natural gas wells" is "suspended" for 24 months after completion or until recovery of "payout" of the well cost, whichever comes first, as determined by the commissioner of conservation. The commissioner determined which wells are "discovery" wells according to certain criteria provided in the bill. The bill required all unexpended and unencumbered monies in the fund at the end of the fiscal year be deposited into the general fund, and the money earned on the investment of the fund be returned to the fund.

## **COASTAL ZONE**

### **House Bill 538 by Representative Faucheux (ACT 962)** creates the Coastal Mitigation Account

in the Wetlands Conservation and Restoration Fund in the state treasury. The Act provides that all monies received by the Department of Natural Resources which are to be used for compensatory mitigation shall be deposited into the Coastal Mitigation Account. The Act provides that such monies shall be used to develop and implement projects in which permittees may pool funds, resources, and activities sufficient for the compensatory mitigation required of each participating permittee only where there is not an appropriate

individual project or mitigation area available in the coastal zone. Compensatory mitigation is defined as the replacement, substitution, enhancement, or protection of ecological values to offset anticipated losses caused by a permitted activity.

**House Bill 1081 by Representative Dupre (ACT 919)** provides for the deposit into the Wetlands Conservation and Restoration Fund 2% of mineral revenues received by the state in excess of the allocations and deposit of the \$5 million as required by present law. This Act provides that a specified amount of mineral revenues shall be deposited in the fund on an annual basis.

**House Bill 1262 by Representative Gautreaux (ACT 920)** establishes the Atchafalaya Basin Program in the Dept. of Natural Resources to serve as the authority on behalf of the state to work in partnership with the U.S. Army Corps of Engineers and other public entities to coordinate state and local activities in developing and implementing the federally sponsored and funded Atchafalaya Basin Floodway System, Louisiana Project. The Act provides for an authorized capital improvement program and provides for the projects authorized for the program and a proposed schedule of funding. Provision is made for inclusion of additional projects to be included after review, study, and analysis as requested by concurrent resolution of the legislature.

#### **FISHERMEN' GEAR COMPENSATION FUND**

**House Bill 1842 by Representative John Smith (ACT 599)** provides for a deposit of \$250,000 from the Fishermen's Gear Compensation Fund on July 1, 1999 and again on July 1, 2000, into the Underwater Obstruction Removal Fund, and authorizes the Department of Natural Resources (DNR) to seek to match those funds from any available source. The Act prohibits payments to be made from the Fishermen's Gear Compensation Fund for claims at a site certified by the commissioner of conservation to have been cleared, and provides that when four or more claims have been made after a site has been certified

as clear, DNR shall revisit the site and locate and remove the obstruction, if the department determines removal is feasible.

## OCCUPATIONS AND PROFESSIONS

(Contact: Kevin Hayes 342-0597)

### 1999 Regular Session

#### Interior Designs

**Senate Bill 768 by Senator Hollis (ACT 426)** changes the licensing process for interior designers to one of registration, so that they will be called "registered interior designers" and prohibits any person other than a registered interior designer from performing "interior design", while using the term "licensed interior design" or describing his business as a "licensed interior designer". Architects, engineers, contractors, home builders, professional home planners and those who provide "decorator services" are exempt from interior designer registration. Every individual registered to use the title "interior designer", "registered interior designer", or "licensed interior designer" on January 1, 2000 is grand fathered in. The governor is authorized to appoint the State Board of Examiners of Interior Design from a list of various professional organizations to serve at his pleasure.

#### Athlete Agents

**House Bill 1864 by Representative Daniel (ACT 302)** revises the regulations governing athlete agents and requires athlete agents to be certified by the appropriate professional players association prior to being registered as an athlete agent in Louisiana. Requires agents to include certain notifications to clients in the agent's contract that signing the contract will cause the athlete to lose intercollegiate athletic eligibility and allows the athlete sixteen days to rescind the contract. The Act authorizes an institution of higher education to bring an action against an athlete and the athlete agent if an athlete loses his eligibility as a result of any violation of the rules of any federation or association or if the institution is sanctioned. Any person found in violation of the Act shall be guilty of a misdemeanor and may be fined \$10,000.

Licensing

**House Bill 893 by Representative Daniel (ACT 61)** creates the Louisiana Home Inspectors Licensing Law and provides for the Louisiana State Board of Home Inspectors within the Department of Economic Development to license and regulate home inspectors. The Act requires licensing, beginning January 1, 2001, for any person engaging in or conducting, or advertising or holding himself out as engaging in or conducting the business of a home inspector. As a condition to licensure, the home inspector must complete twenty hours of continuing education. Licensed engineers, architects, electricians, plumbers, heating and air conditioning technicians, real estate brokers and appraisers, certified general appraisers, contractors, and pest control operators are exempt from licensure.

Accountants

**House Bill 1810 by Representative Travis (ACT 473)** revises the provisions regulating accountants and Certified Public Accountants. The State Board of Certified Public Accountants is created within the Department of Economic Development consisting of seven members appointed by the governor who shall take appropriate administrative actions to regulate licensees and enforce the provisions regulating licensure.

Consumers/Protection

**House Bill 306 by Representative Hunter (ACT 393)** provides for the regulation of commercial body art facilities. Requires each person operating a commercial body art facility on January 1, 2000, register the facility with the Department of Health and Hospitals by March 1, 2000 and each person acquiring or establishing such facility after January 1, 2000 must register the facility prior to beginning operations. The Department of Health and Hospitals shall promulgate rules for the enforcement of regulation of these facilities and for establishing minimum sanitary and safety standards. Physicians licensed



by the Louisiana State Board of Medical Examiners and those persons or facilities that pierce ears with a disposable single-use or solid needle that is applied using a mechanical device to force the needle or stud through the ear are exempt from registration with DHH.

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## PROPERTY

(Contact: David Smith 342-0626)

### 1999 Regular Session

#### FINANCIAL INSTITUTIONS

**Senate Bill 79 by Senator Landry (ACT 633)** provides that upon death of a depositor who has money in any bank and with proof of the intention of the deceased depositor, the funds shall belong to and made available to certain descendants which under the legislation would also include parents and siblings of the depositor.

#### PUBLIC PROPERTY

**Senate Bill 116 by Senator Barham (ACT 1363)** is a constitutional amendment which adds to the list of the specific exceptions for the donation, loan, or pledge of public credit and specifically authorizes the state to donate asphalt removed from state roads and highways to the parish or municipal governing authority where the asphalt was removed or, if not needed, to other parish or municipal. Apparently there exist in various areas of the state large amounts of surplus asphalt stockpiled and without a change in the constitution the state is prohibited from donating the surplus to any parish or municipal governing authority. Also **House Bill 601 by Representative J.R. Smith (ACT 1395)** amends the constitution to permit the donation or exchange of movable surplus property between or among political subdivisions whose functions include public safety.

#### CEMETERIES

**Senate Bill 348 by Senator Ullo (ACT 1199)** makes some needed changes to the laws which govern cemeteries. The legislation now includes "vault" and "tomb" as new terms in dealing with cemetery space because of the shrinking space in certain municipalities and deletes the limits currently imposed on

the placement of crypts per section . Additionally because of the shrinking space available in certain cemeteries the remains of a deceased person may be moved not only from one cemetery space to another but also to another cemetery if necessary and if approved by the cemetery authority and the written consent of certain designated heirs. Again due to space concerns and the growing population with the intendant increase in the number of deaths the legislation allows cemeteries to rearrange or transfer any remains within the same cemetery for the expressed purpose to correct an error provided that written notice is given to the immediate family prior to such removal and transfer.

### **UNCLAIMED PROPERTY**

Due to a recent case decision the state has been held liable for not returning unclaimed property and when it was returned the state retained the income generated and did not refund both the principal plus interest. **Senate Bill 368 by Senator Barham (ACT 206)** specifies that the secretary of the Department of Revenue shall take all reasonable measures to deliver to the owner any property paid in the custody of the department. It is assumed that making the secretary "responsible to take all reasonable measures" to make the refund will insure that there will be a greater effort on part of the department to make such a refund.

### **PUBLIC BLDGS/GROUNDS-ST**

In order to foster culture and the arts and to encourage the development of artists and craftsmen **House Bill 1187 by Representative Winston (ACT 1280)** establishes the Percent for Art program to provide for purchase of art to be exhibited in or on state buildings and grounds and to recognize and assist qualified La. artists and craftsmen. The legislation requires that, if more than \$2,000,000 of state funds, whether from the sale of bonds or otherwise, is to be spent by a state agency for construction or renovation of a state building, the agency that contracts for the work shall expend 1% of the state money to be

expended for the project to acquire, conserve, or restore works of art for display in, on, or on the grounds of the state building. The Act further requires in each case that the work of art be the work of a Louisiana artist and requires that the work of art be selected or determined by the assistant secretary of the office of cultural development of the Dept. of Culture, Recreation and Tourism with the advice of and consult with the contracting agency, the state agency which will occupy or operate the building, the Louisiana State Arts Council, and the project architect.

### **PUBLIC LANDS/STATE**

Under prior law state lands may be leased for ten year periods and where improvements are placed on the land valued more than \$150,000.00 the lease may be extended for an additional 30 years past the current lease term. **House Bill 2008 by Representative Durand (ACT 375)** permits additional 10 year periods as long as the qualifying permanent improvements remain intact or reconstructed by the end of the 10- year period in the event of fire, storm, or other acts of God, and all other conditions of the lease are met.

**House Bill 2144 by Representative Walsworth (ACT 626)** provides that if a secured party proceeds with seizure of property without judicial process, the secured party shall file with the recorder of mortgages in the parish where the collateral is located a "Notice of Seizure" within seven days of taking possession of said collateral. The legislation further provides that the Notice of Seizure shall contain the debtor's name, last known address, date of birth, and a description of the collateral seized and requires the creditor to pay \$75 to the recorder of mortgages for each Notice of Seizure filed.

### **PUBLIC BUILDINGS/GROUNDS**

**Senate Concurrent Resolution 153 by Senator Ewing (Enrolled)** requests the board of commissioners of the Louisiana Stadium and Exposition District to rename the Superdome to the "John J. McKeithen Superdome" and that Governor M. J. "Mike" Foster join with the legislature in requesting that the board take such action.

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## **PUBLIC OFFICIALS and EMPLOYEES**

(Contact: Mary Beth Arceneaux 342-9684)

### **1999 Regular Session**

#### **PUBLIC OFFICIALS AND EMPLOYEES**

Overview. Sheriffs, assessors, registrars of voters, and clerks of court received raises and authority to assess various new or increased fees and charges. A special commission can authorize raises for legislators and state officials, subject to legislative approval but expressly protected from gubernatorial veto. Specific assessors were given increased expense allowances, funding to come from newly created special assessment districts. Civil service employees, both local and state, received legislative attention as well: several proposals would have removed the prohibitions against political activity by classified civil service employees, but none of those proposals were approved. Others removed automatic promotion to permanent employee status, require vacancies to be filled within statutory deadlines, impose accountability measures and provide for administrative matters. Louisiana's ethics code, regarded as one of the most stringent in the nation, withstood several efforts to create exceptions. However, the actual enforcement powers of the board were altered by several bills as well as an opinion issued by the Attorney General. Financial disclosure requirements for members of both houses were unified by legislation, and each house repealed the inconsistent and outdated versions of internal operating rules.

Legislators. **ACT 1040 (House Bill 2153 by Representative Alario)** creates the nine-member Compensation Review Commission appointed by the president of the Senate and speaker of the House (two each), chief justice of the state supreme court (one) and the statewide elected officials (four.) The commission shall submit salary recommendations to the legislature 60 days prior to the regular session in an even-numbered year and, the salaries recommended in the report shall take effect July 1 of the year the

report is submitted, if approved concurrent resolution passed by a majority of the elected members of each house (not subject to gubernatorial veto.) **ACT 2 (Senate Bill 905 by Senator Ewing)** unified the financial disclosure requirements applicable to both Senate and House members, and coordinated other related provisions of state law. It requires each member of the legislature to disclose any and all income exceeding \$250 received by him, his spouse, or any business enterprise in which he or they own 10%, from the state or any political subdivision or for services for or in connection with a gaming interest. Reports are due to the clerical officer of the house to which the member belongs (i.e., Senate secretary or House clerk) by July 1 of each year of his term. On or before June 1 each year, that officer shall notify each member that the report is due July 1; on or before July 15 the officer shall transmit copies of all filed reports to the Board of Ethics, and notify the board of those members who have not filed reports.

Sheriffs. **House Bill 1075 by Representative Martiny (ACT 498)** increases the compensation of each sheriff by twelve thousand dollars, in addition to all other forms of compensation which are authorized for sheriffs. **ACT 242 (House Bill 330 by Representative McCallum)** increases the per diem of sheriffs and deputies for court attendance from \$25 to \$34 per day. **ACT 106 (House Bill 313 by Representative Dewitt)** removed the residency requirement for deputy sheriffs, who no longer must reside in the parish where commissioned. A separate bill (**House Bill 2117 by Representative Waddell (pending Senate Calender)**) would have imposed a residency requirement for sheriff, clerk of court, and tax assessor but failed to pass the Senate. At the time he filed his notice of candidacy, a candidate would have had to reside in the parish for the preceding two years and actually have been domiciled for the preceding year in the parish from which he sought election.

Clerks of Court. **Senate Bill 735 by Senator Ellington (ACT 1216)** increases salary ranges for all clerks of court by \$5,000.00 per year; clerks actually establish their own salaries ("rates of annual



compensation") up to the maximum permitted by state law. **ACT 758 (Senate Bill 556 by Senator Landry)** allows the clerk of a particular court, and the boards of their various trade associations, to pay the employee share of retirement contributions from clerks' office operating funds instead of deducting the employee's share from his salary. Such payments shall not be included as salary or monthly average compensation to determine benefit computation.

Assessors. **ACT 571 (House Bill 1405 by Representative Damico)** increases annual compensation of each assessor by \$10,000 effective July 1, 1999. **Senate Bill 323 by Senator Heitmeier (ACT 818)** requires each assessor to deduct 7% from the salaries of the assessor and his employees eligible for membership in the retirement fund, but allows each assessor and the board of the assessors' retirement association to elect to pay the employee's share of retirement contribution. Such contributions by the assessor for the employee share are not refundable.

Civil Service/Public Employees Generally. Since the "reforms" that followed the Huey Long administration early this century, Louisiana law has forbidden political activity by classified civil service employees both state and local. This year several bills were introduced to change that rule, which is designed to protect employees from losing their jobs in political retribution but which prevents what many consider free expression of their political views. None of the bills received final approval, although they approached the situation in different ways.

**Senate Bill 244 by Senator Campbell** was a proposed constitutional amendment to remove prohibitions, but not protections, applicable to municipal fire and police civil service systems. It failed final passage in the Senate. Its companion legislation, **Senate Bill 712 by Senator Campbell** would have made corresponding statutory changes. It remained in the Senate Committee on Local and Municipal Affairs.

**House Bill 287 by Representative Marioneaux and House Bill 537 by Representative Frith** were

virtually identical measures proposing constitutional amendments to remove restrictions on state classified employees as well as municipal fire and police, parish or city civil service, and the state police service, while leaving in place protections against employer retaliation. Both failed to win approval, although they provoked a debate that has simmered beneath the surface for many years. A more moderate approach was taken by **House Bill 659 by Representative Theriot**, another proposed constitutional amendment to establish the Louisiana State Merit System which eventually would replace Civil Service. It failed to survive the House and Governmental Affairs Committee.

Certain changes to Civil Service were approved. **ACT 454 (House Bill 1218 by Representative Baylor)** makes ineligible to serve on local civil service boards persons occupying a position or office higher than that of chief, assistant chief, district chief, or battalion chief in the fire service, and of chief, assistant chief, or major in the police service. Applicants for employment no longer will be required to be qualified electors of the state under **ACT 1092 (House Bill 1221 by Representative Baylor)**. **ACT 327 (House Bill 967 by Representative Farve)** extends to all public employees protection from reprisal after disclosure of improper acts. Prior state law protected public employees "in state government" for reporting information he reasonably believes to be a violation of any law or of any order, rule, or regulation issued in accordance with law or any other alleged acts of impropriety related to the scope and/or duties of public employment or public office within any branch of state government. Other employees with authority to hire and fire, supervisors, agency heads, or other elected officials are forbidden to subject such an employee to reprisal because of that employee's efforts to disclose such acts of alleged impropriety. The Act removes the "in state government" limitation such that the protective provisions of the statute apply to all public employees.

## PUBLIC SAFETY and LAW ENFORCEMENT

(Contact: Heyward Jeffers 342-2064)

### 1999 Regular Session

#### MOTOR VEHICLES

Driving While Intoxicated. **Senate Bill 860 by Senator Dardenne (ACT 1224)** will prevent drunken drivers who refuse to submit to a test from collecting large court awards for damages when the driver is determined to be more than 25% responsible for the accident. Under the provisions of the Act, drunken drivers found to be more than 25% responsible can only collect for out-of-pocket expenses and nothing for pain and suffering.

Motorcycle Helmets. It was late in the regular session before **Senate Bill 86 by Senator Landry (ACT 404)** had passed both chambers of the legislature, paving the way for motorcyclists 18 years old and older to ride their machines without a helmet, as long as they carry at least \$10,000 in medical insurance. The Act took effect immediately upon the governor's signature. Governor Foster, an avid motorcyclist, has been a vocal proponent of giving adult riders the choice of whether to use a helmet or not.

#### TUITION

Law Enforcement Officer's Benefits. **Senate Bill 20 by Senator Hines (ACT 822)** provides tuition benefits to the children of law enforcement officers killed or disabled in the performance of their duty.

#### WEAPONS

Manufacturer's Liability. **House Bill 1094 by Representative McMains (ACT 291) [Senate Bill 203 by Hainkel (pending Senate Calender)]** will free manufacturers of weapons from product liability lawsuits by local governments when a firearm owner used the weapon to commit a crime or if a person was killed or injured by the weapon. The Act was pushed by Governor Foster to prevent cities that

experience gun violence such as New Orleans from suing manufacturers for producing unsafe weapons.

## **DWI**

Blood Alcohol Level. **Senate Bill 694 by Senator Cain (pending House committee)** would have lowered the blood alcohol level from .10 to .08 percent for a driver to be considered intoxicated. The bill was approved by the full Senate but died in the House Committee on the Administration of Criminal Justice. The state stands to lose several million dollars in federal highway funds for failing to conform Louisiana law with federal highway regulations.

Open Containers. **Senate Bill 813 by Senator Ewing (pending Senate committee)** would have banned the possession of open alcoholic containers in motor vehicles and prohibited alcohol consumption by anyone in a motor vehicle. The bill never left the Senate. Local governments currently may, and in some instances do, prohibit such activities within their own jurisdictions.

## **DRIVERS**

Driver Profiling. **Senate Bill 1003 by Senator Jones (pending House calender)** would have required law enforcement agencies to keep various statistics on drivers stopped by law enforcement officers by age, race and sex. Minorities across the country have complained that they are subject to unwarranted stops by police because of race. The bill was passed by the full Senate but failed to receive a majority vote in the House and was scheduled to be reconsidered as the session entered the last frantic days. It died on the house calender at final adjournment.

## RETIREMENT

(Contact: Linda Nugent, 342-8892)

### 1999 Regular Session

#### COST-OF-LIVING ADJUSTMENTS

Legislation was passed setting up an automatic annual cost-of-living adjustment (COLA) for retirees, survivors and beneficiaries of the Louisiana State Employees' Retirement System and the Teachers' Retirement System of Louisiana which will replace all other COLA provisions in the law. **House Bill 2253 by Representative Flavin (ACT 402)** requires a COLA to be paid starting each July 1 to retirees who are at least 55 years of age and who have been retired at least one year. The adjustment will be an amount equal to the prior year's increase in the Consumer Price Index-Urban, not to exceed 2%, and will be based on the recipient's current benefit.

The first COLA will be paid to recipients beginning July 1, 1999, and will be an amount equal to 1.6%, based on last year's CPI-U.

The cost-of-living adjustment will be funded through the Employee Experience Account to the extent that funds are available. The law also provides a mechanism to repeal the Experience Account if the account generates sufficient funds to permanently fund the new COLA.

**House Bill 836 by Representative Daniel (ACT 278)** authorizes a new COLA formula for retirees of the Louisiana School Employees' Retirement System which is based on years of service, years of service in excess of 30, and years since retirement, multiplied by a variable "X" which would equal one dollar. It also provides that if the system's funds are insufficient to fund the COLA, the variable "X" will be adjusted accordingly.

**BENEFIT ACCRUAL RATE INCREASES**

Bills providing for increases in benefit accrual rates for several systems were also passed by the Legislature. **Senate Bill 321** by **Senator Heitmeier (ACT 496)** provides for a 3-1/3% accrual rate for a member of the Sheriffs' Pension Fund who retires with at least 12 years of service after June 30, 1999. Benefits for members retiring prior to July 1, 1999, were in accordance with a multi-tiered accrual rate structure, ranging from 2-1/2% to 3-1/4%. The Act also increases the employee contribution rate from 8.7% to 9.7%.

Benefit accrual rate increases are contained in other bills for members of the Assessors, the Clerks of Court, and the Registrars of Voters retirement systems. **Senate Bill 332** by **Senator Heitmeier (ACT 23)**, **Senate Bill 673** by **Senator Heitmeier (ACT 211)**, and **House Bill 1025** by **Representative Morrish (ACT 1273)** increase the rate from 3% to 3-1/3% for the assessors, clerks, and registrars, respectively, for service accrued from July 1, 1999, forward.

**House Bill 836** by **Representative Daniel (ACT 278)** provides that a member of the Louisiana School Employees' Retirement System will retire at a 3% benefit accrual rate for all service earned after June 30, 1999. The rate for service earned prior to July 1, 1999, is 2-1/2% for the first 20 years of service and 3% for any years of service in excess of 20.

A member of the State Police Retirement System employed after June 30, 1999, will be able to retire at a 3-1/3% benefit accrual rate if he is at least 50 years of age and has at least 10 years of service, in accordance with the provisions of **House Bill 833** by **Representative Daniel (ACT 277)**. Members hired prior to July 1, 1999, retire under a multi-tiered structure, according to years of service and age at time of retirement.

## REVENUE & TAXATION

(Contact: Riley Boudreaux, 342-6155)

### 1999 Regular Session

Since the 1999 Regular Session was a session limited to non-tax matters, the focus of the legislature was on tax relief through procedural laws.

### TAX RELIEF/PROCEDURE

The legislature proposed and passed several bills to provide relief to taxpayers who fail to pay taxes either through inadvertence or because of the failure of their spouses.

#### Personal Income Tax: relief for the innocent taxpayer

**Senate Bill 261 by Senator Barham (ACT 203)** expands application of the "innocent spouse" rule to conform to the rule used by the federal government. It relieves a spouse [who has filed a joint return] of personal income tax liability, or a portion of the liability, if the spouse had no knowledge of an underpayment, or if the spouse was coerced into signing the return, or if it is simply inequitable to hold the taxpayer responsible. In addition, **House Bill 2110 by Representative Daniel (ACT 1032)** further provides that any taxpayer who files a grossly incorrect return may be relieved of the payment of the costs of his audit if he shows that there was a reasonable cause for the underpayment found in the audit and if he acted in good faith.

If the Department of Revenue fails to notify an individual who has timely filed his income tax return within 18 months that he owes additional income tax, then **Senate Bill 264 by Senator Barham (ACT 205)** provides for interest on the additional amount to be suspended until the taxpayer is notified of the additional amount owed.

Sales Tax: leased and rented items

A perennial thorn in the side of the legislature has been the so-called "double-taxation" of leased and rented items. The prior law required a payment, first, on the purchase of the item to be leased by the lessor, then on the lease payments paid by the lessee. Such double-taxation has been eliminated for state taxes.

**House Bill 897 by Representative Faucheux (ACT 1266)** will do the same for local taxes, phasing-in an exclusion from local sales and use tax for property purchased, leased, or rented which is, in turn, leased or rented, including automobiles. The phase-in was an exclusion for 1/4 of the price each fiscal year until July 1, 2002, when the total price would have been excluded from the tax.

**Senate Bill 897 by Senator Bean (ACT 429)** specifically excludes from sales taxation leases where a dealer-provided automobile is treated as a taxable fringe benefit under federal tax law to the licensed sales representative of the dealer. **House Bill 1132 by Representative Diez (ACT 553)** relieves the agent of a motor vehicle lessor from remitting tax collected on the lease to state or local government.

Miscellaneous

The tax law requires a business to pay taxes under protest to the government in order for a taxpayer to avoid interest and penalties. **Senate Bill 258 by Senator Barham (ACT 200)** authorizes a method whereby a business can pay its taxes to the vendor, keep track of the invoices, and then ask the government to put the money remitted by the vendor into escrow as a payment under protest for purposes of the law.

**Senate Bill 672 by Senator Hainkel (ACT 1214)** authorizes state departments, agencies, boards, and commissions to accept credit and debit cards for all fees, charges, or obligations.

**LOCAL MATTERS**

Clearly, the "local matter" that sparked the most interest in the session was contained in **Senate Bill 1047 by Senator Cravins (ACT 307)** and **Senate Bill 1051 by Senator Malone (ACT 308)** which



created special taxing districts in St. Landry Parish and Bossier Parish. The districts were authorized to levy a tax of 18.5% on net slot proceeds from "slots-at-the track" and transfer most of the proceeds to the state - which the authors hope will satisfy the condition in the law that a tax be levied on the slots before such gaming can begin.

The sleeper of the session may have been **House Bill 519 by Representative Faucheux (ACT 711)**. It allows municipalities and parishes (except New Orleans) to submit claims they may have against their residents to the Department of Revenue, which offsets such claims against the resident's income tax refund.

Some tax assistance was authorized for local government units. **Senate Bill 986 by Senator Theunissen (ACT 679)** authorizes a sales tax of 5% for parishes, school boards, and school districts who do not have their own, individual legislative acts authorizing such an increase. Fire protection districts were granted the authority to levy property taxes in order to provide fire protection and/or emergency services by **Senate Bill 379 by Senator Dyess (ACT 414)**.

More particularly, for New Orleans, **Senate Bill 1101 by Senator Bajoie (ACT 815)** authorizes an increase in ad valorem taxes to provide for services of the Sewage and Water Board of New Orleans. **Senate Bill 1108 by Senator Thomas (ACT 1380)** which originally rededicated state hotel sales tax in St. Tammany Parish only, was heavily amended in the House to rededicate these proceeds of the one penny of state hotel sales tax in Orleans originally dedicated to the New Orleans Business and Industrial District [NOBID], to the Autoplex Technology Center and Raceway if the plan for the raceway is approved by the commissioner of administration and the joint budget committee. The legislation went to conference and as enacted provides that the residual share provided to NOBID be allocated to each state senator and state representative whose district includes all or any portion of Orleans Parish, to be administered through the

Louisiana Stadium and Exposition District, to be used within Orleans Parish for grants for tourism, recreation, economic development, capital outlay, education, and services to youth and the elderly.

**Senate Bill 822 by Senator Ewing (ACT 1221)** provides a credit to the N.O. casino operator against its minimum payment obligation for payments it makes to New Orleans for casino support services contracts and payments it makes to the compulsive gaming fund by the casino operator. The Act is effective until June 30, 2000.

### **AD VALOREM EXEMPTIONS**

An area of tax law which is always active is the homestead exemption and the 10-year Industrial Exemption area.

The legislature successfully enacted **House Bill 897 by Representative Faucheux (ACT 1266)** authorizing a taxpayer to obtain a credit against his local sales and use taxes paid [which are non-deductible for federal income tax purposes] if he waives his homestead exemption [and pays deductible property taxes], and **House Bill 617 by Representative Murray (ACT 1400)**, a constitutional amendment which extends authorized tax exemption contracts for expansion, restoration, improvement, or development for 40-year old residential structures in Orleans parish.

Other attempts to deal with property tax exemptions directly were not successful. **House Bill 145 by Representative Donelon** (Constitutional Amendment) (**Senate calendar; not referred to committee**) would have extended the homestead exemption to a bona fide home occupied by a person whom is purchasing the home under a bond for deed contract. **House Bill 170 by Representative Alario** (Constitutional Amendment) (**failed final House vote**) would have authorized individual parishes and special districts to increase the homestead exemption.

As to business taxes: **Senate Bill 968 by Senator Robichaux (failed final Senate vote)** would have

ultimately led to the termination of 10-year industrial exemption contracts if the number and salary ranges of jobs asserted by the business to be created by the contract were, in fact, not created. **House Bill 559 by Representative Holden** (Constitutional Amendment) (**House calendar**) would have made commercial hazardous waste incinerators ineligible for the industrial tax exemption.

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## SOCIAL SERVICES

(Contact: Amanda Jones 342-0652)

### 1999 Regular Session

#### SOCIAL SERVICES

##### **Welfare Reform**

Louisiana has successfully implemented federally mandated elements of welfare reform. According to the Department of Social Services, since January 1, 1997, 25,000 families are no longer receiving welfare benefits. DSS stated that this reduction in its case load is attributable to changes in the FIND Work Program, the Family Independence Temporary Assistance Program (FITAP), the Child Care Assistance Program, and Support Enforcement Services. One notable change which may be contributing to this reduction is the twenty-four month cap on benefits which started for those who began to receive benefits on January 1, 1997.

Though the bulk of welfare reform legislation was enacted over the past few years, several instruments made some changes to existing laws. Effective on 7-1-99, **ACT 572 (House Bill 1443 by Representative Riddle)** provides that months in which an individual is receiving an earned income disregard under the Temporary Assistance to Needy Families (TANF) program do not count towards the twenty-four month cap on receipt of these benefits.

**ACT 213 (Senate Bill 213 by Senator Ewing)** requires the Department of Social Services (DSS) to safeguard information that is contained in the state case registry which is related to a victim of domestic violence.

Louisiana's job assistance and placement program, FINDWork has assisted 15,426 FITAP recipients in becoming employed during this fiscal year (FY) 98 – 99.

**ACT 453 (House Bill 1171 by Representative Crane)** which is effective on 6-8-99 requires employers to include a new hire's occupation in the "New Hires" report submitted to DSS. The New Hires Directory was enacted as part of welfare reform for the purpose of tracking absent parents and child support enforcement.

### **Children**

During this session, there were many instruments which sought to address problems relating to the safety of children, especially those who have allegedly been subjected to an abusive or neglectful situation and consequently, are brought into the state's custody as "children in need of care". Other instruments sought to streamline the judicial process relating to these matters, including termination of parental rights proceedings. Thus, the child would be free for permanent placement in a shorter period of time if the specific facts of the case warrant that result.

### **Child in Need of Care**

**ACT 769 (Senate Bill 624 by Senator Landry)** removes the word, "willful" from the definition of neglect of a child. Under that Act, "neglect" means the unreasonable failure of a parent or caretaker to supply the child with certain necessities.

**ACT 449 (House Bill 827 by Representative Ansardi)** revises the Children's Code in order to bring Louisiana in compliance with the federal Adoption and Safe Families Act (ASFA). Selected changes include removal of the requirement for reunification efforts in cases where a parent subjected a child to certain egregious conduct. In these instances, the time period for a permanency hearing is also shortened. The court is also required to justify granting continuances in certain proceedings. The case plan must now include documentation of reunification efforts under this Act.

**ACT 541 (House Bill 842 by Representative Durand)** provides that protective orders based upon child molestation shall extend until the child attains the age of eighteen years.

### **Termination of Parental Rights**

When a child is brought into custody as a child in need of care, the state attempts to reunite the family after providing it services. Sometimes, however, these efforts fail and the state may terminate the parent's rights to that child. **ACT 1062 (House Bill 883 by Representative McMains)** which is effective on 1-1-2000 makes numerous changes to the Children's Code relative to parental rights and adoption proceedings including the following requirements: that a court review the progress of an adoption and a surrender of children for adoption, notification to an alleged father of certain proceedings, and confidentiality of adoption records. A foster parent may initiate involuntary termination of parental rights under **ACT 1067 (House Bill 919 by Representative Winston)**. **ACT 544 (House Bill 921 by Representative Winston)** requires DSS to pursue involuntary termination of parental rights when a child has been in the state custody for seventeen of the last twenty-two months, absent a compelling reason.

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## STATE GOVERNMENT and ELECTIONS

(Contact: Mary Beth Arceneaux 342-9684)

### 1999 Regular Session

#### STATE GOVERNMENT

The Legislature faced several issues of fundamental importance this session, including proposals to alter the recent constitutional amendment limiting regular sessions in odd- and even- numbered years to certain subjects, to limit the number of bills each member could introduce, to bypass or second-guess the legislative process using initiative mechanisms and referendum proposals, and to return to closed primary elections for federal Congressional races. Other measures compel uniform financial disclosure by all legislative members; provide a commission to review and recommend increases in compensation for state elected officials; sought to reduce the legislative workload, to maintain confidentiality of legislative drafting and background research, to require registration of all lobbyists (rather than those spending \$200 or more). Summaries according to subject matter follow.

**Legislative Sessions** The 1999 Regular Session marked the end of the first legislative term since the state Constitution was amended in 1993 to permit general-subject legislation only in odd-numbered years, and to limit even-numbered sessions to certain "fiscal-only" matters. As a result of that amendment, when the current administration and new legislators took office in 1996, the only subjects open to legislation were "fiscal" -- those for appropriations, capital outlay, levying or authorizing a new tax, increasing an existing tax, or legislating with regard to tax exemptions, exclusions, deductions, reductions, repeal, or credits, or issuing bonds. Conversely, most of those subjects were placed off-limits in even-numbered years. This system proved too limiting to many voters as well as legislators, and was criticized as enhancing the already powerful governorship by requiring a special session in order to consider general matters.

Legislative and popular frustration prompted numerous bills in response. Several proposed to "flip-flop" the subject matter to provide for general sessions promptly after elections; others would have returned to annual general sessions; others combined features of both systems; yet more lengthened or shortened the time for the legislature to meet. One would have amended the Constitution to permit the legislature by 2/3 vote, to provide for the frequency, length, and adjournment of legislative sessions, the introduction of instruments, the effective date of laws, and the period of the suspension of law (matters presently provided for by the state Constitution). That bill would have also required the legislature to meet in fiscal session for up to 15 legislative days within 21 calendar days, authorized each house of the legislature to meet for 4 days per month in 10 months of a calendar year, authorized the presiding officers to convene their respective houses to meet either separate or simultaneously for up to 20 additional legislative days, and required each house to convene in session, separately or simultaneously, for not more than four consecutive days in each month in ten months of a calendar year. Each house could adopt rules for interim consideration of and action on bills by committees and by the whole house, upon 7 days public notice. Amendments would be required to be made public for at least 3 days prior to consideration.

The final result, appearing on the election ballot for voter approval this fall, was **Senate Bill 245 by Senator Hines (ACT 1391)**, retaining the same general subject-matter restrictions of the current constitution (odd years, general; even years, certain revised "fiscal" matters) but also authorizing each legislator to prefile up to 5 bills on any subject during "fiscal" years, including local or special bills. The act also authorizes the legislature by joint rule to further modify nearly all restrictions on legislative sessions, including subjects for consideration and specifically excluding only the time limits for holding sessions. The amendment would continue to make sessions in odd-numbered years general in nature, and add to prohibited subject matter any measure legislating with regard to tax exemptions, exclusions, deductions, or

credits "in a manner which results in or has the effect of an increase in tax liability". Further, in such odd-year sessions the deadline for introduction is changed from midnight of the thirtieth day, to 6 PM of the twenty-third calendar day; final passage must occur by 6 PM of the fifty-seventh legislative day or the eighty-second calendar day, whichever occurs first, instead of midnight of the fifty-fifth calendar day. Per diem payments are restricted to 85 days.

Even-numbered sessions would be more specifically limited than under the present constitution. During such years, the legislature could consider only measures having as their object to enact the General Appropriation Bill or comprehensive capital budget; to make an appropriation, levy or authorize a new tax; to increase an existing tax; to levy, authorize, increase, decrease, or repeal a fee; to dedicate revenue; or to legislate with regard to tax exemptions, exclusions, deductions, reductions, repeals, or credits, or the issuance of bonds. However, during even-numbered years a legislative instrument on any subject may be considered if prefixed (although no member may prefile more than five such instruments), or its object is to enact a local or special law required to be advertised and not prohibited by Section 12 of Article 3.

Although the Constitution authorizes the legislature, as well as the governor, to call an extraordinary session, such events are rare. The Constitution requires the presiding officers to call each house into session "upon written petition of a majority of the elected members of each house" and requires the form of the petition to be provided by law. By **House Bill 1596 by Representative Windhorst (VETOED)**, that petition could have been contained in either a concurrent resolution or substantially similar separate resolutions by each house. If the petition is not in resolution form, it must provide a designated signature place for each signing member, but not all required signatures need appear on the same petition. The signatures required may appear on multiple copies of a petition and each individual signature shall be counted towards the majority necessary to call the special session. The constitutional amendment would

have further permitted an extraordinary session convened by the presiding officers to overlap or run concurrently with a regular session of the legislature; current law, remaining unchanged, prohibits overlapping or concurrent special sessions called by the governor and the legislature, respectively.

**Referendum/Initiative** - Several bills would have provided for submission of legislative proposals to voters for approval using a referendum election process, and would have authorized voters themselves to force certain issues onto a ballot by authorizing an initiative process. None passed but the concepts nevertheless received significant legislative attention.

**Legislative Administration** - Several bills addressed the legislative workload and suggested innovative solutions. **Senate Bills 9 and 10 (both by Senator Campbell and both withdrawn)** would have amended the constitution to limit the number of bills each legislator could introduce to 15 and 12, respectively. **House Bill 464 by Representative Hunter** would have authorized meetings of legislative committees during the interim by video conference; each house would adopt rules of procedure to govern such meetings, including attendance and participation by members, and constitution of a quorum by video conference. The bill died in Senate and Governmental Affairs committee after two hearings. **Senate Bill 892 by Senator Ewing, (pending House committee)** would have codified the Senate and House policies of confidentiality of legislative work prior to introduction of an instrument, and make such confidentiality binding on all state employees. Penalties included fines, imprisonment, and termination of employment for any state employee who violated its prohibitions.

**Lobbying** - **Senate Bill 698 by Senator Dardenne** would have modified the definition of "lobbyist" to include certain uncompensated persons, and would have imposed separate lobbyist registration and disclosure requirements. Current law defines "lobbyist" to include only those persons meeting spending thresholds, regardless of their activities devoted to the passage or defeat of legislation. Senate Bill 698

would have separated the functional activities constituting lobbying and requiring a person to register, from spending thresholds that trigger disclosure and reporting requirements. The bill was killed on the House floor because it would have required registration by unpaid lobbyists.

**Ethics. ACT 2 (Senate Bill 905 by Senator Ewing)** unified the financial disclosure requirements applicable to both Senate and House members, and to coordinate other provisions of state law. It requires each member of the legislature to disclose any and all income exceeding \$250 received by him, his spouse, or any business enterprise in which he or they own 10%, from the state or any political subdivision or for services for or in connection with a gaming interest. Reports are due to the clerical officer of the house to which the member belongs (i.e., Senate secretary or House clerk) by July 1 of each year of his term. On or before June 1 each year, that officer shall notify each member that the report is due July 1; on or before July 15 the officer shall transmit copies of all filed reports to the Board of Ethics, and notify the board of those members who have not filed reports.

The Ethics Code prohibits certain persons from holding public office or employment, based on their relationship with one employed by or in a regulated or prohibited relationship with a public official or employee. The 1999 legislature refused to create exceptions from these prohibitions in several instances, some of which received news attention. One of the most publicized was the resignation of a Baton Rouge Metro Council member whose son-in-law became a police officer, creating a violation of state nepotism prohibitions although the council member was unaware of the situation. **House Bill 724 by Representative Lancaster, withdrawn from House files** and **House Bill 1610 by Representative Stelly (pending House committee)** would have added exceptions to the nepotism statute, R.S. 42:1119(B), for certain classified employees. House Bill 724 would have authorized any member of the immediate family of the governing authority of a municipality or the mayor of a municipality to be employed in a classified civil service position

in such municipality. House Bill 1610 would have made an exception to the statutory prohibition, for any public employee who obtained employment through a competitive fire or police civil service process, provided that the governing authority is not also the appointing authority in the civil service system. **Senate Bill 914 by Senator Cleo Fields** would have enacted an exception for immediate family members of a governing authority of a municipality or parish provided such employment was accomplished through a competitive civil service process, and would not apply where the governing authority is also the civil service appointing authority. Any member of the governing authority which employed an immediate family member would be required to recuse himself from any decision involving the promotion, discipline, discharge, or assignment of work of his immediate family member. The bill was deferred by the Senate and Governmental Affairs Committee.

Other, similar exceptions were sought (but denied) for family members of higher education management boards (**Senate Bills 117 and 228 by Senator Smith -both withdrawn from the Senate files**), and to permit otherwise "prohibited transactions" between the governing authority of a water district which has less than 1,500 water meters in operation, and any former member of that governing authority or legal entity in which he has a controlling interest (which exception would have self-destructed on June 30, 2001) (**House Bill 806 by Representative Fruge**).

**ACT 274 (House Bill 774 by Representative McCain)** authorizes a former member of a municipal governing authority to be appointed to fill a vacancy in the office of mayor regardless of the amount of time that has elapsed since his former service ended; previous law required a two-*year* hiatus. On similar lines, **ACT 251 (House Bill 459 by Representative Weston)** authorizes state government employees to hold local elective office in the government of municipalities with less than 6,500 population according to the 1990 census, unless the particular nature of such employment in combination with the duties and interests

of the elective office is incompatible as provided in the dual office holding statutes, or adverse to the public interest as provided by law.

**ACT 851 (Senate Bill 453 by Senator Dardenne)** redefines "immediate family" as used throughout the Ethics Code, to include certain in-laws: the term now includes a public servant's children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse. (It does NOT include the siblings of his spouse; only the brothers-in-law and sisters-in-law on his own side of the family are included in the new definition.) The change was necessary to prevent accidental violations of the Ethics Code prohibitions against certain transactions, although the nepotism statute might not have been violated. For example a brother- or sister-in law might hold a contract with the public servant's agency without violating the nepotism law because nepotism only covers the "immediate family" of a public servant. However, a separate prohibition exists to forbid certain transactions if an immediate family member "participated in" such transaction. So the brother-in-law's contract with the public servant's agency, by producing economic benefit to his wife the sister of the public servant, would violate the "prohibited transaction" provisions of the code although no nepotism existed as defined.

**ACT 418 (Senate Bill 452 by Senator Dardenne)** defines "regulatory employee" and prohibits them from participating in any way (i.e., receiving any benefit from) the sale of goods or services to a person regulated by his public agency, or to any officer, director, agent, or employee of such person, if a member of such regulatory employee's family or any business enterprise in which any of them owns at least 25% , receives or will receive a thing of economic value by virtue of the sale.

Other bills concern the mechanics and consequences of filings made with the board. **ACT 164 (House Bill 1141 by Representative Waddell)** specifically authorizes facsimile or E-mail transmission of

materials, and use of a commercial delivery service. The time of delivery to the service as shown on the receipt or invoice is deemed to be the time of filing with the board, provided that the material is subsequently received in the office of the board in Baton Rouge. If the due date falls on a weekend or state or federal holiday, the deadline is extended to the next working day.

**ACT 1349 (Senate Bill 450 by Senator Dardenne)** clarifies late filing fees assessable by the Ethics Board for late filings of ethics as well as campaign finance reports, as follows:

- if the fee is \$40 per day, the maximum is \$1,000
- if the fee is \$50 per day, the maximum is \$1500
- if the fee is \$60 per day, the maximum is \$1500
- if the fee is \$100 per day, the maximum is \$2,500

Fees are made discretionary rather than mandatory with the board, and the penalty for knowing and wilful filing of a false report pursuant to the statute applicable to financial disclosure for the governor (also applicable by cross-reference to late campaign report filings) is changed to a maximum rather than minimum 6 months imprisonment following conviction by a six-member jury. The Act also limits the amount of penalty a committee, other than a candidate's committee, would have to pay for filing to file or timely file any campaign finance reports due for a special election to the total of expenditures made to support, oppose, or influence the election of a person to public office in the special election or the maximum amount the late fees which would be due, whichever is less.

**ACT 252 (House Bill 471 by Representative Copelin)** provides for appeal of advisory opinions issued by the board to the First Circuit Court of Appeal.

## **ELECTIONS AND CAMPAIGN FINANCE**

### **Election Code Generally**

**ACT 985 (House Bill 788 by Representative Lancaster)** forbids candidates from taking office and



requires forfeiture of office, upon final conviction of certain election offenses related to his campaign for that office. Such offenses are: use of anything of present prospective value to secure or influence a vote or registration, voter intimidation, voting when unqualified or influencing another who is unqualified to do so, knowing such voter to be unqualified or the vote to be fraudulent; forgery of the name of another or use of a fictitious name on an affidavit or document required by the elections code; or giving or offering to give, directly or indirectly any money or thing of present or prospective value to any person who has withdrawn or who was eliminated prior to or subsequent to the primary election as a candidate for public office for the purpose of securing or giving his political support to any remaining candidates or to candidates for public office in the primary or general election. To inform candidates about elections statutes and offenses, **ACT 1130 (House Bill 1506 by Representative Lancaster)** requires that information about election offenses be included in the informational packets provided to all candidates.

**ACT 1381 (Senate Bill 854 by Senator Dardenne)** makes various changes to the Election Code, as follows:

Provides that voter registration records shall be closed 30 days prior to the election, and that mail voter registration applications without a postmark or legible postmark shall be timely if received by mail by the close of business on the 30th day prior to the election, or if such day is a holiday, on the first day after such holiday which is not a Saturday, Sunday or other legal holiday

The registration of a person whose registration has been suspended by the registrar of voters for conviction of a felony shall be reinstated when the person appears in the office of the registrar and provides such documentation from the appropriate correction official. Provides that a voter who is qualified to vote under provisions of special programs for physically handicapped persons, from R.S. 18:103 to R.S. 18:1332 and 1333.

Requires the clerk of court to affix the time of receipt of returns upon the original tabulation blank and compiled statement forms.

**ACT 254 (House Bill 498 by Representative Bruneau)** makes various changes to the Election Code, as follows:

- The commissioner of elections shall submit annually to the legislature, in a format requested by the legislature, a list of registered voters and other associated data to be used for redistricting and other legislative purposes.

- The statewide voter registration system may identify a duplicate registration based upon criteria as established by the Dept. of Elections and Registration. If all criteria correspond exactly, the department must cancel the duplicate registration; however, the registration must not be canceled as long as the registrant has the right to vote in the parish of his former residence. Requires the department to give prompt notification of any cancellation to the registrar of the parish in which the applicant was previously registered.

- Provides that any change of registration based upon a change of residence within a parish that is received after the close of registration for primary election becomes effective the day after the general election.

- Allows the registrar to request additional information from the voter who registered at a voter registration agency (offices of public assistance agencies that administer the food stamp, Medicaid, WIC, and FITAP programs) if insufficient information is provided on the registration form received from such office or agency. Requires the registrar to mail a notice to the applicant and requires the applicant to respond within 10 days of the mailing of the notice. If the applicant fails to provide the information, the applicant is not registered and is so notified.

- Requires the secretary of the Dept. of Health and Hospitals to send the Dept. of Elections, a monthly report of the name, address, date of birth, sex, and social security number, as such information exists in the database of the Dept. of Health and Hospitals, of any person 17 years of age or older who died in each parish of the state within the preceding calendar month, and then requires the Dept. of Elections to cancel the registration of such persons when the information corresponds exactly to the criteria for cancellation of voter registration, and to promptly notify the registrar of the parish in which the voter was registered of such cancellation.

- Requires the clerk of court or entity responsible for jury duty notices to notify the registrar of voters, monthly, of any returned jury duty notice indicating the person is unable to serve because he no longer resides in the parish, and requires each federal district court in the state, upon expiration of each jury selection panel, to notify the Dept. of Elections of any person identified as out of the jurisdiction within the time limit of a particular panel for jury selection. The Dept. of Elections is then required to send that information to the registrar of voters of each parish.

- Allows the registrar to make any necessary changes prior to the general election, to the registration records of an inactive voter who has completed an address confirmation card after the close of books for the primary election

- Reduces from 12 to 11 weeks the minimum time period between issuance of the proclamation calling a special election and the date of the special primary election

- Repeals prior law allowing a special election to be held on the same date as any regularly scheduled election to be held in any local governmental subdivision located within or encompassing the geographical area within which the election will occur, provided that the regularly scheduled election will be held within one year of the date on which the newly created office or vacancy in an existing office arises.

- Prohibits commissioners and commissioners-in-charge from preparing a list of persons voting and the polling place other than the official poll lists.

- Requires the clerk of court during each course of instruction for commissioners and commissioners in charge, to instruct them that it is their duty to offer any voter not having picture identification an affidavit to sign to that effect.

- Prohibits an annexation from being implemented between the opening of qualifying and the general election or in the case of propositions elections, no such change can be implemented after the 46th day prior to the election

- Requires the commissioner to initial the precinct register next to the voter's signature or mark and removes the requirement that the commissioner sign and write in the date of the election on the precinct register. also specifies that the duplicate list of commissioners, all duplicate records of challenges, all duplicate affidavits of voters, any physicians' certificates, and any address confirmation cards to be placed in the envelope marked "Registrar of Voters" and that the envelope be attached to the precinct register.

- Requires reinspection of voting machines to be conducted at 10:00 AM on the 5th day after the election. If the 5th day is a holiday or weekend, then the reinspection is conducted on the next working day. Also allows reinspection upon a court order. Provides that the deadline for requesting a reinspection is the last working day prior to the date of the reinspection. The clerk of court shall post notice of the reopening immediately upon a request rather than at least 24 hours before the reopening. Retains requirement that the candidate requesting the reinspection is responsible for reasonable costs and specifies that the members of the parish board of election supervisors are entitled to reimbursement at the same rate as other meetings of the board (\$50) and that such reimbursement does not count toward the five-meeting limit per election.

- Establishes a resignation procedure for members of the legislature, requiring a resignation of a

member to be filed with the presiding officer of the house of the legislature to which the member was elected. Requires the resignation to be in writing and dated, and allows specification of a prospective date on which it will be effective. Such resignation of a member of the legislature becomes irrevocable upon receipt by the presiding officer of the house to which the member was elected. Also specifically allows a notice of retirement for elected officials other than members of congress, and provides that notices of retirement are handled in the same manner as notices of resignations. Provides the declaration of an anticipated vacancy (for non-legislators) is irrevocable when received by the secretary of state.

- Establishes a uniform deadline for transmission of bond, debt, or tax proposition election notices to the secretary of state, and provides that the deadline for transmitting notice to the secretary of state for any proposition election that is to be held on a primary date is the 71st day prior to the primary election.

- When the majority of the electorate is in favor of a recall, the public officer is, ipso facto, recalled and removed from office, and the office is vacated upon receipt by the secretary of state of certified returns from all of the parish boards of election supervisors within the jurisdiction.

- Requires a written request for recount of absentee ballots to be filed with the clerk of court, Requires all recounts and inspection of flaps to be held at 10 AM or following the reinspection of voting machines on the 5th day after the election. If that day is a holiday or weekend, then the recount is conducted on the next working day. Also allows recounts upon a court order. Provides the deadline to request a recount or inspection is the last working day prior to the date of the recount. Requires the clerk of court to post notice of the recount immediately upon receiving the request. Requires that the candidate or his representative be allowed to inspect the removed ballot flaps.

- Specifically authorizes a qualified elector to bring an action contesting the calling of a special election within 14 days after the calling of such special election. Authorizes such action if elector alleges

that no special election should have been called or that it was called on an improper day. Requires the secretary of state to be make a defendant in such action. Provides that the district courts have jurisdiction in such actions. provides that the proper venue for such action is in the district court in which the governing authority calling the special election is domiciled; except that if the governor, president of the Senate, or speaker of the House of Representatives calls the election, the proper venue is the district court in which the state capitol is situated.

- Makes a candidate who conducts limited discovery responsible for all reasonable costs associated with such discovery

- Changes certain boundary requirements as specified in the Act.

### **Closed Primary Congressional Elections Return**

Several bills addressed the present open primary system, but none passed. However, the legislature very nearly adopted a closed primary system for congressional elections, in followup to the ruling in Foster v. Love and the failure of the 1998 legislature to reach consensus in conference committee. **House Bill 1634 by Representative Lancaster** was amended on the Senate floor to include the closed primary proposal embodied in **Senate Bill 994 by Senator Cleo Fields**, but the conference committee report was tabled by the House.

### **Elections Officers**

The legislature continues to seek relief for election commissioners who must work from one hour prior to opening of polls at 6 AM, to conclusion of responsibilities after polls close at 8 PM. Several efforts were made to reduce voting hours, but failed from fear of negative voter reaction. **House Bill 1368 by Representative Ansardi** would have increased the compensation of commissioners, conditioned however on full funding from the state. The bill was amended on the Senate floor then returned to the calendar.

Amid critical audit findings followed by indictments of several senior officials of the Department of Elections, several suggestions were made (but none passed) to rearrange that department. **Senate Bill 304 by Senator Greene** and **House Bill 346 by Representative Bruneau** (neither of which passed) would provide for appointment, in lieu of election, of the commissioner of elections, and merge and consolidate the department with the Department of State. Other proposals prompted by current events included authorization of video cameras at polling places (**Senate Bill 572 by Senator Jordan, withdrawn from Senate files**).

### **Campaign Finance**

One of the most contentious areas was disclosure of certain expenditures, and propriety of others regardless of disclosure. In an opinion issued mid-session, the Attorney General concluded that the Ethics Board exceeded its authority in deciding that campaign funds spent on Mardi Gras were not "related to" the holding of office or campaigning for office. **ACT 862 (House Bill 810 by Representative Lancaster)** requires filing of reports of surplus campaign funds as well as deficits. **ACT 1077 (House Bill 1054 by Representative Lancaster)** requires out of state political action committees to file with the Ethics Board copies of their Federal Elections Commission campaign finance reports if such committee contributes to a Louisiana candidate. **ACT 830 (Senate Bill 145 by Senator Cain)** increases the limits on contributions by political committees to district office candidates, from \$35,000 to \$48,195 and requires the Supervisory Committee on Campaign Finance Disclosure to calculate and adjust that limit every four years to reflect the rate of inflation as measured by the Consumer Price Index, starting January 1, 2000. **ACT 254 (House Bill 498 by Representative Bruneau)** provides that if the due date of a report or document falls on a weekend or any federal or state holiday, such report or document must be filed not later than the first working day after the due date which is not a federal or state holiday. Late filing fees were standardized by **ACT 1349**

**(Senate Bill 450 by Senator Dardenne)** as follows:

- if the fee is \$40 per day, the maximum is \$1,000
- if the fee is \$50 per day, the maximum is \$1500
- if the fee is \$60 per day, the maximum is \$1500
- if the fee is \$100 per day, the maximum is \$2,500

Fees are made discretionary rather than mandatory, and the penalty for knowing and wilful filing of a false report pursuant to the statute applicable to financial disclosure for the governor (also applicable by cross-reference to late campaign report filings) is changed to a maximum rather than minimum 6 months' imprisonment following conviction by a 6-member jury. The Act also limits the amount of penalty a committee, other than a candidate's committee, would have to pay for filing to file or timely file any campaign finance reports due for a special election to the total of expenditures made to support, oppose, or influence the election of a person to public office in the special election or the maximum amount the late fees which would be due, whichever is less.



## TRANSPORTATION AND DEVELOPMENT

(Contact: Peggy Russell 342-0596)

### 1999 Regular Session

#### TRANSPORTATION/DEV DEPT

Ports/Harbors/Terminals. The growth of the shipping industry and the use of containerized freight have resulted in the development of larger ships. It is expected that within the next ten years, 85% of all ships will have drafts in excess of the draft of the Mississippi River making it impossible for such vessels to travel up the mouth of the river for cargo transport. Additionally, it is anticipated that the trend to increase shipment through containerized freight will continue. **Senate Bill 863 by Senator Hainkel (ACT 1225)** creates the Millennium Port which provides for the creation of a port with terminal and intermodal facilities somewhere off the coast of Louisiana which will be able to provide access for deeper draft shipping and a containerized cargo facility to enable Louisiana to compete for shipping trade in the future.

The Act creates a ten member authority (two ex officio members and eight voting members) as a political subdivision of the state which will initially be used to verify the assumption that a millennium port is necessary. Once the determination is confirmed, the authority will determine where the Millennium Port is to be located and how the port will be funded.

The Act recognizes and does not diminish the authority of other existing ports or the offshore authority by the powers of the Millennium Port and requires the authority to consider the overall economic impact on the economy of the six deep water ports and the offshore terminal authority when establishing rates and charges for cargo.

#### MOTOR VEHICLES

Office of Motor Vehicles. **SB110 by Senator Hollis (ACT 1193)** sets up a toll free hotline within

the Office of Motor Vehicles to be answered by a person and not a machine during normal business hours.

**HB 1 by Representative LeBlanc (ACT 10)** appropriates \$800,000 for the necessary equipment to implement the phone line. Beginning in the Fall, 1999, the Office of Motor Vehicles will have forty-one employees answering the hotline and assisting Louisiana citizens with driver's license and vehicle registration information.

Motorcycles. Prior law required any person operating or riding upon a motorcycle to wear a helmet.

**Senate Bill 86 by Senator Landry (ACT 404)** limits the requirement to those persons under 18 years of age. The legislation further requires any person who legally chooses to not wear a helmet to be covered by a health insurance policy with medical benefits of at least \$10,000 for bodily injuries.

Commercial vehicles. Several bills were introduced to require a ten-mile per hour differential in maximum speed limits on interstate highways between freight-bearing motor vehicles ("18-wheelers") and other motor vehicles. None of the five bills introduced, **Senate Bill 636 by Senator Hainkel, Senate Bill 700 by Senator Dardenne, House Bill 75 by Representative Morrish, House Bill 112 by Representative Guillory, and House Bill 1161 by Representative McMains** were reported out of committee.

Additionally, three of the bills, **Senate Bill 636, House Bill 112, and House Bill 1161 and Senate Bill 1058 by Senator Jordan (pending Senate Committee on Transportation, Highways, and Public Works)** would have required freight-bearing motor vehicles to be restricted to the right lane of multilane highways.

License plates. A multitude of bills were introduced to create a variety of prestige license plates as follows:

- The River Region Cancer Center plate - **Senate Bill 403 by Senator Lambert (ACT 845)**
- The Charles E. Dunbar plate - **Senate Bill 502 by Senator Hainkel (ACT 749)**

- The Native American plate -**Senate Bill 528 by Senator Robichaux (pending House committee) and House Bill 406 by Representative J. D. Smith (ACT 1254)**
- The Louisiana Notary Association plate - **Senate Bill 545 by Senator Branch (ACT 756)**
- The Cold War Veterans plate - **Senate Bill 574 by Senator Jordan (ACT 760)**
- The Catahoula Cur plate - **Senate Bill 736 by Senator Ellington (ACT 779)**
- The Coastal Conservation Association plate - **Senate Bill 801 by Senator Malone (withdrawn) and House Bill 1108 by Representative Triche (ACT 162)**
- The Sons of Confederate Veterans plate - **Senate Bill 998 by Senator Hainkel (House committee) and House Bill 2116 by Representative Donelon (ACT 1033)**
- The McKinley High School plate - **House Bill 52 by Representative Welch (ACT 87)**
- The Letter Carriers plate - **House Bill 84 by Representative Murray (ACT 925)**
- The Boy Scouts of America plate- **House Bill 84 by Representative Murray (ACT 925)**
- The Animal Friendly plate -**House Bill 127 by Representative Schwegmann (ACT 229)**
- Captain Shreve High School plate - **House Bill 141 by Representative Shaw (ACT 1244)**
- Louisiana Public and Private High Schools plate- **House Bill 333 by Representative Shaw (ACT 945)**
- The Louisiana Agriculture plate- **House Bill 400 by Representative Quezaire (ACT 951)**
- The Bellsouth Volunteers plate - **House Bill 406 by Representative J. D. Smith (ACT 1254)**
- The Louisiana Association of Life Underwriters plate - **House Bill 926 by Representative Johns (ACT 866)**
- The Life Center Full Gospel Baptist Cathedral plate - **House Bill 945 by Representative Clarkson (ACT 152)**
- The Adoption ... No Greater Love plate -**House Bill 1517 by Representative Perkins (pending concurrence)**
- The Choose Life plate - **House Bill 2082 by Representative Bowler (ACT 729)**
- The "Don't Litter Louisiana" plate - **House Bill 2179 by Representative Thompson (ACT 908)**

Because of the increasing number of prestige plates, the office of motor vehicles, Department of Public Safety and Corrections indicated concern over the resulting increased cost to the department. **House Bill 963 by Representative Daniel (ACT 1070)** requires a \$3.50 service charge on all future prestige plates to be retained by the office to offset the cost of processing and manufacturing the plate. To further address the issue, **House Bill 963** was amended in the Senate Committee on Transportation, Highways and Public Works to require the receipt of 100 application for any future prestige plate prior to the creation of the plate.

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## UNITED STATES GOVERNMENT

(Contact: Heyward Jeffers 342-2064)

### 1999 Regular Session

#### TOBACCO SETTLEMENT

Funds/Funding. Determining what to do with the first of 25 yearly installments from a \$4.6 billion federal court settlement between 46 states, including Louisiana, and the Brown Williamson Tobacco Corporation and others became a major issue during the 1999 Regular Session of the Louisiana Legislature. The House and Senate were still disagreeing on what to do with the funds in the final days of the session. **Senate Bills 192, 224, 711 by Senator Campbell** were constitutional amendments and a companion bill, respectively, which would have established permanent trust funds dedicated to various education and school system initiatives, the most significant being the Louisiana Education Excellence Fund, or LEEF. **Senate Bill 285 by Senator Wilson Fields (pending Senate committee)**, was another attempt to create a permanent trust fund for educational purposes from the expected windfall of tobacco settlement money. **Senate President Ewing** authored **Senate Bill 293 (pending Senate committee)**, another constitutional amendment for a special permanent trust fund to aid education in Louisiana. There were just as many proposals coming out of the House to invest, save or spend the settlement money on a variety of education, health-care and research projects. All of the Senate instruments had been killed by the House as the session began to wind down. As a result, by the last week of the session, the Senate had amended a mixture of some half-dozen of its own proposals onto **House Bill 640 by Speaker Downer (ACT 1392)**, the House's approved and authorized version of what to do with the approximately \$199 million annual payment from tobacco manufacturers. However, the House rejected the Senate changes to the Downer bill and the bill and the disagreement between the two bodies appeared headed for a conference committee. There was even fear

by some legislators of an inability of the House and Senate to reach an agreement on the issue at all this session and the possible need for a special session of the legislature later this year to try and ultimately decide the issue. However, a compromise was eventually reached and the bill, as passed, addressed a number of health concerns as well as education funding and highway repair. Nearly \$11 million will go to a rainy-day account called the Millennium Fund, \$88 million will help fund the Medicaid health care program for the poor, \$13 million for special health-insurance for poor children, almost \$5 million for mental-health clinics and chronic disease management programs at state charity hospitals, \$8 million for cancer research and stop-smoking programs, \$15 million for health-care grants to be administered by the Board of Regents and \$22 million for the state construction budget.

## **ENVIRONMENTAL CONTROL**

Right-To-Know Law. **Senate Bill 358 by Senator Barham** would bring Louisiana's Right-To-Know-Law into conformance with federal law regarding industry's operators and manufacturers obligation to notify citizens about the release of or disposal of hazardous materials. After passing the Senate, the bill died in the House Environmental Committee as the session entered the final days of the session.

## **ELECTIONS**

Election Code. Several bills were filed in the Senate seeking to change the state's open primary election system for congressional office to a closed one where voters would participate in a first and second primary according to party affiliation. **Senate Bill 994 by Senator Cleo Fields** was passed by the Senate but died after the measure became bottled up in the House Appropriations Committee during the last week of the regular session. **Senate Bill 848 by Senator Dardenne and Senate Bill 792 by Senator Malone** mirrored the Fields' proposal but never moved out of the Senate and Governmental Affairs Committee.

**CONGRESS**

Emergency Preparedness. Senate Concurrent Resolution 30 (enrolled) by Senator Landry memorializes Congress to authorize and urge the governor to support the development of the "Comprehensive Hurricane Protection Plan for Coastal Louisiana".

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## WILDLIFE AND FISHERIES

( Contact Arthur McEnany 342 - 2414)

### 1999 Regular Session

#### Animals

**Senate Bill 867 by Senator Hainkel (withdrawn)** would have prohibited the sale or donation of any animal from any zoo to be used in "canned-hunts". The bill was amended to allow the Department of Agriculture and Forestry to regulate these hunts on private hunting preserves.

#### Congress

**House Concurrent Resolution 107 by Representative Daniel (Enrolled)** memorializes Congress to allow the inclusion of the federal Duck Stamp in the state's electronic issuance system for hunting and fishing licenses.

#### Fish/Fishing

**House Bill 241 by Representative R. Alexander (ACT 5) [Senate Bill 137 by Senator Ewing (House Calendar)]** allows the taking of certain non-quality freshwater fish by means of bow and arrow.

**Senate Bill 154 by Senator Smith (ACT 1338)** creates a "fresh products license" for commercial fishermen allowing them to sell their catch directly to a consumer. Duplicate of SB 530 and HB 403.

**Senate Bill 228 by Senator Landry (ACT 838)** authorizes the commercial taking of mullet in freshwater areas by means of hoop nets.

**Senate Bill 427 by Senator Malone (Senate Committee)** would have designated the spotted seatrout (speckled trout) as a recreational game fish. Duplicate of HB 800.

**Senate Bill 537 by Senator Robichaux (ACT 422)** defines "unserviceable crab trap" and places responsibility upon the crab fisherman to properly place and dispose of his crab traps so vessels can navigate

safely.

**Senate Bill 544 by Senator Hines (Senate Committee)** would have authorized a site-specific, limited strike net season for the taking of black drum. Duplicate of SB 917 and HB 576.

**Senate Bill 550 by Senator Romero (ACT 423)** provides that until June 30, 2003, the minimum mesh size of commercial crawfish traps shall be a hexagon of  $\frac{3}{4}$  x  $\frac{11}{16}$  of an inch. After July 1, 2003, the minimum mesh size of commercial traps shall be a hexagon of  $\frac{3}{4}$  x  $\frac{3}{4}$  of 1 inch. Duplicate of HB 500, HB 929 and HB 1772.

**Senate Bill 883 by Senator Dean (withdrawn)** would have authorized the taking of mullet by strike net at night. Duplicate of HB 439.

**Senate Bill 974 by Senator Dean (ACT 220)** authorizes commercial fishermen to retain and sell all southern flounder caught as by-catch. Duplicate of HB 997.

### **Fishing/Crabs**

**House Bill 1529 by Representative Hebert (ACT 179)** provides for a daily recreational possession limit of twelve dozen crabs per person.

### **Fishing/Commercial**

**House Bill 365 by Representative Dupre (ACT 1252)** provides that no later than January 1, 2001 the department shall have in place the electronic capability required to receive the information required for the Commercial Fisherman's trip ticket. Exempts the sale and purchase of crawfish and catfish from this provision until January 1, 2000.

### **Funds/Funding**

**Senate Bill 1038 by Senator Robichaux (ACT 804)** creates the Saltwater Fishery Enforcement Fund by transferring \$1.8 million dollars from the Commercial Fisherman's Economic Assistance Fund.

Provides that the monies will be used for the enforcement of saltwater fishery rules and regulations.

**House Bill 1262 by Representative Gautreaux (ACT 920)** provides for the fifteen year capital improvement plan for the Atchafalaya Basin Floodway Program. Provides for state funding of \$30 million over a 9 year period for the capital improvement program and \$55 million for operation and maintenance over a 15 year period.

### **Hunters/Hunting**

**Senate Bill 349 by Senator Ullo (ACT 71)** allows licensed trappers to use dogs for hunting nutria.

**House Bill 1083 by Representative Hammett (ACT 160)** authorizes the department to issue a special permit allowing an individual to hunt beaver at night using a flashlight for not more than three consecutive days.

**House Bill 1207 by Representative Hammett (ACT 165)** allows landowners and farmers, by means of a special permit issued by the department, to hunt squirrels when they are found to be destroying pecan crops.

### **Motor Vehicles/License Plates**

**House Bill 1108 by Representative Triche (ACT 162)** creates the Coastal Conservation prestige license plate.

### **Ports, Harbors and Terminals**

**Senate Bill 863 by Senator Hainkel (ACT 1225)** creates the Millennium Port Authority as a political subdivision of the state for the handling of containerized cargo of deeper draft container vessels.

### **Sunset Law**

**House Bill 998 by Representative John R. Smith (ACT 1270 )** re-creates the Department of Wildlife and Fisheries until July 1, 2003.

**Wildlife and Fisheries Dept.**

**Senate Bill 937 by Senator Barham (ACT 81)** prohibits the commercial taking of wild box turtles and regulates the taking of wild box turtles for noncommercial purposes.

**House Bill 960 by Representative Jack D. Smith (ACT 547)** provides that any offense committed in the Gulf of Mexico outside of state waters where the state holds jurisdictional authority under the Magnuson-Stevens Act, any district court in any parish bordering the gulf has jurisdiction.

## THE CITIZENS' CONNECTION

(Contact Brenda Hodge, (225) 342-9737)

### 1999 Regular Session

#### STATE CAPITAL NEWS FROM YOUR STATE SENATOR

##### ▶ SIGNED AND SEALED

The final regular legislative session of the 1996-2000 State Legislature is now history and Governor Foster has completed action on the measures approved by lawmakers at the session. With a concerted effort in the final hours of the session, lawmakers reached agreement on major state spending issues as well as public safety, health care and education matters. Included is a far-reaching proposed change in the State Constitution to restrict how over \$4.6 billion dollars due the state over the next 25 years from the national settlement with tobacco companies can be spent.

Lawmakers did have a lot to deal with this session with almost 3400 different bills filed. Over 1400 of those bills, including 16 proposed amendments to the State Constitution, were finally passed by the legislature. Governor Foster vetoed only 20 of the bills approved by lawmakers, allowing the rest to become law either through his signature or inaction.

As has been the case with each session this legislative term, state lawmakers focused on how best to continue to set the right kind of priorities for state government. State spending, public safety, education enhancements, transportation and economic development once again dominated discussions in both the Senate and the House.

##### ▶ THE TOBACCO \$\$\$ QUESTION

Long before the session even began, state officials, legislators, citizens groups and others started talking about the tobacco settlement windfall. The question - how best to use the

money Louisiana is set to receive as its share of the national settlement with tobacco companies. Louisiana expects to receive at least \$4.6 billion over the next 25 years. Beginning in the 1999-2000 state fiscal year, the money will gradually come in over the years with an average of about \$150 million to Louisiana each year.

Lawmakers had to decide whether or not to put all or part of the money each year into a special trust fund; whether some money should be spent each year on special state needs; whether use of the money, in a trust fund or not, should be limited to specific things like education, health care, medical research, children's programs or infrastructure needs.

In the end, the Senate and the House leadership proposed a compromise, including a proposed change in the State Constitution and a new state law to restrict and target use of the windfall money.

The compromise plan establishes the *Millennium Trust*. The monies in the trust are divided equally into three funds. The *TOPS Fund* is designed to insure dollars will be available in future years to pay for the popular Tuition Opportunity Program for Scholars or TOPS. The TOPS Fund is restricted to support of state financial assistance programs for students attending Louisiana colleges, universities and vocational schools. The *Education Excellence Fund* provides funding to local schools for pre-kindergarten through 12<sup>th</sup> grade education programs, with a focus on remediation needs, early childhood education and at-risk student programs. Monies from this fund must be used on classroom instruction, not on pay raises or construction. The *Health Excellence Fund* is earmarked to support

children health care programs and related initiatives as well as innovations in advanced health care sciences and chronic disease management. Only the interest earnings from the funds will be available to finance the state and local education and health care needs.

Beginning with the 2000-01 state budget year, a portion of the tobacco money will be put in the Millennium Fund so that after three years, 75% of the tobacco money will be placed in the trust fund each year, with the trust fund protected in the State Constitution. The other 25% of the tobacco money will go into a special *Louisiana Fund* that can be used by legislators each year to get a jump start on addressing problems facing the state in health care, education and children's programs.

Additionally, the tobacco funds proposal allows for creation of the *Millennium Leverage Fund*. The state legislature, with a two-thirds vote, could authorize the state treasurer to maximize the dollars coming to the state via the tobacco settlement. The treasurer's office has proposed a way to get more bang for our buck through the use of investments and revenue bond sales. The legislature has set up a special task force to look into such an option.

The bottom line is state lawmakers were able to reach a consensus on what many considered the most important issue of this session. The next step is up to voters who must approve the tobacco funds constitutional amendment in a statewide election this fall before the plan can be implemented.

▶ **THE OTHER \$\$\$ QUESTIONS**

The proposal outlining use of the tobacco settlement money, if approved by the voters, will not take effect until the 2000-01 state budget year. This coming budget year, which begins July 1<sup>st</sup>, takes advantage of some of the first year tobacco funds to go ahead and start working on things like children's health care, early childhood intervention efforts and health care research that

will be funded once the Millennium Fund and the Louisiana Fund are in place. Tobacco funds are also used to preserve state supported health care programs for the needy and mental health services.

Over-all the state's \$13 billion plus operating budget approved by lawmakers at the regular session continues the state's commitment to key priorities in education, highways, and economic development.

▶ **\$\$\$ TO EDUCATION**

For the first time in history, the *budget fully funds the Minimum Foundation Program (MFP)*, which is the formula that provides basic state aid to local schools. Local school systems will get over \$76.6 million in new state money for local education programs. A change in the amount local schools must contribute to the state's teacher retirement system frees up another \$19 million at the local school level for education efforts, so that new dollars available to local school systems statewide for use in the classroom increase by almost \$100 million.

Local school systems could opt to use some or all of the extra funds for teacher pay raises. This legislative term, legislators have increased basic state aid to local schools by some \$320 million, with over \$200 million of that increase going to pay raises for teachers and other school employees.

Over and above the basic state aid to local schools, lawmakers are also adding money to the budget to help implement the state's new school accountability program that demands more from students, teachers and schools. The state continues support of important education enhancements such as the special program to improve reading and math education in lower grades and the push to put computers in our classrooms.

State lawmakers' commitment to education does not stop with elementary and secondary schools. Legislators at this session committed to increasing basic funding for colleges and universities, raising college faculty pay, boosting state funds for endowments and research initiatives to bring in millions more in private funds and continuing

funding for repairs, maintenance, scientific equipment, library supplies and more.

Legislators also stood by their commitment to give the state's new community and vocational college system the resources it needs to move forward. The new system, which is designed to build upon existing community colleges and vocational technical schools to offer comprehensive education, job training and re-training programs to Louisiana citizens, officially began operations July 1<sup>st</sup>.

- **THE NEXT STEPS IN EDUCATION REFORM**

Beyond the dollars committed to education at all levels, state legislators approved new programs and procedures to move the state's education system forward and to address specific problems in our classrooms.

In the coming school year, local schools will have to offer *remediation programs* through summer school or alternative programs to students who fail the state's new higher standard assessment tests. Beginning with the up-coming school term, fourth and eighth grade students will take new assessment tests. Those who fail the test and a re-test after remediation will not be passed to the next grade. It is all part of the state's new school accountability program. To help schools where students are having problems, the legislature created a new *distinguished educator program* where special teachers will go into the troubled schools, identify problems and try to help.

In an effort to help teachers and to make sure local school systems are not forced to spend money on state mandates that not only strain local school budgets, but also take qualified teachers out of the classroom, state legislators approved major reforms in teacher benefit programs. For over a year, the State Senate has been investigating how state mandated extended sick leave and sabbatical leave for rest and recuperation affect local school finances and the

quality of instruction in the classroom.

First lawmakers *eliminated extended sick leave* where teachers and others could take unlimited time off and still collect most of their salary. Under the *new state policy*, extended sick leave where the teacher gets part of his or her salary is *limited to 90 days every six years for doctor verified personal illness or family sickness*. Additional paid medical leave is also available under the *new medical leave sabbatical* which replaces the current rest and recuperation sabbatical. The old "R&R" sabbatical policies cost local school districts tens of millions of dollars last year alone. Under the new law any money saved by local schools with the new sabbatical policy and the new extended sick leave policy will have to be used for teacher pay raises. Additionally, teachers taking time off for educational purposes will have to take fewer credit hours to qualify for legitimate professional improvement leave.

To address specific problems in the classroom, state legislators approved a series of laws dealing with student conduct and parental responsibility. The so-called "*respect*" bill got the most public attention. It requires school boards to develop policies requiring students to address teachers and other school employees with respect using such terms as yes sir, no sir, etc. The "respect" measure takes effect in the coming school year regarding students in grades K-5 with a grade added to the student conduct requirement each year.

Beginning next school year, *students* in the 4<sup>th</sup> through 12<sup>th</sup> grades and their *parents* will have to sign a *contract* each year agreeing to certain things like regular school attendance, proper student conduct and completion of assignments. Local schools are required to set up penalties for not signing the contract.

Lawmakers also approved a *new state law allowing spoken prayer in schools*. Prayer in the classroom is now limited to silent meditation. Civil liberties groups plan to challenge the constitutionality of the law in the courts.

On the higher education level, *TOPS*, the

state's post-secondary scholarship program for deserving Louisiana high school students, is still tops with legislators and citizens. Lawmakers not only secured on-going funding for the program, they also *fine-tuned requirements for the education assistance*. Higher achieving students who opt for a higher level of assistance under TOPS will be able to keep the basic tuition assistance if they are unable to meet the stricter college grade point requirements associated with the higher TOPS awards. Small groups of students who moved to the state several years ago and certain Louisiana residents who attend high school out-of-state are now eligible for the tuition assistance.

The *key change* in the TOPS program approved by lawmakers is a change in how the 2.5 grade point average needed to qualify for the scholarship is determined. Now, grades in all high school courses are considered. *Beginning with the 2002-03 school year, students must have at least a 2.5 grade point average in so-called core curriculum classes to qualify.*

Lawmakers also *further defined what requirements private schools must meet* in order for their graduates to be eligible for TOPS. Private school graduates are now eligible for the scholarship program if the school is certified by the state. Lawmakers added the stipulation that meeting state certification includes a *requirement that the private school operate on a racially non-discriminating basis*. There are private schools around the state that do not currently meet the non-discrimination requirement which takes effect with 2000 graduates. Governor Foster has pledged to work with those private schools to help them comply with the new requirement.

And in an effort to get the most out of the state funds set aside for the TOPS program, legislators approved two measures to allow TOPS students and their parents to take advantage of a relatively new federal income tax credit for costs associated with college and other

post-secondary education programs. One measure gives students who are awarded a TOPS scholarship the option of delaying acceptance of the award until after federal income tax returns claiming the education tax credit are filed. The state will pay the students or their parents the difference between the tax credit and the amount of the TOPS scholarship award plus an extra 25% of the amount of the credit. *The change in the law allows families the possibility of getting a tax break and scholarship assistance at the same time.*

And to make sure Louisiana residents are not scammed by so-called "*diploma mills*", legislators approved a new law making sure all post-secondary schools are regulated by the Board of Regents. All such schools, even non-profit operations, will have to meet minimum educational standards and be accredited with the federal department of education.

- **THE PUBLIC'S HEALTH**

The commitment to fund important state health care programs and research efforts in both the state operating budget and, long term, with the Millennium Fund, is clear. For instance, the state will move forward with plans to *expand the Louisiana Children's Health Insurance Program or LaChips* which takes advantage of federal health care dollars and has already provided vital health care to over 25,000 Louisiana children. The expanded program will help at least another 10,000 more.

Lawmakers at this session also approved a series of changes in state law giving state health officials more authority to protect the public's health and setting down state health care policies. State health care officials have *new authority to inspect abortion clinics and other medical facilities as well as tattoo and piercing parlors* for sanitary and public health problems. And, as a matter of state policy, lawmakers *banned abortions in Louisiana after the 22<sup>nd</sup> week of pregnancy*, except to protect the life of the mother. Abortions are now allowed through the 28<sup>th</sup> week. Lawmakers approved the new limit based on the authority of states to define when an unborn child can survive outside the womb. Both the new



inspection authority and the new limit on abortions are on hold after suits were filed against both new laws questioning the measures' constitutionality.

State legislators also approved health care related *measures banning human cloning, restricting harvesting of human sperm and further limiting the liability of blood banks* in connection with diseases possibly transmitted decades ago, but only recently medically identified. And in an effort to save lives, lawmakers approved a bill to *encourage the use of automatic external defibrillators or AED's*, portable machines that citizens can be trained to use to save the lives of heart patients.

To better serve the health care needs of citizens, legislators decided to *mandate insurance companies pay for important kinds of medical treatment*. Beginning with coverage taking effect the first of next year, insurance companies will have to pay for treatment of certain *severe mental disorders*; for *bone mass tests* for policy holders at risk for osteoporosis and for *clinical trials of new cancer treatments* approved by the National Institutes of Health.

- **THE PUBLIC'S SAFETY - ON THE HIGHWAYS**

A large number of the bills approved by lawmakers at the regular session dealt with proposals to try to make Louisiana's highways and its communities safer. Motorists caught driving drunk with *high blood alcohol levels* will face *mandatory jail time*. Law enforcement officials will be better able to identify repeat DWI offenders with a new *statewide DWI databank*. And if you drive drunk and are in an accident, your *ability to collect damages*, even if you are not totally at fault, will be *limited* under a new law approved by legislators.

To discourage underage drinking as well as underage drinking and driving, the drivers' licenses of those under the age of 21 will take on a new look. Lawmakers gave the state motor

vehicle office the okay to issue special *color coded drivers' licenses for drivers under 21*. The color coded licenses should make it easier for store clerks and bartenders to identify underage drinkers as well as those trying to illegally purchase tobacco products.

In other highway safety matters, lawmakers rewrote the state's *mandatory seat belt law* to apply to *larger passenger trucks and big sports utility vehicles* as well as normal passenger vehicles, and to make clear that law enforcement can ticket you for not wearing your seatbelt, even if you are not violating any other traffic laws. And the state's mandatory *motorcycle helmet* requirement is *no longer mandatory* for motorcyclists 18 years of age or older. However, those choosing to ride without a helmet must carry at least \$10,000 worth of health insurance coverage in case of an accident.

- **THE PUBLIC'S SAFETY - IN THEIR COMMUNITIES**

The State Legislature sent a strong message to criminals, especially those using firearms in their crimes and those targeting schools, children and the elderly. According to new laws approved by lawmakers, *criminals merely possessing a firearm* during a crime get a *minimum mandatory 2 years in jail*. The minimum sentence jumps to 5 years for using the weapon and 20 years for shooting the firearm during a violent felony crime. Another measure specifically targets *armed robbery, doubling the minimum jail time* from five to 10 years.

Several measures address *school violence problems*. Anyone using a firearm or any other weapon on school property or within a so-called "gun free" school zone or makes a bomb threat against a school now faces stiff new penalties. A bomb threat could result in 20 years in prison! And, the crime of battery of a teacher now carries a minimum 72 hours in jail.

And in a further message to violent criminals in Louisiana, legislators gave the okay to a proposed change in the State Constitution. If voters approve

the change, *automatic pardons for first time violent criminals and other specific serious crimes will be eliminated*. Now first time offenders are automatically pardoned when they have completed their sentences.

In an effort to address specific problems relating to juvenile crime, legislators *stiffened penalties for possession* of more than an ounce of the popular, yet deadly *date rape drug GHB*. Minimum jail time for the drug possession doubles to ten years. Lawmakers targeted violent youth crimes with new laws to *prevent juveniles from possessing hand guns* without written parental permission and to make it a *crime to recruit someone to join a street gang*.

To try to keep troubled youth from turning into criminals, lawmakers agreed to set up, on a pilot basis, *juvenile assessment centers* in Jefferson and Caddo Parish. The assessment centers will provide early intervention programs and other assistance to school truants and youngsters who are already having problems at school or at home. The idea is to address the juvenile delinquency problems before they become adult crime problems.

Also at this regular session, lawmakers overwhelmingly agreed that firearms manufacturers, retailers and dealers should not be held responsible for the crime and violence caused by people using those firearms. Lawmakers approved legislation making it clear the *gun industry is not liable* for the damage caused by someone using or misusing a firearm and *specifically outlawing damage suits by cities in Louisiana* against the gun manufacturers, dealers or retailers. New Orleans, along with a number of other cities across the country, filed suit against the gun industry claiming the industry should be held responsible for the price paid by New Orleans and its residents because of gun violence.

And to deal with new kinds of crimes plaguing Louisiana citizens, legislators more clearly defined state law as it relates to the *theft*

*of someone's identity* and the videotaping of someone without their permission. Citizens across the country have had problems with criminals using their social security numbers, credit card numbers and the such to commit all sorts of fraud and theft. And until this session state law did not specifically address the *unlawful videotaping of an individual*. With the new law approved by lawmakers, videotaping someone for a lewd or lascivious purpose is a crime with jail time and fines as penalties.

This session, lawmakers also agreed to set up a *statewide automated crime victims' notification network*. The network is designed to make sure the rights of victims are protected in the criminal justice system and that victims are informed of what is going on. The notification network will work hand in hand with a whole series of changes in state law to implement the *crime victims' bill of rights* which voters added to the State Constitution last fall.

#### • **THE FAMILY & OUR CHILDREN**

Realizing our state's future is tied to the well-being of our children and families, state legislators took steps to try to make sure Louisiana does what it can to protect our future. Faced with a growing number of *children in foster care* for longer periods of time, lawmakers approved a new state law requiring state social service officials to either start adoption procedures or return the children to their families within a specified amount of time. Another measure requires courts to be more diligent in cracking down on parents who don't pay court ordered child support. Judges, who already have the power to suspend the drivers' licenses and certain professional licenses of "*deadbeat*" parents, must suspend the licenses or show reasons for not doing so.

To insure that so-called baby selling doesn't happen in Louisiana, lawmakers approved a *new law on adoptions* setting down rules and procedures on what are considered reasonable adoption expenses. And legislators decided that *grandparents* who are prevented from seeing their grandchildren after the

parents divorce should have the right to ask the court for *visitation rights*.

- **THE RIGHTS OF CITIZENS & CONSUMERS**

At the 1999 Regular Session, lawmakers considered a whole series of bills dealing with citizens' rights and consumer protection. One measure, approved by lawmakers, takes a bold step to *protect a citizen's home from seizure*. Now only \$15,000 of a person's home is protected from seizure. Lawmakers raised that to \$25,000 and agreed to protect the home from seizure, no matter what its value, because of medical debts in connection with a catastrophic illness or injury.

Legislators also sent a strong message to phone companies that Louisiana *will not tolerate "cramming"*, where customers are charged for services they didn't order or *"slamming"*, where a customer's long distance carrier is changed without their okay. Lawmakers banned both practices.

Louisiana citizens also will no longer have to be bothered with *unwanted credit cards* sent to them in the mail. And, if a credit card company wants to set up shop to promote credit cards with Louisiana college students, the company will have to register with the university first. Credit problems among college students are a growing problem across the country.

One of the most controversial consumer issues at the session was the *move to regulate the so-called pay day loan industry*, an industry that provides short term loans for small amounts. The industry is not now regulated by the state and many lawmakers complained that the industry is charging exorbitant fees and interest on the small loans.

In the final hours of the session, legislators agreed on a compromise measure to regulate the industry. Under the new law, pay day loans will be limited to \$350 with a maximum loan fee of 16.75% or about \$45 on the \$350

loan. The small loan companies must allow consumers to make partial payment on the loans and disclose all fees and charges. So called roll-over of the loans where consumers can basically get caught paying off the short term loan over a long period of time is not permitted.

And, if you are tired of calling the state motor vehicle office and getting a busy signal or an endless succession of voice mails, help is on the way. Lawmakers approved a measure to require *motor vehicle* officials to begin operating a *statewide toll free number answered by real people* to handle citizens' questions.

And how would you like to be able to get a *break on your federal income tax* by deducting the local sales taxes you pay, like you could before the federal tax laws changed a number of years ago. Well, lawmakers approved a measure aimed at giving you that option. The bill allows you to give up your homestead exemption, pay the full property tax bill and then, after showing receipts for the sales taxes you paid, get a credit against the property taxes owed. In effect, the sales taxes become property taxes which are deductible! Governor Foster signed the measure into law, but there is some question about whether the Internal Revenue Service will recognize the tax break.

- **THE FUTURE OF OUR CITIES**

To give our local governments more ammunition to deal with dilapidated housing problems, legislators approved a new law setting down *criminal penalties for slumlords*. Property owners, in more populated parishes, convicted of criminal blighting of property must fix up the property or face a \$500 fine. A second conviction means more fines and community service with no suspension of the sentence. The community service could include living in their own dilapidated house.

Communities frustrated with the inability to handle noise problems, especially around churches and hospitals, now have a new *statewide noise control law* to help. The law sets up quiet zones around hospitals and around churches when services

are in progress.

To help local governments fight a new, yet growing problem with *cemetery thefts*, lawmakers okayed a new law requiring antique dealers and other retailers who purchase statuary, sculpture and other cemetery artifacts to keep detailed records and provide the records to law enforcement. New Orleans has had a particular problem with the cemetery thefts.

And, some \$6 million is set aside to tackle a different kind of problem threatening not only New Orleans, but the entire state, the *Formosan termite problem*. The devastating insects which began destroying homes and trees in south Louisiana now threaten structures and timberland across the state.

Lawmakers also approved a whole series of pay raises for various local government officials including sheriffs, assessors, clerks of court and registrars of voters. Sheriffs have not had a pay raise for over four years. For the most part, the officials are paid with local funds and self generated fees.

- **THE STATE'S INFRASTRUCTURE**

Local and parish governments also get some help from the state in the construction and operating budgets. The Senate set aside *extra money* in the coming budget year to help local governments, particularly rural communities, to fix dangerous bridges around the state. The bridge money is in addition to other funds set aside for road construction and repair. The state continues to place a high priority on dealing with the huge backlog of road overlay projects in Louisiana. In recent years over \$300 million dollars has been committed to that effort.

The state's \$2.8 billion construction budget also includes money to help local governments with specific public improvement projects when the local governments have shown an effort to tackle the infrastructure problem on their own. Local projects are included when there are local matching funds or services available for

the project or when there is an important economic development impact. The idea is to try to develop a partnership between local governments and the state to get the best use of the dollars available to improve our roads and drainage, our public buildings and our universities.

And to make sure the state is not forced by the courts to spend over \$80 billion dollars we do not have to bring all of our state roads up to recent federal standards, state lawmakers approved a *measure that requires the state to maintain roads in a safe condition, but only invest in improvements required by the recent federal standards when the road is substantially reconstructed*. The change in the law does not allow the state to avoid its responsibility to maintain our roads and highways. A recent court ruling in Baton Rouge raised the possibility that Louisiana might face on-going damage suits in connection with motor vehicle accidents if we did not upgrade all of our highways to the recent federal standards.

As the state moves to improve its transportation system, things can get a bit frustrating for motorists. To help ease that frustration, lawmakers approved a *measure to require state transportation officials, when feasible, to order contractors to work at night* when the construction work closes traffic lanes in certain larger parishes.

- **THE PUSH TO DEVELOP THE STATE'S ECONOMY**

Besides continuing efforts to improve our state's infrastructure, lawmakers also took specific steps to make sure businesses are encouraged to grow and develop in Louisiana.

Legislators created the *Millennium Port Commission*. This commission will position Louisiana to begin working toward private development of a major new container cargo port along the Louisiana coast to handle large cargo vessels that have difficulty using our existing inland ports. The port is seen as a necessity to allow Louisiana to compete for the expected increase in large cargo shipments, particularly from Latin

American countries.

To aid one of the state's fastest growing industries, tourism, state lawmakers agreed to set up the *Louisiana Hospitality Research Center* at the University of New Orleans. The Center will help the state market its tourism efforts and assist tourism related businesses with planned development and expansion opportunities. And to try to better promote Louisiana as a great place to retire, legislators created the *Louisiana Retirement Development Commission*.

Businesses are also set to get a tax break and access to a new job training program at the same time as a result of *changes in the state's unemployment compensation fund* approved at the regular session. Beginning January 1, 2000, unemployment taxes paid by businesses will decrease and benefits paid to the unemployed will increase. The taxes paid by businesses into the unemployment compensation fund will be cut by 20%, amounting to a \$35 million tax cut for businesses. Benefits to the unemployed will go up by 20%, raising the maximum benefit to \$258 a week. Additionally, \$44 million now in the unemployment compensation fund will be moved to the State Department of Labor to boost a special job training program that is designed to prepare workers for job advancement and promotion. The idea is to improve the skills of our workforce and to open up jobs for new workers as the existing workers move up to better jobs. Small businesses, with a limited number of employees, had expressed concern that they would not be able to take advantage of the training funds. State labor officials say they will work with small businesses to make sure they are not left out.

A *tax break* is also on the way for *businesses that buy equipment and other tangible property for rental or lease*. Beginning this July, the state will phase in, at a rate of 25% a year, an exemption from local sales taxes on such purchases. Sales taxes are now paid when the property is bought and again when it is rented

or leased.

And *more businesses may soon be eligible for special tax breaks under the state's enterprise zone and economic development zone program*. Lawmakers expanded the program to allow the incentives to businesses located outside the enterprise or economic development zone, if a certain percentage of the employees hired by the new or expanding business are residents of nearby enterprise zones; were on some kind of government assistance before being hired or were considered unemployable before being hired.

At Governor Foster's request, legislators also agreed to *changes in the Louisiana Workers' Compensation Corporation*, a program set up by the state a number of years ago to try to provide affordable workers' compensation insurance to Louisiana businesses. Lawmakers approved a series of measures including proposed changes in the State Constitution that will remove the current full faith and credit of the state from the corporation and, in effect, privatize it. LWCC officials asked for the move to give the corporation more flexibility in serving business needs.

And *businesses troubled with bad checks can soon charge more for a bounced check*. Legislators approved a bill to allow businesses to charge up to \$25 or 5% of the amount of the check for a bad check, whichever is greater. The current limit is \$15. The bill also reduces the time the consumer has to make good on the check from 30 days to 15 days.

Lawmakers also authorized the state insurance department to set up *pilot programs to help small businesses provide health insurance to their employees*. One of those programs will look for ways for small businesses to form cooperatives to help the small companies afford the coverage.

And in a hard fought debate, state legislators finally agreed on a measure that addresses so-called *medical monitoring costs in civil law suits*. The measure outlines when someone found at fault in a damage suit can be held responsible for the costs associated with the on-going medical monitoring of

an injury or disease. Such responsibility is limited to cases of “manifested” physical injury or disease.

- **THE FUTURE OF THE GAMBLING INDUSTRY**

Legislators at this regular session did spend some time debating proposed changes in the state’s gaming laws. In the end, legislators gave the *go-ahead for horse racing tracks in St. Landry and Bossier Parishes to operate slot machines*. Voters in those parishes approved the slots some time back, but the machines could not be operated until a tax was set by the State Legislature. Last year, lawmakers refused to approve the tax. This year they agreed to set up a local taxing commission in each parish to collect the tax on the slot machines. The approach used to set the tax this year required a simple majority vote from the legislature for approval. The tax proposal last year was a state levied tax and required a two-thirds vote. The horse racing industry has been pushing for slot machines at the tracks as a way to compete with other casino type gambling operations in the state.

Legislators also agreed to *require a person buying a lottery ticket to show identification*. Supporters pushed this measure to try to prevent those under 21 from buying lottery tickets. And late in the session, legislators approved a measure to require the state to develop a *gambling education program* to be taught in public schools in an effort to discourage gambling.

Lawmakers could not agree on a measure to give the governor the authority to negotiate new, extended compacts with Indian tribes operating casinos in Louisiana. The governor’s office had been pushing for the extended compacts as a way to negotiate possible payments to the state from the Indian casinos. Current compacts provide no gaming taxes or payments to the state.

Legislators did go on record supporting a ban on so-called “phantom cruises”. State gaming regulators had considered requiring the “phantom cruises” as a way to have riverboats comply with the state law requiring a specific number of cruises a year.

- **THE RESPONSIBILITY OF STATE GOVERNMENT**

To make sure the state legislature and government are held accountable and responsible for the services provided Louisiana citizens, state lawmakers approved a series of measures to tighten state ethics and public records laws. Legislators *fine-tuned laws on nepotism; elected officials’ financial disclosure requirements; state regulators doing business with persons they regulate* and more.

Legislators also approved a *new law banning candidates convicted of certain kinds of election fraud from taking or holding office*.

Lawmakers could not reach agreement on a move to scrap the state’s open primary election system and return to a closed primary where party candidates run against each other with the winner from each party facing off in a general election.

To try to *better handle the effect of fluctuating oil prices on the state budget*, lawmakers decided to require the state treasurer, with the recommendation and approval of the Revenue Estimating Conference and the Joint Legislative Committee on the Budget, to enter into commodity contracts regarding oil and gas prices. The idea is to establish a firm price for all or part of the expected mineral production subject to state tax for the budget year. Earlier this year, the Governor had to order a state budget freeze when state mineral revenues plunged as a result of falling oil prices.

And while it is never easy to figure out how to address pay raises for legislators and state elected officials, lawmakers did approve a new approach to the pay raise issue. Legislators agreed to set up a *Compensation Review Commission* to make recommendations on salary levels for legislators, the governor and other state officials. Legislators will

have the option of accepting or rejecting the recommendations, but not changing them.

Meanwhile, lawmakers took some steps to try to *clear up problems with the way legislative sessions now operate*.

Now every other year, the legislature can only consider fiscal matters and specific tax issues. So, when general sessions come around, they are faced with thousands of proposed general measures or are forced to hold special sessions to address non-fiscal problems in the alternate years. So lawmakers approved a proposed change in the State Constitution to allow legislators to consider a limited number of non-fiscal matters and an unlimited number of local bills during fiscal only sessions. Lawmakers will also have the option of extending the length of the fiscal-only session if necessary, but they will not be paid for the extra days.

And if you ever get frustrated and confused by all the legal language used in state government, help may be on the way. Legislators approved a *resolution urging and requesting state government in Louisiana to use plain language* in its laws, regulations, documents and publications.

- **THE NEXT STEPS**

Next state officials, local officials, the courts and others must move to implement the new and revised laws, programs and services approved by legislators at the Regular Session. When a particular measure goes into effect depends on the measure. Some bills take effect as soon as they are allowed to become law by the governor. Others include a specified effective date in the future. Those bills which do neither go into effect August 15<sup>th</sup>.

We will keep you updated here in *THE CITIZENS' CONNECTION* on what happens to the numerous laws approved by lawmakers and how those new laws are being implemented.

Meanwhile, if you have questions about the work of the State Legislature at the recently completed 1999 Regular Session, please feel free

to call me at (225) 342-2040. You may also check on developments at the State Capital on the Internet at [senate.legis.state.la.us](http://senate.legis.state.la.us)