

2003 Regular Session Highlights Final Edition



Agriculture

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ADVERTISING

In an effort to prevent consumers from being misled, **House Bill 1499 by Representative Pitre (Act 1257)** prohibits the sale or advertisement of food products as "Cajun" or "Louisiana Creole" unless the food qualifies for the 10% preference for products produced, processed, or manufactured in Louisiana under government public bidding provisions. Also, the bill provides that food brought into or processed in Louisiana shall not be considered "made in Louisiana" unless the product has been substantially transformed by processing in Louisiana.

AQUACULTURE

House Bill 2013 by Representative Townsend (vetoed) was introduced to provide a regulatory framework for the orderly development of a modern aquacultural segment of Louisiana's agriculture industry and for the promotion of aquaculture and aquacultural products. The bill

would have created the Louisiana Aquaculture Coordinating Council within the Department of Agriculture and Forestry. Also, it would have established a procedure for approving a species of finfish as suitable for aquaculture.

CHRONIC WASTING DISEASE

In an effort to prevent the spread of Chronic Wasting Disease into Louisiana, **House Bill 1797 by Representative Kenney (vetoed)** would have prohibited the importation into the state of any black-tailed deer, white-tailed deer, red deer, mule deer, elk, or any animal of any cervid species determined to be susceptible to Chronic Wasting Disease. Moreover, the bill would have required all persons who seek to import cervid species to obtain written authority to do so from the commissioner of agriculture and forestry.

COMMITTEE ON AGRICULTURE, FORESTRY, AQUACULTURE, AND RURAL DEVELOPMENT

Pursuant to **Senate Resolution 9 by Senator Smith (enrolled)**, the Senate Committee on Agriculture was changed to the Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development. The same change was made in the House of Representatives pursuant to

House Resolution 13 by Representative Thompson (enrolled). The name change better reflects the jurisdiction of the committees.

DEPARTMENT OF AGRICULTURE AND FORESTRY FEES

The following bills, part of a package of bills by the Department of Agriculture and Forestry, passed this session that will raise certain fees and provide additional revenues for departmental programs:

- ◆ **House Bill 1362 by Representative Daniel (Act 117)** increases fees for certain registrations related to the weights and measures program of the department. The increased fees will generate an additional \$579,940 per year.
- ◆ **House Bill 1368 by Representative Thompson (Act 118)** increases the inspection fee for persons manufacturing or selling fertilizer and will increase revenue by \$207,000 per year.
- ◆ **House Bill 1396 by Representative Thompson (Act 120)** increases fees for certain registrations, licensing and certifications related to the pesticides program in the department and will increase revenue by \$724,775 per year.
- ◆ **House Bill 1398 by Representative Thompson (Act 121)** increases fees related to the Livestock Brand Commission and will increase revenue by \$10,470 per year.
- ◆ **House Bill 1400 by Representative Thompson (Act 122)** increases apiary fees and will increase revenue by \$1,000 per year.
- ◆ **House Bill 1402 by Representative Thompson (Act 123)** increases

horticulture fees and will increase revenue by \$382,000 per year.

- ◆ **House Bill 1472 by Representative Thompson (Act 172)** increases commodity fees and will increase revenue by \$268,600 per year.
- ◆ **House Bill 1493 by Representative Thompson (Act 134)** increases sweet potato inspection fees and will increase revenue by \$95,500 per year.
- ◆ **House Bill 1533 by Representative Daniel (Act 139)** increases the fee for inspecting, testing, and analyzing petroleum products from 1/32 cents per gallon to 4/32 cents per gallon and will increase revenue by \$3,525,000 per year.
- ◆ **House Bill 1652 by Representative Thompson (Act 173)** increases fees related to the sale of commercial feed and will increase revenue by \$296,000 per year.
- ◆ **House Bill 1669 by Representative Thompson (Act 523)** increases the license fee for dealing and handling eggs or egg products and will increase revenue by \$30,500 per year.
- ◆ **House Bill 1675 by Representative Thompson (Act 175)** increases seed fees and will increase revenue by \$110,324 per year.
- ◆ **House Bill 1696 by Representative Thompson (Act 143)** increases fees related to nursery stock inspections and will increase revenue by \$39,100 per year.

LIVESTOCK

Before the passage of **Senate Bill 20 by Senator Smith (Act 4)**, any owner, harborer, or

possessor of any dog that killed, harassed, or wounded sheep, would be liable to the owner of the sheep for the damages sustained. The Act expands prior law to apply to all livestock.

House Bill 1191 by Representative Durand (Act 115) revises the crime of theft of livestock to include the following:

- ▶ The misappropriation or taking, with the intent to permanently deprive, livestock or proceeds from the sale of such livestock or its meat.
- ▶ Transporting, with the intent to permanently deprive, livestock to a slaughterhouse or public livestock market for purposes of selling or keeping the livestock or meat or proceeds derived from the sale of the livestock or meat.
- ▶ Failing to pay for livestock purchased within 30 days of sale, with the intent to permanently deprive.

The issue of prohibiting an owner of fowl or poultry from knowingly, willfully, or negligently permitting his fowl or poultry to run at large upon public property or upon private property of another person without permission was raised in **House Bill 1930 by Representative Fruge (failed House)**. The bill would have provided for fines not less than \$25 nor more than \$100.

MASTER FARMER PROGRAM

The Department of Agriculture and Forestry, pursuant to **House Bill 1827 by Representative Thompson (Act 145)**, will now officially certify participants who have completed the LSU Ag Center Master Farmer Program and who have implemented a conservation plan that meets standards set by the U.S. Department of Agriculture, Natural Resources and Conservation Service, the La. Department of Agriculture and Forestry, and the affected soil and water conservation districts.

OFFICIAL STATE JELLIES

Three bills were introduced during the session which provided for the official state jelly. **House Bill 81 by Representative Bowler (pending House Judiciary)** and **House Bill 113 by Representative Frith (pending House Judiciary)** would have designated cane jelly as the official state jelly. **House Bill 27 by Representative Hill (Act 76)** was introduced to designate mayhaw jelly as the official jelly, but through compromise, the Act provides that both mayhaw jelly and cane jelly are the official state jellies of Louisiana.

RURAL DEVELOPMENT

House Bill 56 by Representative Scalise (pending House Agriculture) would have abolished the Office of Rural Development. The bill would have authorized and directed the state treasurer to transfer any unexpended, unencumbered monies remaining in the Rural Development Fund for deposit and credit to the state general fund. **House Bill 357 by Representative Baldone (pending House Appropriations)** would have eliminated the Rural Development Fund but continued the rural development program.

STRAWBERRIES

Currently, there is an assessment levied on each pint container used to package strawberries in the amount of \$.00165 for each pint container. **House Bill 1427 by Representative Powell (Act 1253)** provides for an assessment to be levied on each pint, or equivalent, of strawberries sold by volume or dry measure in the amount of \$.00165 for each pint. For strawberries sold by weight, an assessment of \$.00185 per pound would be levied. The bill also reorganizes the Strawberry Marketing Board.

SUGAR MILL SCALES

With the passage of **House Bill 768 by Representative Diez (Act 147)**, sugar mills will now be required to lock out their scales at 100,000 pounds gross vehicle weight per load of sugarcane.

The Act provides that when a vehicle carrying a load of sugarcane exceeds this weight limit, an amount of sugarcane equal to the excess gross weight shall be forfeited by the owner or producer of the sugarcane.

TIMBER THEFT

The issue of timber theft was, once again, a hot topic during the session. **House Bill 948 by Representative Thompson (Act 107)** prohibits making false statements with regard to ownership interest of forest products and the ownership interest or tract name or property description of the land where the forest products were harvested. The bill also specifies forest product removal as a transaction during which such false statements are prohibited.

Additionally, **House Bill 623 by Representative Thompson (pending conference)** would have established a written notification procedure designed to notify absent co-owners of a pending timber sale and obtain their written consent, relative to provisions allowing for 80% or more of co-owners in undivided interest in timber to sell. If the identity and address of the absent co-owner become known to the purchaser, a purchaser would be required to mail notice to that co-owner advising of the pending sale and to seek written consent, and if the identity and address of absent co-owners are unobtainable, the legislation requires that a notice of intent to buy/sell be published for two consecutive weeks in the official journal of the parish where the timber is located. The legislation provides that upon obtaining the written consent of at least 80% of the co-owners, the purchaser must wait 60 days before beginning harvest from the date of last public notice or date of last mailing to absent co-owners.

Capital Outlay

*by: Frankie King
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CAPITAL OUTLAY

House Bill 2 by Representative Hammett (Act 24), provides for the comprehensive capital outlay budget, the development and expansion, for Fiscal Year 2003 - 2004, including funding from the following sources of monies:

- (1) State General Fund \$ 23,319,016
- (2) Federal Funds \$ 87,860,815
- (3) Federal Funds - TTF \$ 450,000,000
- (4) Transportation Trust Fund (TTF) \$ 154,817,000
- (5) TIME Funds \$ 80,000,000
- (6) Interagency Funds \$ 16,000,000
- (7) Fees and Self-Generated Funds \$ 92,499,730
- (8) Other Statutory Dedications \$ 11,819,000
- (9) Reappropriated Cash \$ 2,312,192
- (10) Revenue Bonds \$ 349,279,900



**TOTAL CASH PORTION
\$1,267,907,653**

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

- Priority 1 \$ 556,155,000
- Priority 2 \$ 428,703,450
- Priority 3 \$ 196,052,363
- Priority 4 \$ 246,054,770
- Priority 5 \$1,163,248,520

TOTAL GENERAL OBLIGATION BONDS**\$2,590,214,103**

Bonds NRP/RBP \$ 2,639,898

GRAND TOTAL ALL MEANS OF FINANCING**\$3,860,761,654**

(Bonds NRP is the reallocation of previously sold bonds.)

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

Senate Bill 720 (Pending House W&M) by **Senator Hainkel** would have provided for funding of a program for the capital outlay projects for political subdivisions and non-profit entities by creating the "Local Government Capital Outlay Projects Fund Program".

House Bill 1403 by Representative Alario (Act 959) authorizes exemptions for certain projects for higher education. A university or higher education facility will be allowed to undertake any new construction, maintenance, or repair project not exceeding five million dollars solely funded from self-generated revenues, grants, donations, or local or federal funds without being included in the capital outlay bill provided the project is approved by the appropriate management board, the Board of Regents, the division of administration, office of facility planning and control, and the Joint Legislative Committee on the Budget. The exemption only applies to those projects that otherwise could not be accomplished in the normal capital outlay process due to timing or funding constraints.

Civil Law & Procedure

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**ADOPTION**

House Bill 140 by Representative Ansardi (Act 564) provides a new procedure whereby a pregnant person or the mother of a child may execute a non-binding intent to surrender her

child for adoption before the actual surrender process begins. The purpose of the intent to surrender for adoption process is to begin planning for the child and to provide early notice to any alleged or adjudicated father of the mother's intent to surrender the child for adoption and provides that this process may not be used to terminate a legal father's rights. Provides for capacity requirements for the mother, requires counseling for the mother in private adoptions, and specifies an intent to surrender does not affect the mother or legal father's parental rights.

Act 564 requires the intent to surrender to contain certain information relative to the mother, alleged father, and the child. Also, it requires the intent to surrender to contain certain declarations including the mother's mental capacity, her understanding of her rights, and that the intent to surrender is voluntary. Provides a form for the intent to surrender and requires that it be in authentic form and dated and signed by the mother and her parents or tutor if required by law. If an alleged or adjudicated father timely files an objection to an intent to surrender, he is deemed to have filed an objection to an adoption and is entitled to receive notice of all subsequent filings. Provides that if the mother does not execute an act of surrender for adoption, the intent to surrender shall be dissolved without legal consequences.

Senate Bill 318 by Senator Ellington (Act 812) requires that written notice of the date, time, and place of the disclosure shall be served and a return made in the same manner as a petition on the custodian of records sought to be disclosed at least fifteen days prior to the hearing.

Senate Bill 931 by Senator Ellington (Act 776) decreases the time period from two years to one year from the date of the signing of the final decree or the mailing of the judgment when required, in which an action to annul a final decree of adoption based upon a claim of fraud or duress perpetrated by an adoptive parent or by anyone else can be filed.

CLONING

Senate Bill 298 by Senator Hines (pending House final passage - subject to call) was introduced to extend the current cloning laws that were enacted in 1999 and are to be null and void after July 1, 2003, to be valid until July 1, 2006, which protects the health and welfare of the citizens of this state through a ban on the cloning of human beings while encouraging the thorough and diligent evaluation required by the profound medical, ethical, and social questions raised by the possibility of human cloning.

House Bill 1810 by Representative Beard (pending Senate final passage - subject to call) was introduced to prohibit human cloning, including using somatic cell nuclear transfers that is used for biomedical research. As the bill started out in the House, it expanded the prohibition of human cloning to include any person or entity, public or private, that intentionally or knowingly:

- (1) Performs or attempts to perform human cloning.
- (2) Participates in an attempt to perform human cloning.

- (3) Transfers, ships, or receives for any purpose a human organism produced by human cloning, or any product derived from such human organism.
- (4) Imports for any purpose a human organism produced by human cloning, or any product derived from such human organism.

The bill was amended in Senate committee to continue the ban on cloning except that it would allow the biomedical research to continue, including using somatic cell nuclear transfers.

FAMILY/MARRIAGE

Senate Concurrent Resolution 82 by Senator Smith (enrolled) and House Concurrent Resolution 139 by Representative Winston (pending Senate floor) were introduced because the child custody laws were changed in 1994, and there continues to be great confusion about application of the laws and the new social science data supporting the continued involvement of both parents in the lives of their children after divorce and the need of children for some stability in their personal lives while adjusting to the new family structure. The Louisiana Judicial College is requested to fully develop a mandatory continuing legal education curriculum in order to ensure that the members of the judiciary who exercise family and juvenile jurisdiction in this state are apprised of the current status of Louisiana law regarding the family law subjects of child custody and child support guidelines as well as the body of social science research that exists about such matters.

House Concurrent Resolution 225 by Representative Bowler (pending Senate floor) would have requested the Marriage/Persons Committee of the Louisiana State Law Institute to replace the term "illegitimate child" which is a term appearing in hundreds of Louisiana statutes and is a term that has a negative connotation that is attached to the child, rather than the parents of the

child.

Senate Bill 290 by Senator Smith (pending House final passage - subject to call) would have provided in a joint custody situation, that if a nondomiciliary party requests to have visitation for at least one hundred and sixty days, the court may order that amount, if it is in the best interest of the child.

JUDGES

There were several bills that related to the retirement of judges. **House Bill 19 by Representative Frith (Act 1296)** will allow a judge to complete his full term if he reached the age of seventy during that term. **House Bill 86 by Representative Murray (pending House final passage - subject to call)** would have prohibited a judge from remaining in office beyond his seventy-fifth birthday. **Senate Bill 217 by Senator Marionneaux (pending Legislative Bureau)** was a constitutional amendment to provide that a judge shall not remain in office beyond his seventy-sixth birthday. **House Bill 417 by Representative Murray (Act 1025)** provides for the retirement of LASERS judges at sixty-five years old with ten years of service. The judge is not prohibited by the state's retirement laws if the constitution permits him to remain in office.

House Bill 662 by Representative Bruneau (pending reconsideration, Senate final passage) was a constitutional amendment that would have expanded the qualifications necessary to run for judicial office to require that a person shall have been admitted to the practice of law in the state of Louisiana for at least eight years prior to his election to the supreme court, court of appeal, district court, family court, parish court, or court having solely juvenile jurisdiction.

House Bill 597 by Representative Toomy (failed Senate final passage) was introduced to require that the salaries recommended in the report

submitted by the Judicial Compensation Commission to the legislature to take effect on the first day of July of the year in which the report was submitted if approved by concurrent resolution adopted by a favorable vote of the majority of the elected members of each house, whether in an even-numbered or odd-numbered year, or at an extraordinary session if included within the objects of that session. The concurrent resolution approving the recommendations in the report shall be adopted according to the same procedures and formalities, except for submission to the governor, required for the passage of a bill.

JURY TRIAL MONETARY THRESHOLD

Senate Bill 74 by Senator Marionneaux (pending Senate committee) and House Bill 136 by Representative Baldone (pending House committee) would have increased the monetary threshold necessary to request a jury trial to suits where the amount of an individual's cause of action exceeds \$100,000 exclusive of interest and costs.

Senate Bill 851 by Senator Ellington (withdrawn) and House Bill 521 by Representative Johns (pending House committee) were introduced to reduce the monetary amount in controversy necessary to have a jury trial to suit where the amount of an individual petitioner's cause of action exceeds \$10,000, exclusive of interest and costs.

House Bill 398 by Representative Baldone (rejected, Senate conference committee) would have authorized a court to set the amount of deposit required for jury trials not to exceed \$1,500 for the first day of trial and \$300 per day for each additional day the court estimates the trial will last.

LIABILITY

House Bill 1035 by Representative Johns (pending Senate final passage - subject to call) was introduced to limit the liability of the state, state agencies, and political subdivisions for claims

brought by operators of motor vehicles who are driving while intoxicated. No person, except a forced heir, may recover damages from the state for the injury or death of the operator of the motor vehicle when the intoxication of the operator is the cause of the injury or death of the operator.

There were several bills that related to coastal restoration **House Bill 424 (Act 1295) and House Bill 531 (Act 583) both by Representative Pitre** which authorize the legislature to place limitations on the extent of recovery for the taking of, or loss or damage to, property rights affected by coastal wetlands conservation, management, preservation, enhancement, creation, or restoration activities.

NOTARIES

House Bill 1854 by Representative Bowler (Act 1142) is a result of a study that was conducted over several months by the Secretary of State and a notary committee to study the development and implementation of uniform statewide standards for notary examinations and require the Secretary of State to establish:

- (1) The procedures and rules for administering and grading the examination as well as the format and content of the examination.
- (2) A system of randomly selecting questions for the examination.
- (3) The procedures for review by the parish examining committee of any examination which an examinee failed to pass.
- (4) A bank of exam questions and model answers to be used for examinations and to publish and make available to the public a document containing all questions and model answers maintained by the secretary of state, and charge a fee for the actual cost, not to exceed \$100.

Act 1142 will also require the secretary of state to complete development and begin furnishing

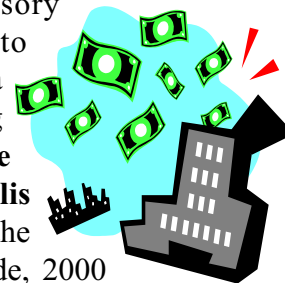
to the parish examining committees the examinations no later than January 1, 2005, and allow the secretary of state to charge a fee not to exceed \$50 for each examinee taking the examination. **Act 1142** provides for: (1) the mandatory use of notary identification numbers on all notarized documents and for penalties for failure to include the identification number; (2) the prohibition of an ex officio notary from using the title, "Notary Public"; (3) the mandatory filing of an annual report with the secretary of state for the purposes of maintaining a current and accurate database of all non-attorney notaries and provides for late fees and sanctions for failure to timely file the annual report.

Commerce & Consumer Protection

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BUILDING CODE

Pursuant to the recommendation of the "Building Code Advisory Committee", formed to evaluate the adoption of a current, uniform building code for the state, **Senate Bill 497 by Senator Hollis (Act 387)** to adopts the International Building Code, 2000 edition as the state's building code.



LICENSURE

Several pieces of legislation were introduced to license various commercial enterprises. **Senate Bill 785 by Senator Hoyt (House subject to call)** would have required any person engaged in home improvement contracting to register with the State Licensing Board for Contractors. **Senate Bill 614 by Senator Michot**

(Pending Senate Commerce) and House Bill 1202 by Representative Futrell (Pending Senate Final Passage-subject to call) would have extended the requirements of the general contractors license to persons who perform heating, ventilation, air conditioning, and refrigeration (HVACR) work in excess of \$50,000. For jobs less than \$50,000, the legislation would have allowed an individual to apply for a HVACR (subclassification) license without meeting all of the general contractor license requirements.

House Bill 310 by Representative Pinac (Act 576) requires the licensure of locksmiths by the state fire marshall, as well as persons who install and maintain access control and closed circuit television alarm systems. **House Bill 1328 by Representative Pinac (Act 880)** requires the licensure of persons who perform mold remediation services which affects indoor air quality. All persons performing routine cleaning of mold which not conducted for the purpose of mold remediation are exempt from the licensure requirements.

Finally, in response to a tragic crime committed in Georgia concerning the cremation industry, **Senate Bill 347 by Senator Boissiere (House subject to call) and HB 1007 by Representative Bruneau (Act 1243)** were introduced to provide for the comprehensive regulation of the cremation industry in Louisiana. In addition to the licensure of all persons performing cremation in the state, the legislation also provides for the final disposition of the remains, requires proper identification before cremation, and requires sufficient authorization before cremation of the body.

"DO NOT CALL" PROGRAM

Following the passage of the state's "Do Not Call" Program during the 2001 Regular Session, over 300,000 citizens have enrolled in this consumer friendly program. Pursuant to the legislation, the Louisiana Public Service

Commission ("PSC") adopted several rules and regulations in order to effectuate the use of the program, including the abolishment of a \$5 registration fee imposed on consumers. **Senate Bill 843 by Senator McPherson (Act 836)** simply codifies the repeal of that registration fee.

House Bill 684 by Representative Pinac (Act 353) addresses a more volatile issue previously considered by the PSC. Following the initial enactment of the program, the PSC extended the exemptions provided for in the legislation to the Louisiana newspaper industry. Although the PSC has recently reversed their previous position on this issue, this legislation would include any newspaper or periodical qualified to be the official journal of the state or any political subdivision in the "political activity" exemption provided for in the "Do Not Call" program.

House Bill 173 by Representative Pinac (Act 912) provides an additional exception to the provisions of the program by allowing telephone solicitors to call persons signed up for the "do not call" program if the call is placed as the result of a referral and is placed in the contemplation of a later face-to-face meeting between the solicitor and the consumer.

Two other pieces of legislation seek to extend the protections of the "Do Not Call" program to wireless telephone consumers. **Senate Bill 909 by Senator Cain (Act 988)** requires the PSC to adopt rules necessary to comply with federal regulations which prohibit a telemarketer from making wireless telephonic solicitations. **House Bill 150 by Representative Tucker (Act 991)** goes further and allows wireless telephone subscribers to participate in the "Do Not Call" program.

Finally, **House Bill 52 by Representative Gary Smith (Act 849)** prohibits all telemarketing activities within Louisiana during any state of emergency declared by the governor. The legislation requires the PSC to notify each telemarketer that the state of emergency has been declared and that all telemarketing activities are prohibited until such time as the state of emergency has been lifted.

INTERNET

Frustrated with the proliferation of junk e-mail or "spam" sent to Louisiana citizens, **Senate Bill 90 by Senator McPherson (Pending House Final Passage) and House Bill 2015 by Representative LaFleur (Act 1275)** each take different approaches to addressing this growing problem.

Senate Bill 90 by Senator McPherson would mirror current programs available to consumers by creating a "no junk mail" listing of residential e-mail subscribers. The proposed legislation would allow residential or business e-mail subscribers to be placed on a "no junk mail" list maintained by the PSC. Similar to the "do not call" program, the PSC would establish rules and regulations which would require electronic solicitors to subscribe to the list and prohibit them from sending electronic mail to those person listed. The PSC would be charged with investigating complaints received, and to imposed penalties and fines on those who violate the provisions of the proposed law.

Act 1275 approaches the problem from a different angle by requiring persons who send unsolicited e-mail to meet certain mandatory requirements. For example, the solicitor is required to identify that the message is and advertisement by placing "ADV" in the subject line, and further identify that if the message contains adult content by requiring that "ADV:ADLT" be placed in the message line. The legislation also requires the

solicitor to maintain a functioning website and e-mail address which allows the consumer to be removed from future e-mails. Persons injured by violators of the law are able to recover attorney's fees and costs, or the lesser of \$10 per violation per day, up to \$25,000.

CONSUMER PROTECTION

Addressing the growing threat of identity theft in the nation, and in particular Louisiana, **House Bill 973 by Representative Diez (Act 934)** provides the victim of identity theft the ability to file a police report and to obtain certain information from creditors which will assist them in repairing their credit history.

Several other pieces of legislation would also address the area of consumer credit. **Senate Bill 762 by Senator Marionneaux (deferred in Senate Commerce)** would have required that all credit card applications be in writing, signed by the applicant, and that the applicant provide proof of identification with the application. **Senate Bill 22 by Senator Marionneaux (deferred in House Civil Law)** would have extended the present law prohibition of mailing unsolicited credit cards to also include the unsolicited mailing of credit card applications. Finally, **House Bill 107 by Representative Welch (Act 1010)** prohibits inducements given to students used to entice them to apply for a credit card, unless the student has been provided a credit card debt education brochure.

Constitutional Amendments

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While well over one hundred proposals were introduced to amend the constitution, the actual number that will be submitted for voter approval will be much smaller.

Fifteen proposed constitutional amendments will appear on the October 4th ballot. Topics from changing local government civil service provisions to changing the jurisdiction of courts of appeal were considered in spirited debates. Some topics, such as the system for the selection of judges, received considerable discussion but resulted in no proposals for change. Others, such as the change in the authority of the State Board of Elementary and Secondary Education necessary to permit BESE to takeover failed schools were adopted by the legislature with little fanfare, because the focus of the discussion was on the implementing legislation. What follows is a summary of the some of the major topics around which constitutional changes were considered.

DECLARATION OF RIGHTS

Regarding the right to property, the Louisiana Law Institute suggested amending the constitution to alter present provisions regarding just compensation from the state when the state takes property, directly or by effect. The present constitution prohibits the state from taking property without just compensation. **Act 1295 (House Bill 424) by Representative Pitre** authorizes the legislature to place limitations on the extent of recovery for the taking of, or loss or damage to, property rights affected by coastal wetlands conservation, management preservation, enhancement, creation, or restoration activities and

otherwise maintains present law. Also, on the topic of property rights, **Senator Lentini** introduced **Senate Bill 60 (pending, House subject to call calendar)** to alter the present constitutional provisions on right to property by adding a restriction that no person may enter or remain in or upon the private property of another person without authorization, either express, legal or implied.

The Law Institute recommended **Act 1304 (House Bill 604) by Representative Devillier** on personal rights to clarify that the constitutional protection to private ownership of personal property does not apply to contraband. The bill was amended on the Senate Floor to revise it from such an exclusion to a statement that controlled dangerous substances are not personal property. The Senate amendments were rejected by the conference committee and the proposal was finally passed as it left the House. Among the Senate Floor Amendments rejected for inclusion as part of **House Bill 604** was one to incorporate the contents of **Senate Bill 47 (pending, House committee) by Senator McPherson** and thirty-four other members of the Senate. **Senate Bill 47** proposed to add, as a new guaranteed right, the right of every citizen to hunt, fish, and trap, subject to regulation, restriction or prohibition as provided by law.

EDUCATION

The structure of higher education governance was revisited when **Senate Bill 181 by Senator Cain (failed, Senate final passage)** was considered. The joint resolution proposed to change the appointment of members of all postsecondary management boards and the Board of Regents from being composed solely of gubernatorial appointees to four members of each board being elected by the Senate and four members being elected by the House of Representatives, the balance being appointed by the governor.

Other proposals that were seriously discussed dealt with changes in elementary and

secondary education. **House Bill 35** by **Representative Toomy (pending, Senate committee)** proposed to include local school boards among the political subdivisions that are constitutionally protected from unfunded mandates of the state. The proposed protection would have excluded existing mandates, the contribution of local school boards required by the Minimum Foundation Program formula, and the salaries, health insurance, and retirement benefits of employees. In considering the impact of **House Bill 35**, the impact of the MFP and the appropriation it requires was the focus of the discussion. **House Bill 547** by **Representative Faucheux (failed, House final passage)** would have proposed to authorize the legislature to directly amend the minimum foundation formula.

However, the only joint resolutions that will be offered to the voter in the area of education are **Act 1305 (House Bill 583)** by **Representative Farrar** which officially dedicates lottery proceeds to education and compulsive gambling counseling and **Act 1293 (Senate Bill 225)** by **Senator Theunissen** which proposes the changes to the constitution necessary to facilitate the next step in school and district accountability.

The present constitution specifically prohibits BESE from controlling the business affairs of a parish or city school board or the selection or removal of its officers and employees. The proposed amendment would allow BESE to supervise, manage, and operate any public elementary or secondary school determined to be failing as provided by law. Further the amendment would allow BESE to receive control and expend state MFP money and the local portion as well that is attributable to the students in any failing school that is taken over as provided by law.

The more detailed plan for how the takeover of a failed school would work and the definition of failed school was provided "by law" in **Act 9**

(Senate Bill 710) also by **Senator Theunissen**. It defines a failed school as one that is academically unacceptable pursuant to a uniform statewide program of school accountability established pursuant to rules adopted by BESE. A school is academically unacceptable under the accountability program when its school performance score is less than 45, an increase over the original floor of 30. Every year a calculation is done for every city, parish, or other local public school based largely on the student achievement on the LEAP and Iowa Basic Skills tests which results in a school performance score, or SPS. Attendance rates are a factor for elementary and middle schools and attendance and drop out rates are added in for high schools. The state goal was originally established for every school to have an SPS of at least 100 by 2009; that goal was recently extended to provide for every school to reach 120 by 2014.

Act 9 establishes the Recovery School District, under the authority of BESE, as the administrative mechanism by which failed local schools will be operated by the state. The Recovery District will have the complete responsibility to operate any school placed in the district by BESE in whatever manner is most likely to bring the school to an acceptable level of performance. The district may operate the school directly or it may enter into a charter school agreement for its operation. The district will have unrestricted use of the school building and associated facilities.

A failed school would be considered for takeover by the Recovery District only if its been academically unacceptable for four years or the school is academically unacceptable and the "home" school board does not reach agreement with BESE for how the school is going to be reorganized or does not perform in compliance with an agreement. The law requires that a school in the Recovery District, once it is academically acceptable be returned to its "home" jurisdiction when agreement has been reached on the terms of

return. A school which is still a failed school after four years in the Recovery District is either to be returned to its "home" district, have all school approval revoked, or be operationally restructured within the special district. The Recovery District is to be funded by receipt of the state and local per pupil share. Further the "home" district retains the obligation for major repairs of the facility.

Students who would have been eligible to attend the school, whether by attendance zoning or as the result of a "choice" plan put in place by the "home" district will be the students eligible to attend the school while it is operated under the authority of the Recovery District. The "home" district must provide for the reassignment of any student who does not wish to remain.

Staffing of a school in the Recovery District is up to the Recovery District or the operator chosen by the recovery district. However, any "home" district employee who remains employed in a school operated under the authority of the Recovery District is considered "on leave" from the "home" district and the time served in the school, while it is under the authority of the Recovery District, is considered service time for any purpose for which time served matters, such as retirement, eligibility for certain kinds of leave, vesting for insurance purposes, etc. Actual salary and benefits, however, are provided by and paid for by the Recovery District. Employees who do not go with the school into the Recovery District must be placed in another position by the "home district" in compliance with the system's contractual obligations or its policy regarding retention and reassignment of employees.

If the constitutional amendment is approved and the law becomes effective, it can reasonably be anticipated that 21 schools in the Orleans Parish School System and two in the East Baton Rouge Parish School System would meet the criteria for takeover in the year following effectiveness of the

change based on their current accountability status.

LOCAL GOVERNMENT

In addition to **House 35**, the legislature considered other proposals effecting local government. **Act 1303 (House Bill 370)** by **Representative Faucheux** authorizes local governments to provide tax revenues dedicated for industrial or economic development purposes or proceeds of bonds secured by such revenues for the acquisition of immovable property by the local governmental subdivision or for the maintenance of such immovable property or other immovable property of the local governmental subdivision or the granting of the use of such immovable property or any other immovable property of the local governmental subdivision to a person, association, or corporation that, by cooperative endeavor, agrees to locate or expand industrial enterprises within the local governmental subdivision provided the consideration to be provided by the person, association, or corporation for use of such property shall be of any amount or nature as provided in the cooperative endeavor agreement, a number of residents of the subdivision are employed as a result of such development as specified in the cooperative endeavor agreement, and the cooperative endeavor agreement is approved by the State Bond Commission.

Representative Karen Carter addressed the obligations of local school board members in **House Bill 653 (pending, House subject to call calender)** which proposed a specific constitutional oath of office be taken by local school board members in which the member pledges not to become involved in contracts with the board or participate in personnel hiring or appointment decisions, except for the local superintendent.

MONEY

The generation of revenue and the dedication or expenditure of revenue is a perennial topic for constitutional consideration. In addition

to the exception created in **Act 1303**, **Senator Heitmeier** in **Act 1299 (Senate Bill 177)** proposes to add an additional exception to the general prohibition on the use of public funds for the loan or pledge of public funds by a state infrastructure bank to fund eligible infrastructure projects. **Act 1301 (Senate Bill 223)** by **Senator Barham** clarifies three specific projects in the Transportation Infrastructure Model for Economic Development, or TIMED Program, which is funded with money in the Transportation Trust Fund. **Act 1297 (House Bill 425)** by **Representative Pitre** proposes to exempt drilling rigs used for the exploration and development of minerals outside the Outer Continental Shelf that are within the state for the purpose of storage for use outside the state or for conversion, renovation, or repair and any property in the state for the purpose of being incorporated in or to be used in the operation of such rigs from local property tax, if approved by the local voters.

The problem of what to do about disappearing wetlands and coast line was attacked by **Senator Dupre** in **Act 1302 (Senate Bill 214)** and **Senator Dardenne** in **Act 1300 (Senate Bill 213)**. **Act 1302** proposes directing more money to the Wetlands Conservation and Restoration Fund, a fund which may be appropriated only for the purposes consistent with the Wetlands Conservation and Restoration Plan. The bill proposes to add depositing money into the Wetlands Conservation and Restoration Fund to the purposes for which nonrecurring funds can be used. It also proposes to redirect \$35 million of the money otherwise going to the Mineral Audit and Settlement Fund to the Wetlands Fund and adds the Wetlands Fund as a purpose for which Mineral Audit and Settlement Fund money can be expended. Finally it provides for increasing the cap for the amount of severance and royalty allocations that can be on deposit in the Wetlands Fund by law, such cap to be not less than \$500 million.

Act 1300 establishes the Louisiana Coastal Restoration Fund to dedicate a portion of the tobacco money for use to reduce coastal erosion and restore areas directly affected by coastal erosion.

An old debate was revived by the introduction of **Senate Bill 184** by **Senator McPherson (pending, Senate committee)** and maintained by a spirited committee discussion on the topic of taxing the use of hydrocarbon processing facilities. **Senate Bill 184** proposes to eliminate the constitutional prohibition on levying a further tax or license in addition to the severance tax on oil, gas, or sulphur leases or rights.

STATE GOVERNMENT

The constitutional amendment proposals introduced during the 2003 Regular Session that effect governmental functions cover the gamut of all three branches of state government.

House Bill 679 by **Representative Hebert (failed House final passage)** proposed to change the election time for statewide elected officials and members of the legislators to occur at the time of congressional elections. **House Bill 636** by **Representative Lancaster (pending, House subject to call calendar)** proposed replacing the member-elected president of the Senate with the lieutenant governor serving ex officio. **House Bill 542** by **Representative Daniel (pending, House subject to call calendar)** proposed to change the vote needed to override a gubernatorial veto from two-thirds vote of the elected members of each house to the same vote required for passage of the bill.

Regarding statewide elected officials, **Senate Bill 182** by **Senator C. D. Jones (failed Senate final passage)** was an attempt to empower the attorney general of the state to investigate, prosecute, or intervene in any criminal case involving the homicidal death of a state elected

official, included legislators, statewide elected officials, and the justices and judges of the courts of appeal and the supreme court. The bill would have required that the exercise of this authority be done with the cooperation and assistance of the district attorney, sheriff, and municipal police with jurisdiction and the office of state police.

The method for selecting and determining the duration of the service of judges was the topic for several bills. **Senator Hainkel** introduced **Senate Bill 455 (pending, Senate subject to call calendar)** and **Senate Bill 221 (pending, Senate subject to call calendar)** which generally provide for the creation of a series of nominating commissions to nominate candidates to fill vacancies on the various state courts and New Orleans city courts. The joint resolutions provided for gubernatorial appointment to fill vacancies in the judiciary from the nominated slate of candidates. Under these proposals, an incumbent would retain his position, provided he was approved at periodic "retention" elections. The failure of any incumbent judge to qualify to stand for retention or his death or resignation would create a vacancy that would initiate the appointment process. In addition to considering the method of selecting judges, **Senator Marionneaux** in **Senate Bill 217 (pending in the Legislative Bureau)** proposed to allow judges to serve until their 76th birthday, rather than requiring mandatory retirement at age 70. **Representative Bruneau** in **House Bill 662 (pending, Senate final passage)** proposed to extend the required time of practice prior to election from five years to eight years.

BALLOT LANGUAGE

Following is the ballot language for each of the fifteen proposals that will appear on the October 4, 2003 ballot:

Act 1293 (Senate Bill 225)

To authorize the State Board of Elementary and Secondary Education to supervise,

manage, and operate any public elementary or secondary school determined to be failing or to provide for others to do so; to authorize the state board to receive, control, and expend state minimum foundation program money and local money contributed pursuant to the minimum foundation program or otherwise in amounts calculated based on the number of students in attendance in such a school, all in the manner and in accordance with law. (Amends Article VIII, Section 3(A))

Act 1294 (House Bill 282)

To provide for the appointment of certain members to the board of directors of the Louisiana Workers' Compensation Corporation; to allow the selection of one person from a list submitted by the Louisiana Workers' Compensation Corporation, which is a licensed workers' compensation insurance agent and possesses executive level experience; to remove the position for the representative of insurers licensed by the Department of Insurance to issue workers' compensation insurance policies in Louisiana; to allow the selection of two people from a list submitted by the Louisiana Workers' Compensation Corporation, who are residents of the state of Louisiana, to represent the interest of the citizens of the state at large; and to remove the provision allowing one representative from the state office of risk management to serve on the board. (Amends Article XII, Section 8.1(C)(1)(f) and (g); Repeals Article XII, Section 8.1(C)(1)(h))

Act 1295 (House Bill 424)

To authorize the legislature to limit the extent of recovery for the taking of, or loss or damage to, property rights affected by coastal wetlands conservation,

management, preservation, enhancement, creation, or restoration activities. (Amends Article I, Section 4)

Act 1296 (House Bill 19)

To permit a judge who attains the mandatory retirement age of seventy years while serving a term of office to complete that term of office. (Effective January 1, 2004) (Amends Article V, Section 23(B))

Act 1297 (House Bill 425)

To exempt from property tax, in each parish in which the voters have approved a proposition granting such exemptions, drilling rigs and any other property incorporated in or used in the operation thereof, used outside of the state exclusively for the exploration and development of minerals, but which are located within the state for the purpose of being stored, stacked, converted, renovated, or repaired. (Effective January 1, 2004) (Adds Article VII, Section 21(J))

Act 1298 (House Bill 601)

To authorize legislation creating a system of administrative law to commence and handle administrative adjudications, providing for the employment, qualifications, and authority of administrative law judges, and providing with respect to access to the courts by a governmental agency or public official seeking judicial review of an administrative agency determination. (Adds Article XII, Section 25)

Act 1299 (Senate Bill 177)

To authorize a state infrastructure bank to loan or pledge public funds for infrastructure projects. (Amends Article VII, Section 14(B))

Act 1300 (Senate Bill 213)

To establish the Louisiana Coastal Restoration Fund in the state treasury; to provide that the source of monies deposited into the fund shall be out of certain monies derived from the securitization of any remaining portion of the revenues received from the Master Settlement Agreement in the tobacco litigation after July 1, 2003; to provide for investment of monies in the fund and for their uses to reduce coastal erosion and to restore the areas of the state directly affected by coastal erosion. (Effective January 1, 2004) (Adds Article VII, Section 10.11)

Act 1301 (Senate Bill 223)

To change certain TIMED project descriptions as follows: (1) US Highway 61 from Thompson Creek to the Mississippi Line, in lieu of "US Highway 6-1Bains to Mississippi Line" and (2) US Highway 165 from I-10 to Alexandria to Monroe to Bastrop and thence on US Highway 425 from Bastrop to the Arkansas Line, in lieu of "US 16 I-10-Alexandria-Monroe-Bastrop-Arkansas Line" and (3) and LA 15-Natchez, Mississippi to Chase in lieu of "LA 15-Natchez, Mississippi to Monroe". (Amends Article VII, Section 27(B))

Act 1302 (Senate Bill 214)

Requires that thirty-five millions dollars annually of monies in the Mineral Revenue Audit and Settlement Fund be deposited in the Wetlands Conservation and Restoration Fund each year and authorizes the legislature to appropriate nonrecurring revenues for certain highway construction and to appropriate monies in the Mineral Revenue Audit and Settlement Fund for deposit in the Wetlands Conservation and Restoration Fund, removes authority to appropriate monies from the Mineral

Revenue Audit and Settlement Fund to retire in advance of maturity debt of the Louisiana Recovery District, corrects an incorrect reference to the Budget Stabilization Fund, and provides for a cap in revenues to the Wetlands Conservation and Restoration Fund to be provided by law, but in no event shall the amount provided by law be less than five hundred million dollars. (Amends Article VII, Section 10.2(B) and (C) and 10.5(B) and (C); Adds Article VII, Section 10(D)(2)(e) and (f))

Act 1303 (House Bill 370)

To authorize local governments, in exchange for economic or industrial development, to use tax revenues dedicated to such development or proceeds of bonds secured by such revenues to acquire immovable property or maintain immovable property of the local government or to grant the use of such immovable property or other immovable property of the local government to persons, associations, or corporations that enter into an agreement to locate or expand industrial operations in the area, provided the consideration to be provided by the person, association, or corporation for use of such property is of any such amount or nature as provided in the agreement, a number of area residents are employed as specified in the agreement, and the agreement is approved by the State Bond Commission. (Amends Article VII, Section 14(B))

Act 1304 (House Bill 604)

To clarify that the constitutional protection to private ownership of personal property (effects) does not apply to contraband. (Amends Article I, Section 4)

Act 1305 (House Bill 583)

To require that monies in the Lottery Proceeds Fund be annually appropriated by the legislature for the minimum foundation program of education for public elementary and secondary schools and up to five hundred thousand dollars for services related to compulsive and problem gaming as may be provided by law. (Effective July 1, 2004) (Amends Article XII, Section 6(A))

Act 1306 (House Bill 576)

To prohibit the legislative auditor and any employee of the office of the legislative auditor from engaging in political activities, becoming a candidate for public office, contributing to political campaigns, and soliciting campaign contributions; and to prohibit any former legislative auditor from qualifying for elected public office until a period of two years has passed following the termination of his service as legislative auditor. (Amends Article III, Section 11)

Act 1307 (House Bill 637)

To provide that mineral revenues classified under the constitution as nonrecurring revenues shall not also be classified as mineral revenues for purposes of determining the amount of such revenues to be deposited in the Budget Stabilization Fund. (Amends Article VII, Sections 10.3(A)(2)(a)(introductory paragraph) and 10.5(B))

Corrections

by: *Camille Sebastien*
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Senate Bill 180 by Senator Fields (failed Senate final passage)



Wrongfully Incarcerated Compensation Board under the administration of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice in the office of the governor and the Wrongfully

Incarcerated Compensation Fund. The bill would have also specified eligibility requirements, the requirements for making application to the board, the procedure to be used by the board in considering the application, and the criteria for making or denying awards.

Senate Bill 518 by Senator C. Jones (Act 822) creates the reentry preparation program within the Department of Public Safety and Corrections to provide persons released from incarceration certain fundamental resources in the areas of employment, life skills training, job placement and with access to as many support services as possible in order to increase their likelihood of successful reentry into society. Additionally, the bill requires the department to identify a transition specialist at each of the state correctional facilities to assist the inmate with reentry.

House Bill 504 by Representative Martiny (Act 634) authorizes a person convicted of distribution or possession with the intent to distribute cocaine where the offense of conviction involves less than 28 grams of cocaine or any person convicted of distribution or possession with the intent to distribute marijuana where the offense of conviction involves less than one pound of marijuana to be eligible for participation in the

work release program.

House Bill 505 by Representative Martiny (Act 635) authorizes a person convicted of distribution of cocaine where the offense of conviction involves less than 28 grams to be assigned to serve a portion of his term at Work Training Facility North.

House Bill 1790 by Representative Downer (Act 144) prohibits a person, agency, or department from releasing to the news media, press, or any other public information agency, confidential information concerning an investigation of an employee, officer, or agent of the Department of Public Safety and Corrections, and the office of state police, without the express written consent of the employee, officer, or agent.

JUVENILE JUSTICE

House Bill 2018 by Representative Landrieu and Senator Cravins (Act 1225) was created as the result of the recommendations of the Ad Hoc Advisory Board of the Juvenile Justice Commission. The recommendations were gathered by the board during two sets of public hearings held throughout the state over the last two years. The recommendations were then presented to the Juvenile Justice Commission, which was created during the 2001 Regular Session of the Legislature by HCR 94. The bill is a blueprint for reform, establishing the structures necessary to implement reform and to pool the state's existing resources in the most effective manner. The bill seeks to change the system in a gradual manner using all of its available resources. The bill:

1. Creates a placement review process to be conducted by the Department of Public Safety and Corrections in order to facilitate the transition of Swanson Correctional Center for Youth-Madison Parish Unit to alternate adult offender utilization. The placement review is to be conducted

through a multi-disciplinary review panel designated by the secretary, including an assessment of the needs and progress of the individual juvenile, the risk of danger to society, and the community resources needed to serve the best interests of the child and society and a recommendation for placement and services. The state is required to provide an alternative, correctional type use for the facility as long as the state is obligated for the debt-service on the facility.

2. Requires a single state entity to develop uniform standards and licensing procedures for local juvenile detention facilities.
3. Provides for interagency agreements, relative to the sharing and integration of data and information regarding child protection, delinquency, families in need of services, and other concerns in the Children's Code.
4. Creates the Education/Juvenile Justice Partnership Act, which requires BESE, in collaboration with the Louisiana Juvenile Justice Planning and Development Board, to formulate, develop, and approve a model master plan for improving communication, coordination, and collaboration between schools and juvenile justice agencies.
5. Creates the Juvenile Justice Reform Act Implementation Commission within the office of the governor, to be composed of the chairman of the Juvenile Justice Commission, a senator, a supreme court justice, the commissioner of administration, and the vice-president for Administration and Management, at Southern University and A&M College, to implement the recommendations of the reform act and to continue to address juvenile justice reform in this state. This commission shall address the creation of a single state entity for providing services to children and their families and the closure of Swanson/Tallulah as a facility for juveniles.
6. Creates the Louisiana Juvenile Justice Planning and Coordination Board, as an interim, planning, and coordination board of the Children's Cabinet.
7. Provides for nine regional service areas and requires DSS, office of public health, office of mental health, DHH, LCLE, office of youth development, DPS&C, DOL and DOE to develop a plan for the delivery of services in the state's regional service areas.
8. Provides for the increased duties of the Louisiana Children's Cabinet and Children's Budget.
9. Creates the Children's Cabinet Research Council to identify and communicate to university researchers the research needs of the cabinet and the Louisiana Juvenile Justice Planning and Coordination Board, to promote at one or more of the state's universities the development of centers of excellence and specialization in child welfare and juvenile justice clinical, research, and educational services, and to seek federal funding for the establishment of one or more child welfare resource centers, to assist the Louisiana Juvenile Justice Planning and Coordination Board in developing a system of statistics, indicators, and measures, common assessment models including risk, safety, service needs, family, and strengths-based instruments that are practice oriented and not just theoretical in design, and a system of monitoring and

evaluation, and to provide such advice as requested by the Children's Cabinet or the Louisiana Juvenile Justice Planning and Coordination Board.

10. Creates the Louisiana Children, Youth, and Families Investment Fund to be administered financially by the Division of Administration in collaboration with the cabinet, until such time as a single state entity is established.
11. Creates the community-based, school-based, and regionally-based sanctions and services grant program.

The bill also provides for the closure of Swanson Correctional Center for Youth-Madison Parish Unit (SCCY-MPU), as a facility for juveniles by December 31, 2004 and it requires the Department of Public Safety and Corrections to develop a comprehensive plan for the transition of juveniles out of SCCY-MPU based upon the health, safety, and best interests of each child and the protection and public safety of society.

Senate Bill 963 by Senator Cravins (pending in conference committee) requires the Department of Public Safety and Corrections to develop a plan for the closure of Swanson Correctional Center for Youth-Madison Parish Unit as a juvenile facility by December 31, 2004. However, the governor may extend the closure date by executive order and upon a declaration of a public safety emergency which necessitates the use of the facility as a juvenile facility. The closure date can be extended by a period not to exceed five months from the date of issuance of the declaration of emergency, but in no circumstances can the facility be used to house juveniles after May 31, 2005. The department is required to develop a comprehensive plan for the transition of the youth housed at the facility based upon the health, safety, and best interests of each child and the protection

and safety of the public. This bill also requires every juvenile in the custody of the department to be reviewed periodically in order to determine whether the juvenile is placed in the least restrictive placement most appropriate to their needs consistent with the circumstances of the case and the protection of the best interests and safety of the public. Although this bill remained in conference committee, House Bill 2018 (**Act 1225**) adopted the exact language from Senate Bill 963 within its text.

Senate Bill 332 by Senator Cravins (Act 1185) creates a New Interstate Compact for Juveniles which would provide the framework for promoting public safety, ensuring the welfare of juveniles, and protecting victims within the states through enhanced control and a better structure for the interstate movement of juveniles. The new compact proposes significant changes to the existing Interstate Compact for Juveniles in the areas of enhanced accountability, enforcement, visibility, and communication. The prior compact is outdated as it was written in 1955 and it is fragmented, with each state having their own version instead of a comprehensive compact that ensures the public safety and preserves child welfare. The rules and procedures of the old compact are not widely agreed to and its present structure is not equipped to deal with the needs of juveniles in today's society. The key components differ from state to state and there is no enforcement mechanism for its rules, nor is there a method for guaranteeing compliance among compacting states. The changes are also required because the juvenile population has also grown and changed over the past number of years.

The new compact deals with enforcement, administration, finance, communications, data sharing, and training. The new compact creates the Interstate Commission, an independent operating authority which will address future interstate issues and problems as they arise. The proposed agreement will become an active compact when 35

states authorize cooperation under the agreement. Any amendment of the compact cannot become effective and binding until it is enacted into law by unanimous consent of all of the compacting states. This bill also provides provisions regarding withdrawal, default, termination, or reinstatement of one of the compacting states. Additionally, the new compact will also provide for:

1. The establishment of an independent compact-operating authority to administer ongoing compact activity, including a provision for staff support.
2. A national governing commission, with representatives from all member states appointed by the governor.
3. The commission will meet annually to elect the leaders and committee members and to attend to general business and rule-making procedures.
4. Rule-making authority and a provision for significant sanctions to support essential compact operations.
5. Mandatory funding mechanism sufficient to support essential compact operations, such as staffing, data collection, training and education.
6. The collection of standardized information and information-sharing systems.
7. The coordination and cooperation with other interstate compacts, including the Interstate Compact for Adult Offender Supervision and Interstate Placement for Children.

The bill further requires the Interstate commission to pay or provide for the payment of

reasonable expenses and it authorizes the Interstate Commission to promulgate a rule, levy on and collect an annual assessment from each compacting state to cover the costs of the commission's internal operations and activities. The first payment will not be assessed until 2006 and the estimated cost for the state of Louisiana will be \$17,000.

House Concurrent Resolution 56 by Representative Landrieu (enrolled) proposes a comprehensive plan for juvenile justice reform, acknowledges the work of the Juvenile Justice Commission, and resolves that all agencies involved in juvenile justice adopt and actualize concepts recommended by the Juvenile Justice Commission.

PROBATION, PARDON AND PAROLE

House Bill 1724 by Representative Powell (pending Senate final passage-subject to call) increases the salaries of the chairman of the Board of Pardons, the vice-chairman of the Board of Pardons and the other members of the Board of Pardons.

House Bill 816 by Representative Murray (pending Senate final passage-subject to call) provides that the chairman, vice-chairman, and all members of the Board of Pardons and the chairman, vice-chairman, and all members of the Board of Parole shall be provided with the use of a state-owned vehicle to be allocated from the existing fleet of state-owned vehicles. The bill further provides that the members who have use of a state-owned vehicle shall not be entitled to receive mileage reimbursement.

Crimes/Criminal Procedure

by: Peggy Russell
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CRIMINAL PROCEDURE

DNA. Since 1989, forensic DNA has become widely accepted by law enforcement, prosecution, and the court system as a form of identification which can prove convicted felons innocent and can assist in identifying and convicting offenders. Throughout the



nation, states have introduced and passed legislation requiring all felons to submit to DNA testing. In 1997, the legislature enacted the "DNA Detection of Sexual and Violent Offenders Act" which established the state DNA data base as a repository for DNA samples. The act further required any person arrested for or serving a sentence for a felony sex offense or certain other offenses to provide a biological sample for DNA testing. Several bill were introduced to add crimes for which DNA samples would be required to be taken from the offender including **Senate Bill 566 by Senator Irons (deferred in Senate committee)**, **Senate Bill 384 by Senator Schedler (deferred in Senate committee)**, **House Bill 710 by Representative Downer (House committee)**, **House Bill 374 by Representative Faucheux (House committee)**, **House Bill 290 by Representative Schneider (House committee)**, **House Bill 67 by Representative Baldone (House committee)**, and **House Bill 80 by Representative Farrar (House committee)**.

Senate Bill 346 by Senator Dardenne (Act 487), however, became the lead bill in the Senate. The Act increases those offenses for which

offenders are required to provide DNA testing samples to include all felonies, felony-grade delinquent acts, and certain specified misdemeanors including an attempt, conspiracy, criminal solicitation, or accessory after the fact of such offenses and requires samples be taken from any offender who is accepted by the state from another state for either the continuation of confinement or for active supervision and from the body of any person who dies as a result of a statutorily defined violent crime.

Additionally, the Act provides a retroactive exception to the prosecutorial time limitations of current law by allowing prosecution beyond such time limitation if the identity of the offender is established after the expiration of such time limitation through the use of a DNA profile.

In light of the number of inmates nationwide who have been exonerated due to testing of DNA evidence and the national push for introduction of legislation to address post conviction DNA testing, the legislature enacted Act 1020 of the 2001 Regular Session authorizing a four-year period during which application could be made seeking post-conviction DNA testing under strict guidelines. Various factors have contributed to the need to extend the period for such post-conviction application and **Senate Bill 522 by Senator C. Jones (Act 823)** was introduced to extend the application period until August 31, 2007.

Death Penalty. On June 20, 2002 the United States Supreme Court issued a ruling in *Atkins v. Virginia* which ended execution of those persons with mental retardation stating that it is a violation of the Eighth Amendment ban on cruel and unusual punishment to execute death row inmates with mental retardation. In response to the decision, three bills were introduced - **Senate Bill 244 by Senator Lentini (withdrawn)**, **Senate Bill 610 by Senator Holden (deferred in Senate committee)**,

and House Bill 1716 by Representative Hunter (House committee), and House Bill 1017 by Representative Devillier (Act 698).

The substantive differences between **Senate Bill 244** and **Senate Bill 610** included the definition of mental retardation and the procedure to be followed in determining the existence of mental retardation. Both bills were debated in the Senate Judiciary C committee where the definition in **Senate Bill 244** was amended to more closely match the definition of **Senate Bill 610**. **Senate Bill 244**, was reported favorably as amended from the committee. The amended bill would have required that a determination of mental retardation in a capital case be made by a jury during the capital sentencing hearing unless the state and the defendant agreed that the issue was to be tried by the judge prior to the trial. **Senate Bill 610**, which was deferred, would have required that a determination of mental retardation be made by the court prior to trial.

House Bill 1017 (Act 698) was declared a duplicate of **Senate Bill 244**, and was passed from the Senate floor with amendments. The Act provides as follows:

1. Prohibits any person who is mentally retarded from being subjected to the death penalty.
2. Requires that the issue of mental retardation be proven by a preponderance of the evidence and be tried by the jury during sentencing unless the state and the defendant agree to have the issue tried prior to the trial by the judge alone.
3. Provides that a pretrial determination by the judge that an offender does not have mental retardation shall not preclude the defendant from raising the issue at the penalty phase or does not preclude any instructions to the

jury related to the issue of mental retardation.

4. Defines mental retardation as a disability characterized by significant limitation in both intellectual functioning and adaptive behavior as expressed in conceptual, social, and practical adaptive skills.
5. Requires that the onset of mental retardation shall have occurred before the age of eighteen years.
6. Provides that a diagnosis of certain other mentally, socially, or physically incapacitating conditions, does not necessarily constitute mental retardation.

DWI

Louisiana continues to be one of the states leading the nation in the number of DWI traffic crashes and consequent fatalities. Forty-seven percent of all Louisiana fatal crashes in 2001 involved alcohol. In response to the continuing concern over the incidents of DWI in the state coupled with an effort to reduce the overwhelming expense of mandatory minimum prison sentences, the legislature enacted Act 1163 during the 2001 Regular Session which decreased the minimum mandatory sentence for 3rd and consequent DWI convictions, but required appropriate in-patient substance abuse treatment and home incarceration for the entire remaining period of the offender's suspended sentence. Based upon a negative response to the decreasing of minimum mandatory sentences and to the mandate from the federal government requiring tougher sentences for 3rd and 4th DWI convictions and with the support of the Governor's DWI Task Force **Senate Bill 142 by Senator Dupre (deferred in Senate committee)** and **Senate Bill 405 by Senators Chaisson and Dupre (House committee)** were introduced. Both bills would have identically increased the minimum mandatory sentences for third and

subsequent DWI offenses while retaining the home incarceration and inpatient treatment requirements; however, **Senate Bill 142** would have retained the suspension of the remainder of the sentence after completion of the minimum mandatory incarceration as currently required and **Senate Bill 405** would have provided that such suspension shall be a discretionary decision of the court. During the Judiciary C committee hearing, **Senate Bill 142** was deferred and **Senate Bill 405** was reported favorably.

Additionally, **Senate Bill 405** would have retained current inpatient substance abuse treatment if the remainder of the sentence was suspended but requires that additional outpatient treatment for a period of twelve months and authorized the physician to intensify treatment during such period as he deemed necessary. During the period of home incarceration, the court, in collaboration with the treatment provider and the probation officer, would have had the authority to impose immediate sanctions to insure public safety or to facilitate the rehabilitation of the offender including intensification of supervision or treatment, additional conditions of home incarceration, or imprisonment for a portion of or the balance of the original sentence. The earning of good time would have been denied during the minimum mandatory period of incarceration.

Senate Bill 143 by Senator Dupre (Act 335) increases the penalties for first or second DWI when the offender has a blood alcohol content level of 0.20 percent which is twice the current 0.10 level to determine DWI and more than twice the 0.08 determination level which will become effective on September 30, 2003. The Act increases the fine for first offense DWI from a fine of \$300 to \$1000 for a BAC of 0.10 to a fine of \$750 to \$1000 for a BAC of 0.20 or more and increases the fine for second offense DWI from a fine of \$750 to \$1000 for a BAC of 0.10 to a \$1000 fine for a BAC of 0.20. Additionally, the minimum mandatory

imprisonment period for a second offense DWI with a BAC of 0.20 is increased to 96 hours which is an increase from the 48-hour minimum mandatory if the BAC is 0.10 and the same as the minimum mandatory term of imprisonment if the BAC is 0.15.

Act 335 also increases the period of the driver's license suspension for an offender who has a BAC of 0.20 percent or more to two years for first offense and to four years for second offense. For a first conviction, an offender may apply for a restricted license to be in effect during the entire suspension if his vehicles equipped with an ignition interlock device. The interlock device would be required to remain on the vehicle and operable during the first 12-month period of suspension following his conviction. For a second conviction, the offender would be able to apply for a restricted license for the entire length of the suspension if his vehicle was equipped with an ignition interlock device. The interlock device would be required to remain on the vehicle and operable during the first three years of the suspension.

Another issue of concern to the DWI Task Force has been the refusal of suspected DWI offenders to submit to blood alcohol content (BAC) testing when arrested. There is a perception that the driver's license suspension resulting from such refusal is less onerous than possible conviction resulting from a BAC test in excess of the amount needed to determine DWI. **Senate Bill 767 by Chaisson (Act 543)** creates the crime of unlawful refusal to submit to BAC testing after an arrest for a DWI offense when the offender has refused to submit to such a test on two separate and previous occasions. The penalty for refusing a test under such circumstances shall be the same as those for conviction of a first DWI offense - a fine of not less than \$300 nor more than \$1000 and imprisonment for not less than ten days nor more than six months with a prohibition against suspension of the sentence unless the offender serves two days and is

ordered to and completes certain treatment programs or is placed on probation and completes specified community service.

Senate Bill 554 by Senate Dupre (failed on the House floor) was introduced with the support of the DWI Task Force and would have prohibited the issuance of a restricted license during the driver's license suspension period for an offender convicted of a second or subsequent DWI offense. The bill would have further required that a driver's license could be issued to an offender of second offense DWI upon the conclusion of the suspension but only if all of the operator's vehicles were equipped with a functioning ignition interlock device which would be required to remain on the vehicle for not less than six months from the date the license was granted. However, an offender of 3rd offense DWI would be required to maintain the installation of the interlock device until he completed the required substance abuse treatment and home incarceration.

Two additional bills were introduced to address BAC testing refusal - **Senate Bill 71 by Senator Dupre (Act 533)** and **House Bill 84 by Representative Romero (Senate committee)**. **House Bill 84** would have required any driver involved in a traffic accident which resulted in a fatality to submit to BAC testing; however, the bill would not require penalties in addition to the current penalties for refusing to submit to BAC testing upon arrest for DWI. **Act 533** requires law enforcement to perform or cause to be performed BAC testing when a motor vehicle crash results in a fatality or serious bodily injury. Refusal to submit to BAC testing under such conditions shall result in a penalty which will be the same as the current penalty for a conviction of a first DWI offense.

Currently an operator of a motor vehicle is determined to be driving while intoxicated when his BAC is 0.10 percent or more. Effective September 30, 2003, the determining BAC level

will be decreased to 0.08 percent. **House Bill 262 by Representative Farrar (failed on House floor)** would have lowered the determining BAC to 0.05 when the operator had two or more previous convictions for a DWI offense.

Any person convicted of a second or subsequent DWI violation is currently required to have a ignition interlock device installed on any motor vehicle which he operates during the suspension of his driver's license. The manufacturer of the interlock device has responsibility for the installation, service, monitoring, and maintenance of the device. Because concern has developed over the accountability for and the reliability of interlock devices which are received through the mail by an offender and for the possibility of an offender's ability to circumvent the effectiveness of the device, **Senate Bill 72 by Senator Dupre (Act 800)** was introduced to prohibit the mail order purchase of ignition interlock devices. As amended by the House, the Act requires an ignition interlock device to be installed and monitored directly by trained technicians of the vendor and requires the technicians to train the offender in its proper use. Additionally, the Act requires the installation of an ignition interlock device for a minimum of six months as of condition of the reinstatement of a driver's license of any person whose license was suspended under any of the following circumstances:

1. Refusal to submit to a chemical test for intoxication after an arrest for a second offense DWI violation and consequent suspension for failure to submit.
2. Submission to a chemical where the result indicate a BAC level of 0.08 percent or above and consequent suspension for a second or consequent offense DWI violation within five years of the first violation.

3. Arrest for a DWI violation while operating a vehicle involved in a traffic crash resulting in moderate or serious bodily injury.
4. Arrest for a DWI violation when a minor child 12 years of age or younger was a passenger in the vehicle at the time of the commission of the offense.

National concern has developed relative to offenders arrested for a DWI offense repeating the offense upon release with instances of consequent fatal accidents. **Senate Bill 439 by Senator Mount (House committee)** would have required impoundment of the vehicle the offender was operating at the time of the arrest for a period of not less than twelve hours after the time of arrest. A vehicle would have been released prior to the completion of the impoundment period if the requestor for release was the owner of the vehicle but not the offender or if the requestor was the wife of the owner of the vehicle. A vehicle would only be released if the person requesting the release had a valid driver's license, had proof of valid motor vehicle insurance, and was determined to be able to operate the vehicle in a safe manner.

CRIMES

Identity theft. Identity theft has been identified by the federal government as the fastest growing crime in America today. To address the issue, the legislature introduced **Senate Bill 711 by Senator Marionneaux (Act 231)**, **Senate Bill 1031 by Senator Romero (Act 844)**, and **House Bill 111 by Representative Guillory (Act 310)**.

Senate Bill 711 (Act 231) creates the crime of fraudulent acquisition of a credit card and prohibits the making of any false statement as to identity with the intention that such statement be used for the obtaining a credit card. The penalties for an offense of the crime is a fine of not more than \$3000, or imprisonment, with or without hard

labor, for not more than ten years, or both.

The crime of identity theft, as it currently exists, prohibits the intentional use or attempted use of another person's identifying information to obtain anything of value without the authorization of the other person. **Senate Bill 1031 (Act 844)** authorizes any person who has been a victim of identity theft to initiate an investigation of the crime by contacting the local law enforcement agency having jurisdiction over the area of his residence. If the crime was committed in a different jurisdiction, the local agency shall refer the matter to the appropriate law enforcement agency. The report of the investigation shall be made available to the victim of the crime upon his request. Additionally the Act requires training on the crime of identity theft in the curriculum requirements for the training of peace officers. **House Bill 111 (Act 310)** further provides relative to a victim of identity theft by authorizing him to request and obtain the identity of the alleged offender who has been arrested and charged with the crime committed against him. In addition to identity theft, a victim of either unauthorized use of an access card or access device fraud is authorized to request and receive the identity of the offender charged with the crime.

House Bill 973 by Representative Diez (Act 934) also authorizes a victim of identity theft to file a report with the local law enforcement agency even if the crime was committed in a different jurisdiction. The Act further requires that a creditor who has granted credit as a result of the illegally gained information make the information in the possession of the creditor available to the victim of the crime. The Act authorizes a consumer to have a security alert placed on his credit report which provides notice that the consumer's identity may have been used fraudulently without the consumer's consent.

Domestic Abuse Battery. **House Bill 849 (Act 1038)** creates the crime of domestic abuse battery which is the intentional use of force or violence committed by one household member upon the person of another household member without the consent of the victim. Household member is defined as any person of the opposite sex presently living in the same residence or living in the same residence within five years of the occurrence of the battery with the defendant as a spouse, whether married or not. For a first conviction of domestic abuse battery, the offender is subject to a fine of not less than \$300 nor more than \$1,000 an imprisonment for not less than ten days nor more than six months with no suspension of the imprisonment unless if the offender serves two days in jail or performs four days of community service and, in both cases, participates in a domestic abuse prevention program, and does not own or possess a firearm for the length of the sentence. Penalties for a second offense are a fine of not less than \$750 nor more than \$1000 and imprisonment of not less than thirty day nor more than six months, with a minimum of 48 hours served without benefit of probation, parole, or suspension of sentence. The remainder of the sentence cannot be suspended unless the offender serves fifteen days in jail or performs 38 days of community service and, in both cases, participates in a domestic abuse prevention program and does not own or possess a firearm for the length of the sentence. For a fourth or subsequent conviction, the offender is subject to a fine of \$5,000 and imprisonment for ten to thirty years, three years of which shall be imposed without benefit of probation, parole, or suspension of sentence. However, if the offender had received the benefit of suspension, probation, or parole as a fourth offender, no portion of the sentence shall have the benefit of suspension, parole, or probation and no portion of the sentence shall be imposed concurrently with the remaining balance of any sentence to be served for a prior conviction.

The Act provides for enhanced penalties if a child twelve years of age or younger was present during the offense including the prohibition against suspension of minimum mandatory sentences for first or second convictions and at least four years imprisonment without suspension for a third conviction. If the victim of the battery was pregnant at the time of the offense and the offender was aware of it at the time of the offense, the offender shall be required to serve a minimum of thirty days without benefit of suspension of sentence for a first conviction and at least six months without benefit of suspension of sentence for a second or subsequent conviction.

Unlawful use or possession of body armor. **House Bill 1846 (Act 1140)** amends the crime of unlawful use of body armor to include unlawful possession of body armor. Currently a person is prohibited from using body armor while committing or attempting to commit certain crimes. The Act adds to such crimes the commission of or attempted commission of crimes of violence; simple burglary, burglary of a pharmacy, or burglary of an inhabited dwelling; unauthorized entry of an inhabited dwelling; felony illegal use of weapons or dangerous instrumentalities; manufacture or possession of a bomb or a delayed action incendiary device; or any violation of controlled dangerous substances. Additionally, the Act prohibits the use or possession of body armor if a person has been convicted of such crimes unless he was participating in a witness protection program. The penalties for conviction of such crime remain the same which are a fine of not more than \$2000 or imprisonment with or without hard labor for not more than two years, or both.

Airbag Fraud. Nationwide, airbag fraud is becoming a growing problem with potentially fatal results. A deployed airbag is expensive to replace and has, in some cases, resulted in the installation of fake or improperly packed airbags by disreputable mechanics or collision repair shops.

House Bill 796 by Representative Martiny (Act 654) creates the crime of airbag fraud and prohibits the installation or reinstallation of an airbag which is not designed to meet applicable federal safety regulation for the vehicle into which it is being installed or the installation of any object in lieu of an airbag. The penalties for the conviction of such offense are be a fine of not more than \$2000, imprisonment of not more than six months, or both.

Controlled Dangerous Substances. **House Bills 1011 (Act 1051) and 2009 (Act 1000) by Representative Devillier** both address issues relative to controlled dangerous substances. **Act 1051** creates the crime of creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance. The Act prohibits the purchase, sale, or distribution, or possession of; or the transportation of; or the disposal of any item which is to be or has been used in or produced by the unlawful manufacture of a controlled dangerous substance. The Act also prohibits any person from knowingly and intentionally creating or operating a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance. The penalties for such offense are a fine of not more than \$25,000 or imprisonment at hard labor for not less than five years nor more than fifteen years. **Act 1000** prohibits the possession of twelve grams or more of material containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts except for a person possessing a valid prescription, a manufacturer, distributor, wholesaler, pharmacist, or license practitioner when acting in the scope and course of that business. The prohibition of the Act does not apply to any pediatric products intended for administration to children under twelve years of age if the solid dosage individual unit did not exceed fifteen milligrams, if any recommended liquid dosage amount did not exceed fifteen milligrams per five milliliters of liquid product, or if any liquid dosage intended for administration to children under two years of age dis not exceed two

milliliters and has a total package content of not more than one fluid ounce. The bill provides for penalties of a fine of not more than \$2000 or imprisonment for not more than two years with or without hard labor, or both.

Battery of a bus operator. **House Bill 1009 by Representative Schwegmann (Act 1244)** would create the crime of battery of a bus operator which is defined as a battery committed when the offender has reasonable grounds to believe that the victim is a bus operator which include any person employed by a public transit system who operates a bus or an electric trolley, but not including a school bus. The bill would provide for penalties of a fine of not more than \$500 and imprisonment for not less than six months without benefit of probation, parole, or suspension of sentence.

Crimes of violence. Currently certain crimes are designated as crimes of violence and such designation is considered in such areas as possession of firearms, eligibility for good time acquisition by inmates, and eligibility for bail. **House Bill 509 by Representative Martiny (Act 637)** adds as crimes of violence aggravated second degree battery; aggravated assault upon a peace officer with a firearm; aggravated assault with a firearm; armed robbery, use of a firearm; aggravated robbery; disarming of a peace officer; stalking; second degree cruelty to juveniles; and aggravated flight from an officer.

Sex offenses. Currently, all sex offenders are required to register with law enforcement agencies and give notice to residences, businesses, school districts, and the superintendents of park districts within the area of his residence and that he maintain such registration for 10 years from the date of his release or placement on parole, supervised release or probation. The current law further exempts a person who is pardoned for the crime of a sexual offense from the registration and notification requirements. **House Bill 1891(Act**

892) by Representative Baldone removes all such exemptions for persons who are pardoned and requires registration and notification by any sex offender who receives either a gubernatorial or a automatic first offender pardon. **Senate Bill 480 by Senator Chaisson (Act 821)** would have limited such exemptions to an offender who has received a gubernatorial pardon; however as amended by the House, the Act is comparable to **Act 892** by removing exemptions for all pardons.

House Bill 924 by Representative Hunter, et al. (Act 690) adds a conviction of video voyeurism to those crimes for which an offender is required to comply with registration and notification requirements for sex offenders.

Senate Bill 375 by Senator Schedler (Act 215) requires any sex offender who is required to register as a sex offender or any juvenile adjudicated for the commission of a sex offense to notify the Bureau of Criminal Identification and Information of any institution of postsecondary education where he is employed as a student or employed within five days of his enrolling or becoming employed. The bill would also require each institution of postsecondary education in the state to inform students, faculty, and staff of its campus as to where they can obtain information identifying sex offenders who are enrolled or employed at the institution. As amended in the House, the bill requires any school superintendent to notify local law enforcement of any allegation by a student of a sex offense within twenty-four of the notification by the student.

Under present law, there is no time limitation upon the institution of prosecution for a capital offense or for the offense of forcible rape. On other sex offenses, the time limitation ranges from four to ten years depending on the crime. In light of recent discoveries in the use of DNA to identify offenders, **Senate Bill 295 by Senator Dardenne (Act 809)** removes all time limits for

prosecution for any sex offense if the victim notified law enforcement within seven years after the discovery of the crime, if physical evidence has been preserved and is capable of being tested to obtain a DNA profile, and if the identity of the offender is established through the use of such profile. The Act provides that such exception to the limitation shall be retroactive.

Motor vehicles. **Senate Bill 179 by Senator Dupre (House committee)** would have created an offense of aggressive operation under the Highway Regulatory Act and would have defined such the offense as the commission of two or more moving violations occurring during any single, continuous period of driving which a witnessing law enforcement officer determine to be hazardous to another vehicle or to another person. The penalties for such offense would have been a fine of \$175 or imprisonment for not more than 45 days, or both in addition to other penalties imposed as the result of the moving violations constituting the charge. The bill would further have added aggressive during as a responsive verdict to reckless operation of a vehicle.

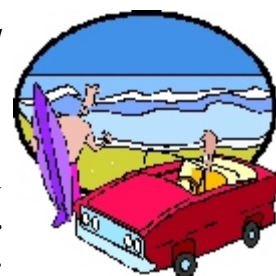
Culture, Recreation & Tourism

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MUSEUMS

House Bill 689 by Representatives Farrar and Dewitt and Senator Ellington (Act 586)

creates the Tioga Heritage Park and Museum located in the parish of Rapides. The museum will serve the Tioga area and surrounding communities whose primary purpose is to research, collect, preserve, and present its economic history.



The Mansfield Women's College Museum, **House Bill 949 by Representative Bruce (Act 592)**, was created to reflect the social, cultural, and economic history of women's education in northwest Louisiana and the DeSoto Parish area.

House Bill 1196 by Representative L. Jackson (Act 338) changes the membership and the terms of the board members of the Louisiana Delta Music Museum. The board will consist of fifteen members that shall serve a four-year term concurrent with the term of the governor. The state archivist, the museum chief administrative officer, and the museum director shall each be ex officio members of the board. These members will be composed from the following parishes: Caldwell, Catahoula, Concordia, East Carroll, Franklin, Madison, Morehouse, Ouachita, Richland, Tensas and West Carroll.

House Bill 1197 by Representative L. Jackson, (Act 525), changes the governing board of the Louisiana State Exhibit Museum. The board shall be composed of ten members that will serve a two-year term located in the following parishes: Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River, Sabine, and Webster.

Senate Bill 1033 by Senator B. Jones, (Act 786), sets out to establish two museums that will reflect the social, cultural, and economic history in two different parishes. The Louisiana Military Museum, located in Lincoln Parish, was created to capture the economic history of the military with emphasis on the role of the citizens of Louisiana. The history of Louisiana's marine and fisheries industry at the Jean Lafitte Marine Fisheries Museum will be located in Jefferson Parish.

PARK RENAMED

The citizens located in Jackson Parish will no longer call their state park "Caney Creek Lake

State Park". **House Bill 1841 by Representative Fannin (Act 345)** renames the state park as the "Jimmie Davis State Park".

SPECIAL DISTRICTS

The Washington Parish Reservoir District, **Senate Bill 475 by Senator Thomas and Representatives Nevers and Strain (Act 71)**, creates a political subdivision and state agency placed within the Department of Transportation and Development. The district has the power to levy taxes and issue bonds to prohibit certain actions and to provide penalties. The District may also make improvements such as golf courses, playgrounds, picnic grounds, grounds for parks and economic development areas for retirement communities.

The Columbia Downtown Historical District as created on May 11, 1993 in Caldwell parish. **Senate Bill 846 by Senator Ellington (Act 513)** recognizes it as a downtown development district with special taxing districts in the town of Columbia.

Senate Bill 847 by Senator Ellington (Act 235) allows the town of Winnsboro to have special taxing districts and provides for the creation of a downtown development district. The Town of Winnsboro Downtown Development District will consist of a ten member board in which its primary purpose is redevelopment of the central business district.

TOURISM

Senate Concurrent Resolution 8 by Senators Hines and Romero and Representative Baudoin (Enrolled) designates the Town of Arnaudville as "A Jewel on the Teche" in order to attract tourism and economic interest to the town. The Town of Arnaudville, established in 1870 on the bank of Bayou Teche, is the home of beautiful old trees and historic landmarks.

Senate Concurrent Resolution 5 by

Senator Smith (Enrolled) proclaims the city of Natchitoches as the "Meat Pie Capital" of Louisiana. Natchitoches, the oldest permanent settlement in the Louisiana Purchase, is renowned throughout Louisiana and beyond for its delicious half-moons of pastry dough filled with seasoned meat. September 19-21, 2003 is the first-ever Natchitoches Meat Pie Festival that will educate the public on the history of the unique Creole heritage of the meat pie.

Senate Concurrent Resolution 6 by Senator Schedler (Enrolled) establishes the state of Louisiana and the province of Alberta, Canada as "Twin" regions, with all rights, privileges, benefits, and obligations inherent in that relationship. It is based upon the "twinning" that was initiated and accomplished by the village of Lacombe, Louisiana and the town of Lacombe, Alberta as a "FrancoFete" activity of Louisiana's Tricentennial Celebration.

In order to encourage ecotourism and commemorate the natural heritage of Louisiana, **Senate Resolution 83 by Senator McPherson (Enrolled)** designated August 2003 as Louisiana Purchase Cypress Heritage Month. The Louisiana Purchase Cypress Legacy is a coalition of conservation organizations that identify and land mark trees that are at least two hundred years old.

WATERCRAFTS

House Bill 1809 by Representative Thompson (Act 890) prohibits the use of personal watercrafts (jet ski) on any body of water located within Poverty Point Reservoir State Park. This bill also authorizes the secretary of the Dept. of Culture, Recreation and Tourism to make rules regulating the recreational uses of such water bodies. A violation of this provision is considered to be a class one violation which is enforced by the Dept. of Wildlife and Fisheries. The penalties are assessed as follows: \$50 for a first offense; \$100 for a second offense; and \$200 for subsequent offenses.

Economic Development

*by: Jeff Oblesbee
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MAJOR PROJECTS AUTHORITY



The most significant piece of economic development legislation considered by the legislature was **Senate Bill 888 by Senator Dardenne (Act 550)**. The legislation creates the "Louisiana Major Projects Authority", a statewide authority composed of members representing the executive and legislative branches of government authorized to assist, coordinate, and expedite the securing of site locations, operations, and other infrastructure needs of certain major economic impact projects seeking to locate within the state.

The authority is limited to assisting with major economic projects which are defined as either: (1) new projects locating in the state having an initial capital investment of at least \$300 million and creating at least 1,000 new high-paying jobs; or (2) the expansion of existing Louisiana businesses who will invest at least \$150 million in the expansion project and which expansion will result in at least 1,000 high-paying jobs. The authority has been granted broad powers to effectuate the rapid approval of such projects, including the use of an expedited public bid process. However, the authority remains subject to the Code of Governmental Ethics.

MOTION PICTURES/ARTS AND ENTERTAINMENT

The tremendous success of the new "Louisiana Motion Picture Investment Tax Credit Program" adopted by the legislature during the

2002 First Extraordinary Session prompted **Senate Bill 896 by Senator Hollis (Act 551)**. At the suggestion of the state Film and Video commissioner, the Louisiana Film and Video Commission was removed from the department of Economic Development and recreated as the Governor's Office of Film and Television Development. This move will allow the office to operate more efficiently and rapidly as they seek to encourage additional movies to begin filming in Louisiana, such as *Unchain My Heart: The Ray Charles Story* which filmed several scenes in and around the Louisiana State capitol this session!

Seeking to duplicate the success of the film and video industry in the state, **Senate Bill 749 by Senator Hainkel (Act 767)** creates the "Louisiana Arts and Entertainment Industry Development Fund". The fund will be used to assist in the development of music recording, publishing, and music software and technology businesses located within the state. It is hoped that the assistance provided by the fund will help to "jumpstart" this vital industry of our economy, as well as to promote our own unique musical culture.

MISCELLANEOUS

In order to promote the development of diversified, interdisciplinary polymer research at Louisiana universities, **House Bill 1548 by Representative Pinac (Act 1108)** creates the "Louisiana Applied Polymer Technology Extension Consortium". The consortium, which will consist of members representing both the state universities and representatives from the polymer and biopolymer industry, will assist with developing customized research and development in the polymer industry, as well as to cooperate with various government and private entities to attract polymer companies to relocate to Louisiana.

Although the legislature was limited to non-fiscal issues this session, **Senate Bill 809 by Senator Johnson (Act 1203)** was introduced at the

recommendation of the Louisiana Small Business Task Force in order to define the term "Louisiana Entrepreneurial Business" for economic development purposes. It is anticipated that the task force will recommend several economic development tax incentives in order to assist small business during the next fiscal session. **Senate Concurrent Resolution 61 by Senator Johnson (Enrolled)** will continue the committee during the interim.

Finally, **Senate Concurrent Resolution 100 by Senator Hainkel (Enrolled)** creates the "Task Force on Regional and Local Economic Development". Comprised of various representatives from state government, local economic development agencies, and business interest, the task force will review Louisiana's efforts towards industry attraction, expansion, and retention initiatives at both the local and regional levels.

K-12 Education

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ELEMENTARY AND SECONDARY EDUCATION

Charter Schools

Type 2 charter schools are exempt from current law provisions relative to an adjustment of funds allocated to such schools based on an increase or decrease in student enrollment of 5% or less in any school year for which the Feb. 15 membership count occurs which may be provided for by the State



Board of Elementary and Secondary Education as provided in **House Bill 214 by Representative J.D. Smith (Act 260)**.

House Bill 1309 by Representative R. Carter (Act 381) prohibits a charter school from employing any member of the governing or management board of such school. The measure further prohibits more than 20% of a charter school governing or management board from being members of the same immediate family and requires compliance by Jan. 1, 2004.

Curricula

Senate Bill 38 by Senator Irons (Act 296) requires the free enterprise curriculum to include instruction in personal finance beginning with the 2004-2005 school year. A unit in free enterprise is one of those courses required for high school graduation and, under this measure, by incorporating a component of personal finance into the curriculum, every high school student will have some exposure to the elements of personal finance prior to graduation.

Pursuant to **Senate Bill 398 by Senator Fontenot (Act 814)**, public schools with grades kindergarten through will be required to provide at least 30 minutes each school day of quality physical activity for students beginning with 2004-2005 school year.

The Louisiana Center for Agricultural Science and Education would have been established by either **Senate Bill 360 by Senator Theunissen (House calendar)** or **House Bill 1394 by Representative Thompson (Senate calendar)**. The center would have served as an agricultural education resource and information center to be administered by the LSU Agricultural Center, in collaboration with the SU Agricultural Research and Extension Center, the state Dept. of Education, and the Board of Supervisors for Community and Technical Colleges. After consideration in both

education committees, and in lieu of bill passage, **Senate Concurrent Resolution 109 by Senator Theunissen and Representative Thompson (enrolled)** was adopted which requests that the Board of Regents study the feasibility of establishing, within the LSU System, a resource for agricultural education materials and information for public schools and postsecondary education.

House Bill 129 by Representative Lancaster (Act 312) requires 30 minutes of instruction in schools relative organ and tissue donation during driver education and training programs, but provides for an exception, that when a student's parent or tutor submits a written statement indicating that the organ and tissue donation instruction conflicts with the student's religious beliefs, such student is not required to take such instruction.

Education Department

The state Department of Education and the statutory entities made a part of the department by law is recreated by **Senate Bill 83 by Senator Theunissen (Act 299)** and the bill establishes July 1, 2009 as the new termination date, with termination to begin July 1, 2008.

Extracurricular activities

House Bill 1890 by Representative Townsend (Act 346) permits students attending the Louisiana School for Math, Science, and the Arts to be eligible to participate in extracurricular activities at nonpublic schools that are located within the attendance zone of the La. school that are BESE-approved and Brumfield v. Dodd compliant.

Instructional Days

House Bill 457 by Representative Triche (Act 915) provides that, effective for the 2002-2003 school year and thereafter, provisions of law relative to the minimum requirements for instructional time in schools shall not apply to any

public school or school system that cannot meet such requirements due to school closures during the last 30 calendar days of the school year as a result of natural catastrophe or disaster. Further, the bill exempts from the present law instructional time requirements, school systems in parishes having a population of at least 475,000 persons that cannot meet such requirements for the 2002-2003 school year due to the school system providing professional development for teachers during the school day and the reduced instructional time does not exceed 180 minutes.

Also, a resolution was adopted, **House Concurrent Resolution 1 by Representative Frith and Senator Hoyt (enrolled)**, that suspends for the 2002-2003 school year the provisions of law applicable to any city, parish or other local public school or school system which cannot meet for the 2003-2003 school year the minimum requirements for instructional time due to a school closure for reasons of natural catastrophe or disaster and which also meets certain conditions. The suspension for the 2002-2003 school year only applies to an entire school system if every school within the system was forced to close for reason of natural catastrophe or disaster.

National Board Certification

School Counselors. In the 2001 Regular Session, legislation was enacted to provide a salary supplement for nationally board-certified school counselors who are engaged in providing services to students. Two measures were considered this year to modify such provisions. One, **Senate Bill 155 by Senator Schedler (Act 474)**, provides relative to implementation. This bill removes current provision providing for a proration of the initial supplement, and instead provides for the counselor to be paid the initial supplement in the school year immediately following the school year in which the school counselor is awarded the national credential, and requires the local school board to submit the appropriation documentation to

the Dept. of Education no later than August 1st of each year for verification of national board credential. Since the current law only applies to those counselors who provide services to students, the second bill, **House Bill 33 by Representative Nevers (House calendar)**, would have allowed certain school counselors who move into an administrative position to continue to receive any stipend earned for national certification while employed as a school counselor.

School Psychologists. **Senate Bill 833 by Senator Holden (Act 511)** provides for a salary supplement to school psychologists who obtain a national certification to be phased-in as follows: \$1,000 in 2003-2004; \$2,500 in 2004-2005; and \$5,000 in 2005-2006 and thereafter. However, no school board is required to pay the supplement until funds are appropriated by the legislature specifically for this purpose.

School Social Workers. **House Bill 1075 by Representative Broome (Act 937)** provides for a similar salary supplement to school social workers who obtain a national certification to be phased-in as follows: \$1,000 in 2003-2004; \$2,500 in 2004-2005; and \$5,000 in 2005-2006 and thereafter. However, no school board is required to pay the supplement until funds are appropriated by the legislature to the department for reimbursement to the school boards for this purpose.

School Speech - Language Pathologists/Audiologists. **House Bill 1317 by Representative Broome (Act 952)** provides for a similar salary supplement to school speech-language pathologists who obtain a national certification to be phased-in as follows: \$1,000 in 2003-2004; \$2,500 in 2004-2005; and \$5,000 in 2005-2006 and thereafter. However, no school board is required to pay the supplement until funds are appropriated by the legislature to the department for reimbursement to the school boards for this purpose.

Parental Involvement

Senate Bill 706 by Senator Irons (Act 833) establishes, provided that TANF funds are available to fund it, a two-year demonstration program to improve parental involvement in schools. The program will begin in the 2003-2004 school year, in any local school system. The program includes schools that receive Title I funds to be selected by an independent review panel and requires the selection of a cross section of elementary, middle, and high schools after considering test scores and an assessment of school readiness.

House Concurrent Resolution 164 by Representative Baldone (enrolled) requests BESE to study the issue of parental involvement in schools, including methods to increase such involvement.

School Accountability

Senate Bill 231 by Senator Theunissen (enrolled), relative to the School and District Accountability Fund (established to provide a source of funding for school performance rewards as part of the accountability program), permits the use of excess appropriated amounts for school improvement purposes provided the reallocation is approved by the Joint Legislative Committee on the Budget.

Failed Schools. Senate Bill 225 (proposed constitutional amendment) (Act 1293) and Senate Bill 710 (Act 9) by Senator Theunissen and others are the constitutional amendment and statutory companion which provides for the transfer of a failed public school to a school district operated under the governance of the State Board of Elementary and Secondary Education. *(See section Constitutional Amendments herein for further details)*

House Bill 1662 by Representative K. Carter (Act 384) requires the employment of a

full-time social worker in each local school system that BESE has identified as a failing school as defined by board policies for implementation of the school and district accountability system. This requirement applies to local school boards in any parish with a population of at least 475,000 persons.

School Discipline

The Commission on Best Practices in School Discipline is established by **House Concurrent Resolution 59 by Representative DeWitt and others (enrolled)**. The purpose of the commission is to study and establish a compendium of best practices at the state, district, school, and classroom levels that may be utilized by every teacher, administrator, and superintendent in the state for improving discipline in the classroom.

House Bill 639 by Representative Winston (Act 97) provides that present law provisions requiring the expulsion of students in the sixth grade and above who are found guilty of certain drug offenses shall not apply to any such student if the student has agreed to participate and participates full time in a juvenile drug court program operated by a court of this state as required for such student by the appropriate authority, and also permits students to be placed in certain alternative education programs.

House Bill 750 by Representative Cazayoux (Act 927) prohibits (beginning with the 2003-2004 school year and thereafter) any student from using or operating any electronic telecommunication device including any facsimile system, radio paging service, mobile telephone service, intercom, or electro-mechanical paging system in any public elementary or secondary school building or on the grounds or in any school bus used to transport public school students, except in the case of an emergency, and provides that violations may be grounds for disciplinary action by the school system including suspension.

House Bill 1342 by Representative DeWitt and others (Act 1252) establishes the Educators' Right to Teach for teachers in city, parish, or other local public schools relative to disciplinary matters. *(See further explanation in section on Teachers herein)*

School Finance

House Bill 547 by Representative Faucheux (failed, House floor) was a constitutional amendment which would have permitted legislative amendment of the formula to the minimum foundation program of education adopted by the State Board of Elementary and Secondary Education prior to approval of the formula by the legislature.

In current law, the Louisiana Education Quality Support Fund requires that the legislature appropriate 50% of available monies in the fund to the Board of Regents for higher educational purposes and 50% to BESE for elementary and secondary education purposes. **House Bill 573 by Representative Crane (Act 922)** adds the requirement that if appropriations are reduced from the Support Fund or monies are transferred from the Support Fund, then the total dollar amount of any resulting reductions in appropriations from that fund shall be borne equally between the appropriation for the Board of Regents and the appropriation for BESE to avoid a budget deficit.

Minimum Foundation Program. **House Concurrent Resolution 235 by Representative Crane and Senator Theunissen (enrolled)** provides for legislative approval of the formula for FY 2003-2004 to determine the cost of a minimum foundation program (MFP) of education in all public elementary and secondary schools as well as to equitably allocate the funds to parish and city school systems as developed by the State Board of Elementary and Secondary Education (BESE) and adopted by the board on March 12, 2003, and as subsequently revised pursuant to board action on

May 15, 2003.

In the present formula, (Senate Concurrent Resolution No. 139 of the 2001 Regular Session) costs for FY 2003 are \$2.466 billion (as contained in the FY 02-03 MFP budget letter).

The proposed formula implementation costs for FY 2004, as estimated by the state Department of Education, are \$2.532 billion. This amount includes funding for continuation of the school support worker pay increase plus employer's retirement contribution.

Compared to present formula, the proposed formula provides as follows:

- Retains, with one change, Level 1--Cost Determination and Equitable Distribution of State and Local Funds as follows:
 - (1) Increases the base per pupil amount from \$3,276 to \$3,366.
 - (2) Retains the weights for add-on students units for at-risk students, vocational education units, special education, gifted and talented, and economy of scale, using the same definitions.
 - (3) Retains provisions for annual adjustments in per pupil amount.
 - (4) Retains provision for calculation of the local wealth factor based on local wealth capacity.
 - (5) Retains the provisions for calculation of average local cost contribution of 35% and state contribution of 65% determined by local wealth capacity.
 - (6) Retains definitions previously contained in a separate section of the resolution by integrating them into the section where the term appears.
- Retains Level 2--Incentive for Local Effort as follows:
 - (1) Retains the basis for determining the amount of local revenue over the local share required by Level 1 that is eligible for incentive funding that incorporates prior year revenues

- from sales tax, property tax (including debt service), state and federal revenue in lieu of taxes and 50% earnings on property.
- (2) Retains the 33% of the base Level 1 cost as the limit on the amount of state Level 2 support.
 - (3) Retains the lesser of local revenue over Level 1 requirement or the limit on state Level 2 support as the amount of local revenue eligible for Level 2 state support.
 - (4) Retains the state level of support, on average, at 40% of eligible local revenue determined by local wealth capacity.
- Revises Level 3--Legislative Enhancements as follows:
 - (1) Continuation of 2001-2002 certificated pay raise:
 - ▶ Provides a supplemental allocation to each local school system to ensure continued funding of the 2001-2002 certificated staff pay raise based on their prior year per pupil amount times their current year October 1 membership.
 - ▶ Specifies that in the event the Baker and Zachary school systems begin operations, they shall receive the same per pupil amount provided to the East Baton Rouge Parish school system in the prior school year.
 - (2) Continuation of 2002-2003 support worker pay raise:
 - ▶ Provides a supplemental allocation to each local school system to ensure continued funding of the 2002-2003 support worker pay raise based on their prior year per pupil amount times their current year October 1 membership.
- ▶ Specifies that in the event the Baker and Zachary school systems begin operations they shall receive the same per pupil amount provided to the East Baton Rouge Parish school system in the prior school year.
- (3) Foreign language associate enhancement:
 - ▶ Revises provisions specifying that any local school system employing a foreign language associate teacher shall receive a supplemental allocation from BESE with a limit in total funds available to provide an allocation of \$20,000 per teacher not to exceed a total of 300 teachers in the program.
 - ▶ Retains provision that employing local school system is required to pay the foreign language associate the classroom teacher average salary (without PIP) by years of experience and degree level beginning with year one.
 - (4) Adds accountability student transfer enhancement:
 - ▶ Provides that any district that includes in its October 1 membership a student who transferred from a CA II or CA III school in another district, attended the CA II or CA III school in the immediate preceding year before transferring, and transferred to an academically acceptable school in accordance with BESE accountability transfer policy will receive additional funding equal to the current year MFP state-average local share per pupil for each such student for a maximum of three years as long as the student is enrolled.
 - (5) Hold-harmless enhancement:
 - ▶ Provides a supplemental allocation

to a local school system identified as "over funded" in FY 2000-2001 to ensure continued funding of their hold-harmless amount.

- ▶ Revises the supplemental allocation to be based on the hold-harmless district's prior year per pupil amount times their current year October 1 membership not to exceed the total hold-harmless amount received in the prior year.

(6) Adds Accountability for School Performance:

- ▶ Provides for a report to be submitted to the House and Senate education committees by April 1 of each year on each school with a school performance score below the state average and annual growth of less than five points.
- ▶ Specifies that the report include information on school data, accountability data, fiscal data, student demographic data, teacher data, and staffing data.
- ▶ Prohibits MFP funding for students attending a Corrective Action III school that has not met the minimum growth and does not have a BESE-approved reconstitution plan.
- ▶ Prohibits MFP funding for any staff assigned to a Corrective Action III school that has not met the minimum growth and does not have a BESE-approved reconstitution plan.

(7) Retains Required Expenditures as follows:

- ▶ Retains a required expenditure of 70% of all local school system general fund expenditures on instruction and retains guidelines for defining instruction.
- ▶ Specifies that 50% of a district's increase in Level 1 and Level 2 state

funds over the prior year after adjusting for increases in student membership shall be used for supplements and enhancements of full-time certificated staff salaries and retirement benefits.

- ▶ Specifies that in the event the Baker and Zachary school systems begin operations, the increase in state funds shall be determined by using the MFP state funded October 1 per pupil amount provided to the East Baton Rouge Parish school district in the prior school year.
- ▶ Specifies, in calculating the increase in MFP state funds for pay raise purposes for the Baker and Zachary school systems, that any resulting increase amounts shall be offset by any decrease in local funds available based on local revenues per pupil.

(8) Retains funding for lab schools as follows:

- ▶ Retains provisions for funding LSU and SU lab schools at an amount per student equal to the amount allocated per student for the state share of the MFP.
- ▶ Retains provisions directing such money to the universities and making such money subject to the MFP audit provisions and definitions.
- ▶ Requires 50% of increased funds be directed to pay increases for certificated staff.

(9) Retains provision for adjustments as follows:

- ▶ Retains provisions for estimated payments of MFP funds to be justified with the actual amount due for the year when the student counts are final and audited as reflected in the budget letter.
- ▶ Retains provision that the estimated

payments shall occur for the first eight months of the year with adjustments in the payments for the last four months to equal the total annual formula calculated amount based on actual student counts and local revenues.

- ▶ Retains a statement subjecting the final allocation to review and/or audit of district data with adjustments in the following year.
- ▶ Eliminates provision to make a one-time reduction adjustment to the FY 2001 state share distribution to recover funds previously distributed for the Foreign Language Associate Teacher program.
- Eliminates provisions relative to a one-time only reduction of funding over minimum pay raise.

Students

House Bill 1482 by Representative Richmond (House calendar) and Senate Bill 677 by Senator Irons (Senate committee) would have provided relative to protection from discrimination and harassment for students. Each local school board would have been required to adopt policies containing certain components by September 1, 2004 prohibiting discrimination and harassment of students. The State Board of Elementary and Secondary Education would have been required to develop model policies to assist local school boards. Under the bills, schools and school districts were encouraged to establish programs designed to help eliminate discrimination and harassment, and other initiatives with the involvement of school staff, students, administrators, volunteers, parents, law enforcement, and community members.

Teachers

Senate Bill 128 by Senator Theunissen

(Act 743) establishes the principal of the year award by law and allows both the outstanding teachers and principals to receive certain monetary awards from private sources, subject to approval, without violating the ethics code. Current law in the ethics code provides an exception for awards of anything of economic value received by teachers or school employees for outstanding achievement in the performance of their duties of responsibilities given by any person. However, the exception does not apply to any award from any person if the teacher receiving the award knows or reasonably should know that such person has substantially affected by the performance or nonperformance of the teacher's official duty. The bill also in this exception includes the awards to principals, as well as teachers or school employees.

Senate Bill 862 by Senator Dardenne (Senate, withdrawn) would have added an additional cause for termination of a permanent teacher or school employee, authorized granting tenure to certain teachers, and provided for tenure hearings to be conducted by an administrative law judge. State law presently provides generally for tenure of teachers and certain school employees. Basically, each such employee must serve for three years as a probationary employee during which time he can be terminated for unsatisfactory performance. After an employee has been employed for three consecutive years, he acquires permanent status, also known as tenure, and may be terminated only after written and signed charges of one of the specified causes have been brought and proved at a hearing. This measure would have authorized local school system schools, state special schools, and Dept. of Public Safety and Corrections to grant tenure to a teacher without the teacher completing a probationary period if the teacher has previously earned tenure in another system in the state. A teacher or school employee can be removed for certain causes such as causes such as willful neglect of duty, incompetency, dishonesty, or being a member of or contributing to any group,

organization, movement, or corporation that is prohibited from operating in Louisiana. Under this bill, an additional cause would have added---failure to achieve the standard required for satisfactory performance on an evaluation established by the employer and administered on a uniform basis to all employees similarly situated.

Also, affecting the removal of a teacher, **House Bill 778 by Representative Triche (Act 273)** adds a charge of immorality as a cause for removal of a permanent teacher and defines immorality to mean any conviction of a felony offense affecting the public morals enumerated in specified state criminal law.

House Bill 567 by Representative Crane (Act 92), relative to special schools, provides that after July 1, 2003, a teacher promoted to a position of higher salary or status in a special school shall not gain tenure in such higher position, and provides that a teacher so promoted or a teacher who is employed to take such a higher salary or status position may gain tenure as a teacher upon the end of a three-year probationary period or three years of successful service in the higher position for which he was hired or in such position and one or more other such positions. Also, the bill requires that any person promoted to a higher position to possess a standard La. teaching certificate as well as an appropriate administrative/supervisory endorsement when a teaching certificate is a qualification requirement for the higher position. The promotion of a person holding a provisional teaching certificate is prohibited, except when a person meeting the certification and credentials requirements is not available for employment within the special school, subject to all other requirements of law.

House Bill 568 by Representative Crane (Act 28) requires, for certification as a teacher, that participants in certain alternate teacher education programs complete either the same amount of

semester hours as required for the teaching of reading for undergraduate program applicants or possess certain reading and literacy competencies as approved by BESE for the teaching of reading.

House Bill 846 by Representative Salter (Act 682) removes the requirement that, to be eligible for a medical leave sabbatical, the teacher's regular sick leave balance must be 25 days or less. The term "teacher" includes public school teachers, social workers, and school psychologists, and teachers in special schools.

House Bill 1342 by Representative DeWitt and others (Act 1252) establishes an Educators' Bill of Rights for teachers in city, parish, or other local public schools relative to disciplinary matters and provides for teachers to have the following rights:

- (1) To teach free from the fear of frivolous law suits and to be indemnified by the employing school board for disciplinary actions taken in the performance of duties of the teacher's employment as provided in state law.
- (2) To appropriately discipline students in accordance with state law.
- (3) To remove any persistently disruptive student from his classroom when the student's behavior prevents the orderly instruction of other students or when the student displays impudent or defiant behavior and to place the student in custody of the principal or his designee as provided in state law.
- (4) To have his professional judgment, discretion, and wisdom supported and respected by school and district administrators in any disciplinary action taken by the teacher in accordance with school and district policy and state law.
- (5) To teach in a safe, secure, and orderly environment that is conducive to learning and free from recognized dangers that are

causing or likely to cause serious injury in accordance with state law.

- (6) To be treated with civility and respect in accordance with state law.
- (7) To communicate with and involve parents in appropriate student disciplinary actions in accordance with state law.
- (8) To be free from excessively burdensome disciplinary paperwork.

House Bill 1686 by Representative DeWitt and others (Act 732) enacts the "Driving is a Privilege" law which requires the denial or suspension of a driver's license of a student between the ages of 14 and 18 who has been expelled or suspended for 10 or more consecutive school days, and provides that the suspension of a student that requires the suspension or denial of driving privileges includes but is not limited to suspensions for infractions which involve the sale or possession of drugs, alcohol, or other illegal substance, the possession of a firearm, or an infraction which involves assault or battery on a member of the school faculty or staff. The loss of driving privileges is for a period of one year from the date of such denial or suspension and any license suspension shall not extend beyond the licensee's 18th birthday. The measure allows a student to apply for a provisional student or family hardship certificate to drive to and from school, work, a drug or alcohol treatment counseling program, or a mental health treatment program if no other transportation is available. However, a student whose driving privileges have been denied or suspended for school disciplinary action may be eligible to reapply or to have his privileges reinstated after 6 months from the date of loss, if the student has displayed good behavior at school and has had no further violations for student misconduct.

House Bill 1923 by Representative Hudson (Act 982) creates the Teach Louisiana

First Program to provide monetary incentives to induce highly qualified teachers to teach in public schools which are either failing or are rural with academic deficiencies and in a disadvantaged area in teaching positions specified as critical to the school's improvement for which there is a shortage of qualified teachers. The bill provides for a payment of \$4000 a year for a teacher who has completed a state approved teacher training program and who is certified for and employed by a participating school board to fill such a position, who signs a contract agreeing to the terms of the program, who meets the requirements of federal law for designation as a highly qualified teacher in a Title I school, and who has held a valid Louisiana teaching certificate for at least two years prior to executing the contract. It also provides for a payment of \$6000 a year to a teacher who has completed a state approved teacher training program and who is certified for and employed by a participating school board to fill such a position, who signs a contract agreeing to the terms of the program, who meets the requirements of federal law for designation as a highly qualified teacher in a Title I school, and who has a least four years of classroom teaching experience. Maximum participation is four consecutive years and maximum payment in four years of \$24,000. Under the bill, BESE will provide for the criteria and for the decisions regarding which schools are eligible and which are selected to participate, provide the criteria to identify teachers to be "highly qualified", and identify the teaching positions which are critical to improvement in the school. The La. Office of Student Financial Assistance will administer the program insofar as managing the flow of the money and the contractual obligations regarding distribution and recovery, upon default of the money.

Vouchers

Several bills were introduced which would have established voucher programs, but each bill was defeated or deferred in the Senate or House

education committees as follows:

- **Senate Bill 1037 by Senator Hainkel (Senate committee)** would have created the Louisiana Parental Choice in Primary Education Program to provide for state payments of private school tuition for the preschool and primary grade education of children whose families meet certain income requirements. The program would have included the participation of eligible children who reside with a parent or legal guardian in Caddo, East Baton Rouge, Jefferson, Lafayette, Ouachita, or Orleans parishes.
- **Senate Bill 985 by Senator Michot and House Bill 1771 by Representative Lancaster (Senate committee)** would have established the Louisiana Parental Choice in Education Program to provide state-funded vouchers, called scholarships, or state-funded tutorial grants to the parents of any child who is either assigned to attend a public elementary or secondary school which is in Corrective Action II or III or other similar designation of a failing school made by BESE and whose family has a gross annual income of 200% or less of the federal poverty guideline or who is enrolled in a TANF-funded pre-K in either a public school or a BESE approved private school. The parent would have been eligible to place his child in any grade K-8 in: (1) either a participating public school in the same system as the failed school, or (2) a participating public school in an adjoining system, or (3) a charter school that may accept the student pursuant to its charter or (4) a participating eligible private school. The parent would have received a scholarship certificate to pay the cost of enrolling the student in a public school in an adjoining system or the charter school or to pay the cost of the private school. Additionally, the measure would have provided for a parent to receive a grant to pay for tutorial assistance for a student who remained in his original school. The bill would have established the La. Parental Choice in Education Commission as an independent state agency to manage the program.
- **Senate Bill 943 by Senator Dean (Senate committee)** would have established the La. Opportunity Scholarship Program which would have required the state to make available opportunity scholarships for attendance at participating nonpublic schools or opportunities for alternative public school enrollment as options for parents and guardians whose children are in the first through seventh grades and who attend a school found by the state accountability program to be an unacceptable. The program would have been administered by the La. Office of Student Financial Assistance.
- **House Bill 854 by Representative Bruneau (House committee)** would have established the Louisiana Education Voucher Program to provide tuition at any BESE-approved nonpublic elementary or secondary school on behalf of any school age student who is a resident of the state, to be phased-in beginning with kindergarten in the first year (2004-2005) and adding one grade each subsequent school year through full implementation in the 2016-2017 school year. The vouchers would have been paid on behalf of the student by the division of administration.
- **House Bill 1337 by Representative Crane (House committee)** would have established the Vouchers for Students in Failing

Schools Pilot Program as a 4-year program beginning with the 2004-2005 school year. The program would have been administered and implemented by the state Department of Education.

- **House Bill 1739 by Representative Tucker (House committee)** would have established the Vouchers for Students in Failing Schools Pilot Program as well, but only in certain parishes with a population of at least 475,000 persons. This program would have also been administered and implemented by the state Department of Education.

STUDENT AID AND SCHOLARSHIPS

Tuition Opportunity Program for Students

Appropriation in HB 1: \$103,833,698 million to continue full funding for TOPS

TOPS LEGISLATION (Only highlights)		
Instrument & Status	Author	Summary
SB 46 (Act 63)	McPherson	Permits, subject to certain limitations, subsequent use of TOPS awards at eligible La. institutions by otherwise qualified students who previously enrolled as first-time freshmen at an out-of-state college or university.
SB 82 Deferred, House committee	Theunissen	Would have added to the TOPS core curriculum, as an option, Agriscience I and II to the list of sciences that may be taken. The bill was deferred by the House Education Committee and a study by the Board of Regents was requested.
SB 364 (Act 214)	Theunissen	Allows a student who attended an eligible high school for the last two academic years prior to graduation to meet an alternative residency test and revises citizenship requirements for students who graduate high school during the 2002-2003 school year and thereafter to provide that a student who is a permanent resident as defined by the U.S. Immigration and Naturalization Service and eligible to apply for U.S. citizenship will satisfy the citizenship requirement for TOPS.
SB 459 (Act 220)	Cain	Provides for the eligibility of the dependent child of a military member who is not and does become a state resident, but who resides in the state under permanent change of station orders and provides that the student meets the residency requirement if he or she resides in and attends a Louisiana high school for all of his or her junior and senior years.
HB 98 (Act 81)	John Smith	Extends time for military personnel to declare La. their home of legal residence for TOPS eligibility from 60 days after reporting to 180 days after reporting for duty.
HB 278 (Failed, House floor)	Crane	Would have increased the number of high school core curriculum units, from 16 to 18 units, that must be successfully completed for eligibility for TOPS awards.

TOPS LEGISLATION (Only highlights)		
Instrument & Status	Author	Summary
SB 46 (Act 63)	McPherson	Permits, subject to certain limitations, subsequent use of TOPS awards at eligible La. institutions by otherwise qualified students who previously enrolled as first-time freshmen at an out-of-state college or university.
SB 82 Deferred, House committee	Theunissen	Would have added to the TOPS core curriculum, as an option, Agriscience I and II to the list of sciences that may be taken. The bill was deferred by the House Education Committee and a study by the Board of Regents was requested.
SB 364 (Act 214)	Theunissen	Allows a student who attended an eligible high school for the last two academic years prior to graduation to meet an alternative residency test and revises citizenship requirements for students who graduate high school during the 2002-2003 school year and thereafter to provide that a student who is a permanent resident as defined by the U.S. Immigration and Naturalization Service and eligible to apply for U.S. citizenship will satisfy the citizenship requirement for TOPS.
SB 459 (Act 220)	Cain	Provides for the eligibility of the dependent child of a military member who is not and does become a state resident, but who resides in the state under permanent change of station orders and provides that the student meets the residency requirement if he or she resides in and attends a Louisiana high school for all of his or her junior and senior years.
HB 98 (Act 81)	John Smith	Extends time for military personnel to declare La. their home of legal residence for TOPS eligibility from 60 days after reporting to 180 days after reporting for duty.
HB 278 (Failed, House floor)	Crane	Would have increased the number of high school core curriculum units, from 16 to 18 units, that must be successfully completed for eligibility for TOPS awards.

Instrument & Status	Author	Summary
HB 347 (Act 401)	G. Smith	Permits TOPS award recipients who complete an academic undergraduate degree in less than eight semesters (the maximum period for which an award may be made) to be eligible to continue receiving award benefits for any remaining semesters not used for postgraduate study at an eligible institution under certain circumstances and subject to certain limitations.
HB 439 (Act 1235)	Martiny	Effective with the 2003-2004 award year and thereafter, permits an otherwise qualified high school student who completes 10 or more honors, gifted, or advanced placement courses, or any combination of such courses, has a minimum cumulative grade point average of 3.00, and has an ACT composite score of at least 24 (or an equivalent SAT) to qualify for a Performance Award under specified circumstances including that the high school awards grades for such courses on a scale 4.0 or higher. Authority for new awards "sunsets" after the 2005-2006 school year. (<i>Performance Award, Alternate Criteria</i>).
HB 535 (House App. committee)	Bowler	Would have permitted certain students to qualify for a TOPS Opportunity Award based on academic performance while attending an eligible college or university.
HB 549 (Act 1237)	Futrell	Provides that the ACT composite score needed by certain students to be eligible for a TOPS Opportunity shall never be less than 20 (currently the state average). Also, provides, beginning with the 2001-2002 high school graduates, an additional means by which a dependent student can demonstrate residency by meeting specified enrollment and attendance criteria at certain La. high schools and the parent or legal guardian resides in a municipality having geographic boundaries that include a portion of La. and has filed a La. state income tax return or is assessed ad valorem taxes on property owned in La. Additionally makes certain minor changes relative to residency, citizenship, and other initial and continuing eligibility requirements, certain required agency rules, and eligibility for multiple awards, including technical changes to terminology to the current law.
HB 644 (House App. committee)	Crane	Would have provided alternative eligibility requirements for TOPS-Tech and Opportunity awards for certain receiving La. high school equivalency diplomas (GEDs), provided that certain requirements are met including that the student has obtained an ACT score which is at least three points higher than that required for a student graduating from a La. high school.

Instrument & Status	Author	Summary
HB 665 (deferred, Senate cmt)	Doerge	Provides for an alternative means for determining residency of certain dependent students whose parents or legal guardians reside in an adjoining state. (Provisions were amended into HB 549)
HB 1364 (House App. committee)	Honey	Would have permitted students to be eligible for a TOPS award for not more than six semesters based on meeting the continuation requirements for such award after the freshmen year at an eligible college or university.
HB 1657 (Act 1121)	Honey	Increases (for students graduating from high school during the 2007-2008 school year and thereafter) the number of units of the specified high school core curriculum that a student must successfully complete to be eligible for Opportunity, Performance, and Honors awards <u>from</u> 16 ½ units <u>to</u> 17 ½ units, increases the number of required units for certain computer courses <u>from</u> one-half unit <u>to</u> one and one-half units, and deletes provision permitting substitution of certain other courses.

Student Aid/Loan Programs

Under **Senate Bill 365 by Senator Theunissen (House calendar)**, the Louisiana Commission of Student Financial Assistance would have been given the authority to develop and maintain a comprehensive state student aid plan to support the Master Plan for Public Postsecondary Education, subject to the approval of the Board of Regents.

Senate Bill 471 by Senator Hoyt (Act 221) provides for the administration of and participation in the Student Tuition Assistance and Revenue Trust (START) program. The revision to the program adds a new category of account owner to provide a higher state match for deposits by philanthropists on behalf of needy students. It also provides that account must be open 12 months or more to earn interest, that accounts established by juridical persons may not be refunded but a new beneficiary may be designated, and provides for the presumption of abandoned property if unclaimed during a set amount of time.

House Bill 259 by Representative Winston (Act 393) repeals various student financial assistance programs that the La. Student Financial Assistance Commission is authorized to administer (some which are no longer funded but still on the books, and some which are dated programs that have been rolled into other programs), provides for the continuance of certain tuition payments, and deletes provisions relative to the review of certain applications.

House Bill 1619 by Representative Morrish (Act 885) provides for a guaranteed loan program for certain nursing students studying to be a licensed practical nurse, a registered nurse, or a nurse faculty member, and for loan forgiveness in return for service. The La. Student Financial Assistance Comm. will prescribe rules and regulations for the loan program which includes an open and competitive process for determining loan recipients. The loan amounts will not exceed the actual tuition charges per postsecondary year and such amount are to be used to defray tuition costs

of applicants. The loan must be repaid with interest to the commission by recipients, but the loan will be forgiven by the commission in return for services rendered by the recipients by practicing or teaching nursing full-time in the state.

House Bill 1941 by Representative Crane (deferred, Senate committee) would have required the Board of Regents, with input from the La. Student Financial Assistance Commission, to formulate policies with respect to student financial assistance which support the goals and objectives of the state's Master Plan for Postsecondary Education. The Regents would have been the sole agency responsible for providing advice and recommendations concerning student financial assistance policies to the governor and the legislature, and provided for certain involvement by the Regents in the rulemaking authority of the student financial assistance commission. After a discussion in Senate committee, the bill was deferred, but Senator Theunissen offered **Senate Concurrent Resolution 143 (House committee)** that would have requested the Joint Education Committee to further study the governance and oversight of student financial assistance in Louisiana. Under the Resolution, an advisory study group would have been established to advise and provide information to the joint committee for debate, and to submit a report to the legislature prior to the 2004 Regular Session.

National Guard's Youth Challenge Program

Senate Bill 607 by Senator Holden (Act 826) establishes a program providing tuition for graduates of the Louisiana National Guard's Youth Challenge Program who earn a GED and who enroll on a full-time basis in an eligible postsecondary institution to pursue skill or occupational training, including a vocational technical education certificate or diploma or nonacademic undergraduate degree. At a public institution, the state will grant an amount determined by the administering agency to equal

the actual cost of tuition; and at a regionally accredited independent LAICU institution, the state will grant an amount equal to the average grant amount paid for students attending a public institution. The student is subject to certain eligibility requirements to receive the grant award, and must meet certain continuing requirements while enrolled in order to continue receiving the award.

Postsecondary Education

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POSTSECONDARY EDUCATION

Articulation

Beginning in 2003, the Board of Regents is required to report in writing to the House and Senate education committees by Dec. 31st of each year on the extent to which course articulation goals and objectives have been achieved and the plan and time line to fully accomplish these purposes as provided in **House Bill 1470 by Representative Salter (Act 383)**. Also, students and prospective students at any state public college and university will be able to receive certain information relative to the articulation of courses among and recognition of course credit by La. public colleges and universities.

Criminal Background Checks

Senate Bill 548 by Senator Schedler (pending referral, House) would have provided that each institution of postsecondary education may require any applicant or prospective employee to supply fingerprint samples and submit to a criminal history records check to be conducted by the bureau. When a criminal history records check is requested, the institution would have been provided with state or national criminal history record information, or both, from the Bureau of Criminal Identification and Information and the FBI relative to the applicant prospective employee whose fingerprints have been obtained by the institution. In lieu of passage of this legislation, Senator Schedler offered **Senate Concurrent Resolution 99 (enrolled)** which requests the Board of Regents, in collaboration with campus officials and the Bureau of Criminal Identification and Information, to study the implementation of such postsecondary education employee background checks.

Education Finance

In current law, the Louisiana Education Quality Support Fund requires that the legislature appropriate 50% of available monies in the fund to the Board of Regents for higher educational purposes and 50% to BESE for elementary and secondary education purposes. **House Bill 573 by Representative Crane (Act 922)** adds the requirement that if appropriations are reduced from the Support Fund or monies are transferred from the Support Fund, then the total dollar amount of any resulting reductions in appropriations from that fund shall be borne equally between the appropriation for the Board of Regents and the appropriation for BESE to avoid a budget deficit.



Fees and Tuition

House Bill 401 by Representative DeWitt (Act 1023) authorizes the LSU Board of Supervisors to impose certain tuition and attendance fee amounts for students at LSU-Alexandria including fees relative to registration, laboratory courses, and international students as follows:

- (1) A tuition amount of \$973 per semester effective for the Fall, 2003 semester and an additional increase of \$167 per semester effective for the Fall, 2004 semester and thereafter.
- (2) Effective for the Fall, 2003 semester and thereafter:
 - (a) A registration fee of \$15.
 - (b) A laboratory fee of \$10 per laboratory course hour.
 - (c) A one-time international student fee of \$60.

House Bill 1236 by Representative Crane

(Act 1071) provides for specified tuition increases for certain students (\$1,500 per semester for new students seeking a DVM degree and \$750 per semester for current students seeking a DVM degree) attending the LSU School of Veterinary Medicine effective for the Fall 2003 semester and thereafter. The measure also prohibits the proceeds from the increases from being used for salaries of certain administrators.

Tuition and fee amounts in excess of those charged to resident students at any La. public college or university would have been permitted to be waived totally or partially as institutionally determined for any nonresident student who is granted an athletic scholarship, in accordance with management board policies under **House Bill 1298 by Representative LeBlanc (House, subject to call)**.

House Bill 1536 by Representative LeBlanc (Act 1105) authorizes the Board of Regents to study and formulate a state tuition and fee policy for public postsecondary education institutions. Any such policy should be developed in cooperation and consultation with the public postsecondary education management boards taking into consideration the cost of education provided by each type of institution, the proportion of such costs typically paid by students, the economic status of the citizens of the state, the overall rates of increase in public postsecondary education costs and tuition, the existing status of tuition and fees in Louisiana relative to its peer states, and other pertinent factors as may be determined by the board after consultation with the postsecondary education management boards. The policy should establish a framework for the imposition of student tuition and fees by the respective postsecondary education management board. The delegation of authority to the management boards to establish tuition and fees in accordance with policies adopted by the Board of Regents is not to be construed as authorizing the Board of Regents to set a specific tuition or fee.

The Board of Regents must submit the policy to the Joint Legislative Committee on the Budget for its review and approval and to the Joint Education Committee. Prior to the implementation of any increase in fees for tuition pursuant to such policy, the authority for such increases in the policy must be approved by the legislature by law by a 2/3 vote. Upon approval of the policy, the public postsecondary education management boards will be permitted to impose tuition and fees in accordance with the policy. The Joint Legislative Committee on the Budget must approve any tuition or fee increase which would result in the need for a legislative appropriation of additional state funds or expenditure of additional state funds which would result in a tuition and fee level for an institution which exceeds the SREB peer level for that institution.

House Bill 1556 by Representative Schwegmann (Act 963) authorizes the LSU Board of Supervisors to impose an increase in the facilities use and maintenance fee of \$60 per semester for students attending UNO effective for the Fall, 2003, semester and thereafter, provides relative to waivers for certain students, and prohibits use of fee increase for salaries of administrators. As amended in Senate committee, the measure also authorizes the SU Board of Supervisors to impose a fee increase in the facilities use and maintenance fee for a total of such fee not to exceed \$60 per semester for full-time undergraduate and graduate students at Southern University-New Orleans effective for the Fall, 2003, semester and thereafter. The measure also provides that the fee increase amount shall be applied proportionally for part-time students and for summer sessions, and specifies that the fee increase at UNO and SUNO shall not be a cost payable by the state for students who are TOPS recipients.

House Bill 1786 by Representative Alario

(Act 1132) authorizes the boards of supervisors for the Southern University System, LSU System, University of La. System, and La. Community and Technical College System to provide for the assessment of an academic excellence fee at each institution under the management and supervision of each board effective for the Fall, 2003, academic session and thereafter, to be in addition to any other tuition or attendance fees and charges established by the boards and to be used to promote academic excellence at each institution by enhancing instructional programs. The fee must not be a cost payable by the state for students who are TOPS recipients, and the use of fee proceeds must not be used to pay salaries of university or university system administrators.

As specified in the bill, the fee amount per student for institutions in the SU, LSU, and Univ. of La. systems shall not exceed \$10 per credit hour per academic session and shall not exceed \$120 per academic session and the fee amount per student for LCTCS institutions shall not to exceed \$7.50 per credit hour per academic session and not exceed \$90 per academic session (prohibits the fee from being imposed on students in an apprenticeship program).

Proprietary Schools

House Bill 456 by Representative Thompson (Act 267) provides that schools which operate over the Internet are included in the definition of proprietary schools, and adds an additional member of the Board of Regents to the Advisory Commission on Proprietary Schools.

Student Loans/Scholarships *(See also Student Aid and Scholarships legislation in the Elementary and Secondary Education Section)*

House Bill 1941 by Representative Crane (deferred, Senate committee) would have required the Board of Regents, with input from the La. Student Financial Assistance Commission, to formulate policies with respect to student financial

assistance which support the goals and objectives of the state's Master Plan for Postsecondary Education. The Regents would have been the sole agency responsible for providing advice and recommendations concerning student financial assistance policies to the governor and the legislature, and provided for certain involvement by the Regents in the rulemaking authority of the student financial assistance commission. After a discussion in Senate committee, the bill was deferred, but Senator Theunissen offered **Senate Concurrent Resolution 143 (House committee)** that requests the Joint Education Committee to further study the governance and oversight of student financial assistance in Louisiana. Under the Resolution, an advisory study group will be established to advise and provide information to the joint committee for debate. A report will be submitted to the legislature prior to the 2004 Regular Session.

Student Records

Senate Bill 362 by Senator Theunissen (Act 540) provides relative to the permitted access of a parent to view the education records of their dependent child as provided under the federal Family Educational Rights and Privacy Act (FERPA). This measure provides for the Board of Regents to require each postsecondary education management board to submit a policy from each of its institutions that provides for the notification to parents that information from an education record of a student may be disclosed to the parent of a dependent child, as defined in Section 152 of the Internal Revenue Code in compliance with the federal provisions of FERPA.

Any policy adopted by a public institution of postsecondary education must comply with the federal Family Educational Rights and Privacy Act, and include, at a minimum:

- (1) Notification to parents of the provisions of FERPA and the requirements to access a dependent child's records.

- (2) A requirement that a parent verify and document that a student is the dependent child of the parent.

Elections

by: *David Smith*
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ELECTIONS

The "dead man voting" bill is what **Senate Bill 11 by Senator Dupre (pending conference committee)** was continually referred to by the news media both local and nationally. While the label of the bill produced numerous humorous commits, the concept in reality was sound. Absentee voting is an integral part of the election process and when the electorate casts their vote they feel they have participated in America's rare and cherished institution and their action should be valid even if they die before the dead line on election night. Testimony on Senate Bill 11 by the clerks of court and the Department of Elections indicated that there was no way to canvas the obituary columns to monitor whether any voters had died between casting an absentee vote and the closing of the polls. Only where an individual has some degree of notoriety would the fact of their demise come to the attention of the authorities and have the vote pulled and voided. The bill which started with some tongue in cheek has gone through the process gained some degree of respectability in its attempt to remedy a situation wherein your vote could be canceled because you failed to survive beyond a certain date.

The process of elections starts with the notice of candidacy of an individual offering himself for public office. **House Bill 154 by Representative Pitre (withdrawn from the files of the House)** attempted to prevent someone from running for office where they may have a been a convicted felon and instituted a mechanism which

provides that a district attorney if he determines after an investigation that a candidate may be prohibited from running for office he is authorized to bring an action objecting to the candidacy of such person. The bill does provide that if the candidate is vindicated he is entitled to receive attorneys fees and court cost.



In order to continue the merger and consolidation of the Department of Elections and Registration into the office of secretary of state **House Bill 324 by Representative Lancaster (Act 317)** repeals the provision which called for the termination of the Department of Elections and Registration and the statutory entities made a part of the department and authorizes the department to continue for one more year until July 1, 2004 or until the term of office of the commissioner of elections expires whichever is earlier.

House Bill 400 by Representative Bruneau (Act 1022) requires that the notice of preclearance of a reapportionment plan must be received by the secretary of state five days before the opening if qualifying in order for the election to be held at the next upcoming election. However if the notice is not received timely the election is to be held at the next following election date. **House Bill 1211 by Representative Bruneau (Act 1220)** continues the annual omnibus bill to make continuing changes both technical and substantive to the election code in order to make corrections required by federal law and to clean up ambiguous or dated language.

In an attempt to bring younger people in to the polling place to work as commissioners where long hours and declining participants through advancing age has dangerously reduced the available pool of election commissioners **House**

Bill 1283 by Representative Lancaster (Act 422) seeks to allow high school seniors or students who are participating at the twelfth grade level in home study program approved by the State Board of Elementary and Secondary Education and who are at least seventeen years old. Current estimates are that the average age of election commissioners is over sixty-nine and concerns have been raised that some precincts would be unable to be staffed in the future.

Environment

by: *Carla Roberts*
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Senate Bill 99 by Senator Cain (Act 49), establishes the Ground Water Resources Commission in the Office of Conservation in the Department of Natural Resources. Pursuant to the Act, the Commissioner of Conservation will have the initial authority to designate an area as a "critical ground water area" in the state. The pumping of groundwater from an existing well in a critical area may be restricted. When an applicant sends notice to the Commissioner of intent to drill a new large volume well, the commissioner has 30 days to determine if the well may be drilled in a critical area and the allowable production rate. A "large volume well" is defined as a well with an existing casing size of 8 inches. Large volume wells outside a critical area may only be restricted as to well spacing. The designation of a critical groundwater area and permitting decisions made by the Commissioner of Conservation may be reviewed by the Ground Water Resources Commission.

House Bill 2022 by Representative Daniel (Act 1166), was filed in response to the Louisiana Supreme Court's decision in *Corbello vs. Iowa Production, No. 2002-C-0826 (La. 2003)*. In *Corbello*, a land owner in Calcasieu parish filed suit against Shell Oil Company to recover damages for

improper disposal of oil field waste and failure to remediate and properly restore the property after the expiration of a drilling lease. The lease called for Shell to restore the property to its original state after the lease terminated. Shell implemented a remediation plan, but the plan was unacceptable to the Corbello family and the family filed suit alleging surface damage and a potential threat to the Chicot aquifer which was underlying the land. The trial jury found Shell liable and ordered the defendant to pay \$5 million for the restoration of the surface area and \$28 million for potential aquifer contamination. The Supreme Court affirmed the trial court award and opined that "the contamination of the groundwater... is a public injury as well as a private injury." The court further



indicated a need for legislation to clarify some of the issues related to oil field waste and groundwater responsibilities.

House Bill 2022, received the support of Governor Foster, passed the legislature, and provides that if the plaintiff alleges that groundwater may be contaminated, the plaintiff will notify DEQ and DNR and they have the right to intervene in the suit. Any award for damages made for groundwater remediation are to be paid into the registry of the court and used to fund a plan which was submitted by the defendant or a court appointed expert.

Although **Senate Bill 99** and **House Bill 2022** take great steps to regulate groundwater and Senate Bill 99 uses the term "state's ground water aquifers," neither bill specifically addresses the ownership of the groundwater when it is still in the aquifer. (Correlative rights are provided for in statute which state that water once pumped to the surface becomes the property of the surface owner). The main disagreement between the parties in

Corbello was the ownership of the groundwater still in the aquifer, with the defendants arguing that it is a public resource and the plaintiff arguing that it was a private resource.

House Bill 522 by Representative Jane Smith (Act 582), provides for the revocation of the authorization to participate in the waste tire program where a generator, transporter or processor fraudulently processed illegal tires and applied for payment from the Waste Tire Management Fund. The act is aimed at addressing the past abuse to the waste tire fund by certain private individuals.

Finance

by: Jay Lueckel
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The 2003 Regular Session of the Legislature was a General Session in which the main fiscal focus was on appropriating monies supporting the operating and capital budgets. Aside from appropriations, important fiscal matters included priority programs, program efficiency, and dedicated funds. The following is a general description of the selected appropriation items passed during the session, as well as, bills dealing with other significant fiscal issues. **For highlights of HB1 as it passed the Legislature, see 'FY04 Budget Highlights' prepared by Senate Fiscal Services and transmitted July 9, 2003. Details of the finally passed budget will be forthcoming from the Senate's Fiscal staff.**

House Bill 1 by Representative LeBlanc (Act 14) provides for the ordinary operating expenses of state government for FY 2003-2004. The bill is in balance based on \$6.5 billion in State General Funds and total means of financing of \$16.8 billion. State General Funds decrease by \$152 million (-2.3%) over the current fiscal year while total expenditures increase by less than 1.5%, due primarily to various fee increases. The bill

incorporates \$142.6 million in recently approved Federal Temporary State Fiscal Relief monies; roughly \$111 million in Federal Medical Assistance Percentage (FACP.) monies; and uses \$46.4 million monies derived from the defeasance of debt in FY 2003 (authorized in Supplemental Appropriations Bill, Act 432). **Please see 'FY04 Budget Highlights' prepared by Senate Fiscal Services and transmitted July 9, 2003 for more information on the General Appropriation Act.**

House Bill 1968 by Representative LeBlanc (Act 432) provides



for supplemental appropriations for FY 2002-2003 for the operations of various departments. Funding was provided in part by the use of \$86.4 million in Budget Stabilization Funds which covered a mid-year shortfall, \$9.4 million in recently appropriated Federal Temporary State Fiscal Relief monies, and means of financing swaps from various dedicated funds. Provides for the early defeasance of \$95.4 million in state debt pursuant to a plan adopted by the State Bond

Commission. Of this total \$29 million is from the State General Fund (Direct) and \$66.4 million is from the Mineral Revenue Audit and Settlement Fund. Bill also provides for allocation of \$17.4 million in Education Excellence Fund monies to local schools which were appropriated in FY02, but remained undistributed pending settlement of the lawsuit "East Baton Rouge Parish School Board and Calcasieu School Board v. MJ Foster". Appropriation provides for distribution to public or non-public schools contingent upon rehearing of the suit.

Senate Bill 1025 by Senator Dardenne

(Act 1210) provides for securitizing the entire income stream from the tobacco settlement by the State Bond Commission, subject to approval of the Joint Legislative Committee on the Budget and a majority of the Legislature. Currently 60% of the settlement proceeds have been sold; the bill authorizes the sale of the remaining 40%. All net proceeds, less financing costs, are transferred to the Millennium Trust.



Senate Bill 346 by Senator Dardenne (Act 487) provides for DNA sampling and testing of persons convicted for or arrested for a felony. Federal funds will be used

to sample and process DNA tests of persons already incarcerated for felonies and the General Appropriation Act will need to be amended to add funding supporting DNA sampling and testing those persons who will be arrested for felonies.

Senate Bill 213 by Senator Dardenne (Act 1300) is a proposed constitutional amendment which creates the Louisiana Coastal Restoration Fund in the state treasury. The proposed amendment requires the treasurer to transfer into the fund up to 20% of the proceeds received as a result of any future securitization, based on the following criteria: 1) written certification of federal fund availability; 2) transfer from the funds only in the amounts necessary to match federal funds and not to exceed 20% in the aggregate of the securitization; and 3) transfers from the Health Excellence, Education Excellence, and TOPS funds in equal thirds.

Gaming

*by: Joe Guillory
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CHARITABLE GAMING

House Bill 162 by Representative Martiny and Senator Cravins (Act 602), provides for a state licensing system for charitable organizations conducting such games of chance and for manufacturers, and distributors, and of supplies and equipment used in such games and for lessors.

Provides that neither the secretary nor any employee of the office shall be an officer, director, or manager of any organization licensed by the state to conduct charitable games of chance or have a direct or indirect financial interest in any entity manufacturing or distributing supplies or equipment used in such games, or an interest in a commercial lessor.

Removes prohibition whereby only one booster club or parent-teacher association can be designated for each school.

Provides that in each application for a charitable gaming license there shall be designated an active member or members of the applicant under whom the game or games of chance described in the application are to be held, operated, and conducted, and such designated member shall receive mandatory training from the office of charitable gaming.

Provides that the payout for electronic video bingo machines shall be not less than 80% and not more than 94% of the total amount wagered.

House Bill 169 by Representative Baldone (Act 603), relative to charitable gaming, provides that a session represents authorized games of chance played within a time limit not to exceed six consecutive hours, with a minimum of 12 hours

between sessions. A session of keno or bingo when the licensee possesses a special license is limited to six consecutive hours. Sessions are limited to not more than one session per calendar day per licensee. Organizations are not allowed to begin their session until the stated time on their license issued by the office. Selling of pull tabs, bingo paper, or bingo cards constitutes the beginning of a session. Further provides that in no instance shall two organizations be allowed to conduct sessions simultaneously at the same location.

House Bill 270 by Representative Martiny and Senator Cravins (Act 614), relative to the regulation of charitable gaming, provides that any distributor or noncommercial lessor who owns electronic bingo machines or electronic pull-tab devices shall assign an employee or agent to be present at all times when the machines owned by that distributor or noncommercial lessor are in use. Further provides no person other than the distributor, noncommercial lessor, or his employee or agent shall pay cash winnings from their machines.

House Bill 1062 by Representative Martiny (Act 871), relative to the licensing of charitable gaming, provides that no local governing authority shall issue a license to any organization unless that organization has first obtained a license from the office of charitable gaming, Department of Revenue, and that no local governing authority shall adopt any ordinance, rule, or regulation for operating a game of chance which conflicts with the provisions of the law.

Provides that if the local governing authority decides to also license and regulate charitable raffles, bingo, and keno within its jurisdiction, it may adopt rules, regulations, and ordinances for charitable organizations to hold and operate games of chance authorized in present law and to enforce any local provisions regarding said games of chance.

Further provides that no local governing authority shall adopt any ordinance, rule or regulation for operating a game of chance which may violate any terms or provisions of the amended and renegotiated casino operating contract.

House Bill 1849 by Representative DeWitt (Act 736) authorizes the operating, holding, or conducting of progressive pull-tabs by charitable gaming licensees and provides for a maximum jackpot of \$25,000 for progressive pull-tabs.

Provides that any organization licensed to hold, operate, or conduct charitable gaming shall be authorized to hold, operate, or conduct progressive pull-tabs, but may only offer them during their licensed session and shall not network or link with other licensed charitable organizations. Further provides that the contribution per deal of pull-tabs for the progressive jackpot shall not exceed \$500. The office of charitable gaming shall adopt rules in accordance with the APA to implement the proposed law.

VIDEO POKER

Senate Bill 424 by Senator Chaisson (Act 1278) allows video draw poker devices in any licensed facility in any parish to schedule games with no minimum wager. Provided that in Orleans Parish, video draw poker devices in any facility may schedule games with such minimum wager as may be approved by the division, provided that the Louisiana Gaming Control Board determines that the game will not violate the amended and renegotiated Casino Operating Contract.

Senate Bill 477 by Senator Chaisson (Act 1279) defines "Video draw poker" as any card game approved by the division that utilizes one deck of cards per hand with multiple hands permitted per game. Provides that video draw poker devices in any licensed facility may offer multi-hand games

for play when approved by an authorized device testing laboratory and the gaming division. Requires that no multi-hand game is or may be authorized in Orleans Parish unless it has been determined by the Louisiana Gaming Control Board that permitting such game in Orleans Parish will not violate any of the terms or provisions of the amended and renegotiated Casino Operating Contract.

Senate Bill 481 by Senator Chaisson (Act 1273) provides that a video draw poker device may have a mechanism that accepts cash in the form of bills with a denomination not to exceed twenty dollars.

Senate Bill 482 by Senator Chaisson (Act 349) allows for capturing and retaining of an electronic copy of the ticket data, including, but not limited to the use of a thermal printer, and provides that the copy must be retained for two years.

Provides that licenses issued on and subsequent to July 1, 2004 shall expire on June 30 of the fifth year from the date of issuance, and that the board may establish by rule a procedure for implementation.

Provides that if a complete application for renewal of a license to operate video draw poker devices is filed with the division within 30 calendar days after the expiration of the license, the renewal application will be processed according to established procedures, however the applicant shall be subject to a \$500 penalty for late submission of the application.

Further provides that if a complete application for renewal of a license to operate video draw poker devices has not been filed with the division on or before the 30th calendar day from the date of expiration of the license, the license shall expire, and a new application, along with all

appropriate fees, shall be required to be filed.

Senate Bill 1019 by Senator C. Jones (Act 1265), provides that an original licensee, who has met the residency and domiciling requirements shall not be denied the right to renew the license by terminating their residency and domiciliary status in the state, provided that the licensee has been domiciled in this state for a period of not less than 2 years after obtaining the original license. Exempts a device owner of video draw poker devices located at an off-track wagering facility from residency and domiciliary requirements.

Deletes requirement that a device owner of video draw poker devices at any pari-mutuel wagering facility or off-track wagering facility be a publicly traded corporation under the Security and Exchange Commission of the United States to be exempt from residency and domiciliary requirements.

House Bill 409 by Representative Martiny (Act 1287), provides that a person who prevails at a hearing before a hearing officer or on appeal to the Gaming Control Board shall not be required to pay costs, excluding attorney's fees, associated with or involving the hearing or appeal.

House Bill 464 by Representative Martiny (Act 1266), provides that a person previously found suitable for licensing for the operation of video draw poker devices by the Louisiana Gaming Control Board may not be required to submit personal history and personal financial information when filing an application for an additional license to operate video draw poker devices if the Louisiana Gaming Control Board determines: (1) the person previously submitted personal history and personal financial information with an application for a license to operate video draw poker devices which is active and the person is still associated with the license; (2) the applicant

has completed an affidavit which certifies that there have been no changes to the information previously submitted when the board determined suitability; (3) the applicant has submitted any other releases, affidavits, documents, or information required by the board for the issuance of the additional license.

House Bill 1463 by Representative Townsend (Act 1289), relative to licensing requirements to operate video draw poker devices at qualified truck stops. Changes one of those requirements to allow the restaurant to be open 12 hours a day rather than 24 hours a day.

House Bill 1789 by Representative Martiny (Act 1268), provides for three categories of video draw poker employee permits, as follows: (1) Certified technician level one; (2) Certified technician level two; and (3) Designated representative. A video draw poker employee permit is not transferable and shall have a term of five years.

A person issued a video draw poker employee permit shall be found suitable and defines suitability for the purposes of issuing this permit as follows: (1) the applicant has met the suitability requirements provided for in present law; (2) the applicant can demonstrate to the division knowledge of the rules adopted by the division and applicable laws regarding the operation of video draw poker devices; (3) the applicant has attended all hearings, meetings, seminars, and training sessions required by the division.

House Bill 1965 by Representative Hopkins (pending Senate committee), would have authorized licensees to advertise and participate in promotions which are conditional upon the play of video gaming device and which may result in enhanced compensation not to exceed \$100.

House Bill 2026 by Representative

Martiny (Act 1290), provides that a device owner shall not be required to maintain a minimum balance or security in their video gaming sweep account unless that device owner has had a nonsufficient fund return within the past three years. Further provides that in the event of a nonsufficient fund return, the device owner shall be fined \$250 for the first offense, \$500 for the second offense, and for a third offense, a fine of \$1,000 or be subject to administrative action including but not limited to suspension or revocation of license, or both.

House Bill 2027 by Representative Martiny (Act 1291), provides that an applicant for a device owner license who owns and operates a pari-mutuel wagering facility or an off-track wagering facility in this state shall not be required to meet certain residency requirements for device owners.

GAMING

Senate Bill 634 by Senator Cain and Representative Johns (Act 350), redefines designated slot machine gaming area as the contiguous area of the facility determined by measuring the area, in square feet, inside the interior walls of the licensed eligible facility, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage areas, and emergency evacuation routes of any width that meet or exceed the minimum size required by law.

Senate Bill 663 by Senator Heitmeier (pending Senate conference), for purposes of the La. Gaming Control Law, excluding the Video Draw Poker Devices Control Law, would have defined a "La. business", a "La. firm", or a "La. corporation" as a business, company, or corporation which is qualified to do business in La., which has a physical presence in La. in the form of property or facilities owned or leased in La., and which employs La. residents who operate the La. business,

company, or corporation.

Further provided that if the headquarters of the business, company, or corporation is domiciled outside of La., the business, company, or corporation shall employ at least 25 employees who are residents of La. to qualify as a "La. business", "La. company", or "La. corporation".

Senate Bill 828 by Senator Bossiere (Act 352), authorizes slot machine gaming at an eligible live horse racing facility in Orleans Parish. Further provides that an application for an eligible facility in Orleans Parish may be approved by the board only after the Amended and Renegotiated Casino Operating Contract entered into pursuant to R.S. 27:201 et seq., on October 30, 1998, as amended, effective October 19, 1999, March 29, 2001, and March 31, 2001, has been further amended to provide that the inclusion, licensing, or operation of an eligible facility in Orleans Parish shall not constitute an exclusivity violation or prohibited land-based gaming as defined in such contract.

Provides that a license issued by the board to conduct slot machine gaming at an eligible facility in Orleans Parish shall be subject to the following limitations regarding the number of slot machines which may be operated at the eligible facility: (1) On or after July 1, 2003, the eligible facility shall be authorized to have a maximum of 300 slot machines at the eligible facility; (2) On or after July 1, 2004, the eligible facility shall be authorized to have a maximum of 400 slot machines at the eligible facility; (3) On or after July 1, 2005, the eligible facility shall be authorized to have a maximum of 500 slot machines at the eligible facility; and (4) At any time after July 1, 2005, in the event the gross gaming revenues of the casino gaming operator exceed \$350 million for any preceding 12-month period, the eligible facility shall be authorized to have a maximum of 700 slot machines.

Changes the dedication in Bossier Parish from the Bossier Educational Excellence Fund (BEEF) to the Bossier Parish Truancy Program Fund used by the district attorney of the 24th Judicial District.

Changes the dedication of the St. Landry Parish Excellence Fund from providing a vocational-technical high school program and curriculum to including the Louisiana Community and Technical College System as well as the school board in using money in the fund to construct and operate a Career and Technology Center in the parish.

FUNDS AND FUNDING

House Bill 583 by Representative Farrar, et al, (Act 1305), proposed constitutional amendment requires annual appropriation of available monies in the Lottery Proceeds Fund solely for the purposes of the minimum foundation program and up to \$500,000 for services related to compulsive and problem gaming as may be provided by law.

House Bill 844 by Representative Farrar, et al, (pending final passage) would have been the statutory enactment of constitutional amendment proposed by HB 583 which would have required an annual appropriation to the minimum foundation program of all monies remaining in the Lottery Proceeds Fund which are available for appropriation after the distribution of up to \$500,000 to the Compulsive and Problem Gaming Fund.

House Bill 1776 by Representative Montgomery (Act 1258), changes the distribution of certain revenues received by the state for deposit in the Pari-mutuel Live Racing Facility Gaming Control Fund (slots at the tracks) from Bossier Parish to support truancy program in the D.A.'s office for the 26th JDC and for St. Landry Parish to construct and/or operate a Career and Technology

Center.

House Bill 1944 by Representative Montgomery (Act 1222), deletes the Bossier Parish Juvenile Detention Center from allocation of funds from river boats initially licensed for operation after January 1, 1997.

Further provides that in Bossier Parish, as to river boats which were initially licensed before January 1, 1997, if the local governing authority of the municipality of Bossier City levies and collects an admission fee of \$3, or the equivalent, the funds derived from this fee, or the equivalent, shall be allocated as follows: (1) \$2, or the equivalent, to the city of Bossier City; (2) 50¢, or the equivalent, to the parish road fund for Airline Drive; (3) 21¢, or the equivalent, to the Bossier Education Excellence Fund; (4) 14¢, or the equivalent, to the sheriff's office; (5) 10¢, or the equivalent, to the Greater Bossier Economic Development Foundation; and (6) 5¢, or the equivalent, to the Johnny Gray Jones Youth Shelter.

GAMBLING

House Bill 795 by Representative Martiny (conference committee), would have provided comprehensive revision of the La. Gaming Control Act.

Would have required key and non-key gaming employees to be 21 years of age or older. Prohibits allowing persons under the age of 21 to play or operate a slot machine at an eligible facility offering live horse racing. Provides that a gaming licensee or operator, or a specifically authorized employee or agent of a gaming licensee or operator, may use reasonable force to detain a person for questioning on the premises of the gaming establishment, for a length of time not to exceed 60 minutes, when he has reasonable cause to believe that the person has violated law regarding the underage gaming provisions. Further provides that the licensee or operator or his employee or agent

may also detain such a person for arrest by a peace officer. The detention shall not constitute an arrest.

Would have created the crime of the use of slugs or counterfeit chips or tokens and the manufacture, sale, or distribution of gaming materials intended for illegal use.

Would have established a phase out formula for the number of slot machines which offer the game of poker for operation of play at eligible facilities where slot machine gaming is being conducted on June 1, 2003.

Would have created the St. Landry Parish Economic Development Authority.

House Bill 1940 by Representative Wooten (Act 1155) relative to the licensing and regulation of gaming activities and operations by the Louisiana Gaming Control Board.

Provides that civil penalties imposed by the gaming control board apply to the land-based casino and live horse racing facilities.

Deletes the provision of law requiring the Louisiana Gaming Control Board to conduct meetings exclusively in the capitol complex, and provides that the board can arrange for a location for meetings in the parish of East Baton Rouge.

Deletes the provision of law requiring the presence of an agent of the Louisiana Gaming Control Board to be present at all times during the hours of operation at the land-based casino.

Health & Hospitals

by: *Mary O'Brien*
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HEALTH CARE PROGRAMS/SERVICES

Medicaid/Optional Prescription Drug Program

Several bills were directed at limiting or restructuring the Preferred Drug List/Prior Authorization program that the Department of Health and Hospitals currently has in place. **Senate Bill 388 by Senator Schedler and House Bill 957 by Representative Welch** contained language to restrict the ability of the department to require prior authorization for prescription medications to treat HIV/AIDS and schizophrenia (atypical antipsychotics). **SB 388** was signed into law by the governor (**Act 1264**). Other attempts to restrict the department's flexibility in this area were unsuccessful.

Mental Health, Developmental Disabilities, and Addictive Disorders

Senate Bill 1131 by Senator Schedler (Act 254) establishes a framework for the reorganization of service networks for the delivery of services for mental health, developmental disabilities and addictive disorders to Medicaid recipients. **House Bill 954 by Representative Winston (Act 594)** establishes the Florida Parishes Human Services District, compatible with the framework for reorganization in SB 679, to provide MH, DD, and AD services in the Florida parishes area.

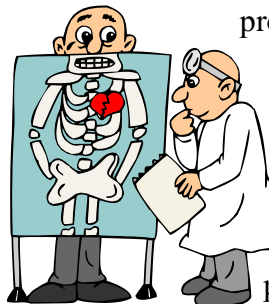
The Department of Health and Hospitals

DHH was re-created prior to its sunset in 2004 in **Senate Bill 263 by Senator Schedler (Act 205)**.

Uninsured

DHH will seek a Health Insurance Flexibility and Accountability waiver from the Center for Medicare and Medicaid Services in order to establish innovative ways to provide insurance for the nearly twenty percent of Louisianians who have no medical insurance according to **Senate Bill 382 by Senator Schedler (Act 813)**. The

department intends to implement several strategies, including a plan to help employers provide low-cost insurance for their employees with a minimum expenditure by the employees themselves. A grant from HRSA is currently being sought to defray the cost of designing the program and of initial implementation of such a program or programs.



Elderly

Senate Bill 964 by Senator B. Jones (Act 244) details the process for obtaining emergency protective orders relative to the abuse and neglect of adults. Emergency plans for situations not necessitating evacuation will be required of adult residential homes according to **Senate Bill 116 by Senator Dardenne (Act 301)**.

Bioterrorism and Health Emergencies

The requirements for determining a state of health emergency, who declares the emergency, how long such a state of emergency may last and the powers and responsibilities of various segments of government are all set out in Louisiana's version of the Model State Emergency Health Powers Act, introduced as **Senate Bill 908 by Senator Hainkel (Act 1206)**. The Act provides clear guidelines for both health and safety operations in the case of a bioterrorist attack or the outbreak of a serious contagious disease within the state.

Exceptional Persons

A Medicaid Buy-in program for the working disabled was approved by **Senate Bill 305 by Senator Schedler with co-authors Bajoie and B. Jones (Act 207)**. Previously, those who will now qualify for this program would have had to choose between working and Medicaid coverage for their significant health issues. This program allows the working disabled to pay a premium and maintain their Medicaid coverage.

Medicaid Estate Recovery

The Department of Health and Hospitals is mandated to develop an estate recovery program that would be in compliance with federal mandates from the Center for Medicare and Medicaid Services by enactment of statutory provisions contained in **Senate Bill 612 by Senator B. Jones (Act 226)**.

HEALTH CARE FACILITIES

- **LSU-HSC/HCSO.** The LSU Health Sciences Center-Health Care Services Division (Charity hospital system) will be reorganized and granted increased flexibility if the governor signs **Senate Bill 867 by Senator Schedler (Act 906)**. The bill ends Louisiana's historic preference for those unable to pay for health care and replaces it with options to collect fees from patients whose income is more than two hundred percent of the federal poverty limits. The bill also grants to the remainder of the charity hospital system, the flexibility enjoyed by the Health Care Services Division-Shreveport, which has proved to be a successful formula.

- **DHH Regulation.** **Senate Bill 238 by Senator Schedler (Act 201)** provides a broad definition for "facilities" which the Department of Health and Hospitals may declare to be in violation of regulations and provides for administrative remedies.

- **Moratoria.** **Senate Bill 500 by Senator Schedler (Act 1191)**, extends the current moratoria on mental health clinics, home health agencies and nursing home beds was extended until July 1, 200. A moratorium was also placed on the licensure of new methadone treatment clinics by **Senate Bill by Senator Schedler (Act 242)**.

HEALTH CARE PROVIDERS

- **Registered Nurses.** RN's were cleared to conduct utilization review under the direction of a physician under the provisions of **House Bill 1826**

by **Representative Durand (Act 673)**.

- **Acupuncturist's Assistants.** Those who practice acupuncture in Louisiana will no longer have to practice in the physical presence of a physician who, himself, is also trained in acupuncture. **Senate Bill 798 by Senator Bajoie (Act 62)** provides that acupuncturist's assistants will only need to be under the direction of a physician to conduct this treatment.

- **Pharmacists.** **House Bill 1018 by Representative Johns (Act 1052)** authorizes the Board of Pharmacy to require criminal history checks and drug screens for applicants for licensure as a pharmacist.

- **Physical Therapists.** **Senate Bill 793 by Senator B. Jones (withdrawn) and House Bill 982 by Representative Welch** both sought to allow physical therapy services without prescription or referral in the following limited circumstances: (1) for a child that is developmentally disabled, in accordance with the plan of care, (2) for a home health or nursing home patient, in accordance with their plan of care, (3) for wellness, conditioning or stress relieving purposes, and (4) for a previously diagnosed condition or injury when the treating physician is initially notified and a plan of care is delivered to the physician within fifteen days of the beginning of treatment. The bills were declared duplicates and **House Bill 982** was sent to the governor for signature, but became law without the approval of the governor (**Act 1269**).

- **Regulation.** Supervising of those involved in the delivery of health care to Louisiana's citizens was the topic for three bills which were signed by the governor. All three bills are by **Senator Schedler.** **Senate Bill 306 (Act 208)** deals with disciplinary hearings for emergency medical technicians, **Senate Bill 310 (Act 209)** deals with disciplinary panels before the Board of Medical Examiners and **Senate Bill 311 (Act 210)**

relates to the licensure of nursing home administrators.

•**Mental Health Rehabilitation. Senate Bill 974 by Senator Schedler (Act 246)** provides that all providers of mental health rehabilitation services must be accredited by an organization that is nationally recognized in the field. DHH is to promulgate rules to create the process of mandating accreditation.

DISEASE CONTROL AND PREVENTION

• **Smoking.** The issue of smoking in public places were the focus of two bills by Senator Johnson. **Senate Bill 901 by Senator Johnson (Act 515)** provides for local ordinances regarding smoking that are more stringent than current state provisions and **Senate Bill 869 by Senator Johnson (Act 772)** prohibits smoking in all areas of the Superdome.

Homeland Security Military Affairs

by: *Heyward Jeffers*
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CONGRESS

Funds/Funding. In an attempt to gain federal dollars that have been promised the states to support their homeland security efforts, **Senate Concurrent Resolution 22 by Senator Hainkel (enrolled)** memorializes the United State Congress to appropriate for and expedite funding of state and local homeland security activities. The measure was approved by both the house and senate and was then filed with the secretary of state, who will send it to the United States House of Representatives and each member of the Louisiana congressional delegation. **House Bill 1902 by Representative Perkins (House committee)** was another attempt to gain federal funding for homeland security. The bill

would have required the federal office of homeland security and emergency preparedness within the Department of the Military to establish a medical distribution system on a rotating basis for the distribution of antibiotics. The 2003 Regular Session ended with the bill bottled up in the House Committee on Judiciary and is dead for this year.

LOUISIANA NATIONAL GUARD

Military Police Training. House Bill 1142 by Representataive Downer (Act 1063) authorizes the P.O.S.T. council to suspend training requirements for peace officers as they apply to designated Louisiana National Guard military police officers during times of war, heightened national security alert, or as specified by the United States Department of Homeland Security.

MILITARY MUSEUMS

Governing Board. Senate Bill 1033 by Senator Bill Jones (Act 786) establishes the Louisiana Military Museum and provides that it be domiciled in Lincoln Parish. The mission of the museum is to be a historical, cultural, scientific, technological and educational institution with a primary purpose to research, collect preserve, and present, as an educational resource, documents, artifacts, and objects of art that reflect the social, cultural and economic history of the military with an emphasis on the role of the citizens of Louisiana. The Act also creates a 13-member governing board, provides for the powers of the board, places the board and museum under the control of the Department of State.

PUBLIC RECORDS

Pipeline Security. House Bill 1096 by Representative Thompson (Act 658) exempts certain records contained in pipeline security procedures developed to prevent terrorist-related threats or activities. It specifically exempts



any records, data, writings, accounts, reports, letters, exhibits, pictures, photographs, drawings, charts, maps, e-mail, or copies or memoranda, written and oral, in the office of conservation, contained in such pipeline security procedures, including physical security information, proprietary information, vulnerability assessments, operations plans and analysis of such information and internal security information.

MILITARY BURIAL

Military Funeral Honors Program. **Senate Bill 343 by McPherson (pending House committee)** would have created the Military Funeral Honors Program and provided that the program be administered by the adjutant general of the Louisiana National Guard. The bill provided that the adjutant general promulgate rules and regulations for rendering of military honors for veterans of the armed forces of the United States of America who served honorably in time of war or peace and for governors, past and present, of Louisiana. The bill died when it stalled in the House Committee on the Judiciary as the session headed for final adjournment.

MILITARY AFFAIRS

Office of Homeland Security and Emergency Preparedness. **House Bill 942 by Representative Downer (Act 40)** redesignates the Military Department, office of emergency preparedness as the office of homeland security and emergency. It also provides that the Military Department of the state shall be composed of the Louisiana National Guard, Louisiana State Guard, the unorganized militia, military police forces, and the office of homeland security and emergency preparedness. It also gives the Louisiana National Guard and military police law enforcement authority in response to state and national emergencies, including congressional authorization or presidential declaration pursuant to the federal War Powers Resolution.

Group Health Coverage. **House Bill 157 by Representative Downer (Act 359)** clarifies the reinstatement rights of employees called to active military duty. The Act provides that any employee who leaves employment to perform active service in the armed forces and who reapplies for coverage, after release, shall be reinstated with the group insurance program or medical and health care coverage without any clause or restriction because of a preexisting condition. The Act further provides that eligible dependents shall also be reinstated to the medical program.

Pay Differential After Military Service. **House Bill 709 by Representative Downer (Act 327)** provides for differential pay for state employees called to active duty in the uniformed services. It provides that after military leave with pay provided for in R.S. 42:394 has been exhausted, any state employee called to active duty service in the uniformed services of the United States pursuant to a declaration of war, congressional authorization or presidential proclamation pursuant to the federal War Powers Resolution, or national emergency who military base pay is less than his state base pay shall be paid the difference between his military base pay and his state base pay in his regular position.

Human Resources

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EMPLOYMENT

House Bill 429 by Representative Pitre (Act 853) provides that any employer who has conducted a background check of an employee or prospective employee after having obtained written consent from the employee or prospective employee or at the request of the owner or operator of any facility where the employer performs or may perform all or part of its work shall be immune from civil liability for any and all claims arising out of the disclosure of the background information obtained. This limitation of liability shall extend to all claims of the employee based upon failure to hire, wrongful termination, and invasion of privacy, as well as all claims of any owner, operator, or any third person for claims of negligent hiring or negligent retention.

Senate Bill 801 by Senator Marionneaux (Act 796) authorizes an employer to obtain conviction records of an applicant seeking employment, directly from the Bureau of Criminal Identification and Information in order to further qualify the applicant for the position being sought, if the applicant has signed a consent form authorizing the employer to obtain such conviction records.

Senate Bill 940 by Senator C. Jones (Act 516) provides for customized training to the present employees of a business or employees of an industry, deemed by the corporation or industry to be in need of training to prevent job loss caused by obsolete skills, technological change, or national or global competition. Such training shall be suited to the needs of the employees of the business or industry and may exceed Occupational Safety and Health Administration standards but must meet the minimum standards where applicable.

PUBLIC EMPLOYEES

Senate Bill 889 by Senator Hainkel (Act 240) provides for removal of public employees for conviction of a felony.

EMPLOYMENT OF MINORS

House Bill 1643 by Representative Guillory (Act 671) revises provisions relative to the employment of minors.



EMPLOYMENT/W AGES

House Bill 1031 by Representative Tucker (Act 699) provides that when an employee separates from employment, regardless of reason, the employer shall pay the amount due, whether the employment is by the hour, day, week, or month, on or before the next regular payday for the pay cycle during which the employee was working at the time of separation or no later than 15 days after separation, whichever occurs first.

House Bill 1097 by Representative Pitre (Act 702) requires an employee's consent to release wage records and information.

PUBLIC RECORDS

House Bill 695 by Representative Martiny (Act 326) provides that information in the personnel records of a public employee regarding the name and account number of any financial institution to which the employee's wages or salary are directly deposited shall be confidential. Also provides that both the social security number and financial institution information of such an employee shall be confidential unless disclosure of such information is required by any provision of law.

ETHICS CODE

House Bill 360 by Representative

Bruneau (Act 913) allows anyone whose employment is lawful under the nepotism provisions of the Code of Governmental Ethics on the date of his retirement to be reemployed without violation of such provisions.

RETIREMENT/STATE EMPLOYEES

House Bill 138 by Representative Triche (vetoed) would have provided for early retirement of members of the Louisiana State Employees' Retirement System (LASERS) who have attained age 50 and have at least 10 years of service credit. Limits such retirement to the period from the Act's effective date through 12/31/03 and required actuarial reduction of benefits. Also required that positions in state government so vacated shall be abolished and shall not be reestablished except in accordance with procedures in the Act.

House Bill 410 by Representative McVea (Act 1234) allows a LASERS member who has received a refund of contributions from the Employees' Retirement System of Baton Rouge to pay funds directly to LASERS for all or any portion of service credit accrued in the Employees' Retirement System of Baton Rouge by paying the actuarial value of such purchase.

House Bill 986 by Representative Murray (Act 866) allows a member of the Louisiana State Employees' Retirement System (LASERS) to purchase service credit for time on leave without pay.

EMPLOYMENT/DRUG TESTING

House Bill 1642 by Representative Guillory (Act 730) provides for the withholding of wages for medical and/or drug testing under certain circumstances.

Information Technology

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AIRCRAFT/AVIATION

Senate Bill 712 by Senator Theunissen (Pending Senate Transportation Committee) would have required the registration of towers below 200 feet, the creation of an inventory of tower locations, and the promulgation of the inventory by the Department of Transportation and Development on its website, which would allow users to find towers

registered in any particular geographical area in a convenient and uncomplicated manner.



House Bill 1695 by Representative Faucheux (Pending House Transportation Committee) would have

required the registration of towers below 200 feet, the creation of an inventory of tower locations, and the promulgation of the inventory by the Department of Transportation and Development on its website, which would allow users to find towers registered in any particular geographical area in a convenient and uncomplicated manner.

CAMPAIGN FINANCE

House Bill 1970 by Representative Arnold (Pending House Governmental Affairs Committee) would have provided for the Board of Ethics to post on the Internet any campaign finance reports or forms that are filed electronically no sooner than five business days after the deadline for filing.

CHILDREN/SUPPORT

House Bill 1227 by Representative Bowler (Act 1068) provides for child support programs and authorizes the Department of Social Services to enter into agreements with financial institutions to develop and operate a data match system, using automated data exchange to the maximum extent feasible.

COMMITTEE STUDIES

Senate Concurrent Resolution 21 by Senator Michot (enrolled) creates a special committee to develop recommendations for standards of records management technologies for clerks of courts' offices.

CREDIT/CONSUMER

House Bill 685 by Representative Pinac (Act 645) allows premium finance insurance companies to send notices of cancellation and other communications via electronic mail.

CRIME/PUNISHMENT

Senate Bill 863 by Senator Dardenne (Act 237) expands the definition of obscenity to include materials electronically communicated over the Internet. Requires the term "ADV-ADULT" at the beginning of the subject line of the advertisement of an electronic communication.

DWI

House Bill 1026 by Representative Scalise (Pending Administration of Criminal Justice Committee) would have created the Impaired Driver Tracking System to assist law enforcement agencies, courts, prosecutors, and the Department of Public Safety and Corrections in investigating, prosecuting, and disposing of impaired driving cases effectively.

ELECTIONS

House Bill 1211 by Representative Bruneau (Act 1220) makes numerous changes to the Election Code, including but not limited to: adopting rules and regulations with respect to any records, data, and information required for registration; providing for the commissioner of elections to prepare uniform lists of voters; allowing the use of computer-generated forms for registration; permitting electronically captured signatures when the application is completed at the office of motor vehicles.

House Concurrent Resolution 4 by **Representative Faucheux (Rejected Senate Final Passage)** would have requested the Secretary of State to study Internet voting and report his findings to the legislature by the 2004 Regular Session.

House Concurrent Resolution 40 by **Representative Waddell (Pending Senate Governmental Affairs Committee)** would have requested the Department of State and the Department of Elections and Registration to develop and implement a system for providing voting information on the Internet, such system to provide relevant information about a voter's precinct, polling place, and election districts, and the public offices filled by election from such districts.

ETHICS

Senate Bill 256 by **Senator Dardenne (Act 203)** requires the Board of Ethics to maintain a website that allows the public to review disclosure reports filed with the board, agendas of board meetings, and opinions and decision rendered by the board.

House Bill 317 by **Representative DeWitt (Pending House and Governmental Affairs Committee)** would have required the Board of Ethics to maintain a website that allows the public to review disclosure reports filed with the board, agendas of board meetings, and opinions and decision rendered by the board.

ENVIRONMENTAL HEALTH

Senate Bill 582 by **Senator Marionneaux (Pending House Environment Committee)** would have required mandatory notification of residents affected by any environmental contamination that occurs, which has adverse affects on people, and provides for the notice of such contamination on state department websites.

EVIDENCE

House Bill 1808 by **Representative Johns (Act 1135)** designates data copied or stored in portable or hand-held computers as "original" for evidentiary purposes.

House Bill 1856 by **Representative LaFleur (Act 675)** provides that in prosecutions for issuing worthless checks the prosecutor may enter into evidence the original check, draft, or order, or may introduce copies, or electronic reproductions, which are made and stored in accordance with the requirements for banking records, and which are certified by the appropriate officer of the bank or other depository.

House Concurrent Resolution 168 by **Representative J.D. Smith (Subject to Call Senate Calendar)** would have requested the Judicial Council of the Louisiana Supreme Court to study the feasibility of the introduction into evidence transcripts stored or transferred by electronic means.

HEALTH

House Bill 1713 by **Representative Townsend (Pending House Health and Welfare Committee)** would have required public disclosure of medical costs and charges ("Public Disclosure of Medical Costs and Charges Act"), including publishing a complete copy of the hospital's charge description master on its Internet website available for downloading.

INTERNET

Senate Bill 90 by **Senator McPherson (Subject to Call House Calendar)** would have enacted the Internet Electronic Mail Solicitation Relief Act of 2003, to allow residential or business Internet electronic mail subscribers to be placed on a "no junk mail" listing maintained by the Public Service Commission indicating that the subscriber does not wish to receive electronic mail solicitations. Would have required the Public

Service Commission to update the list quarterly and provide the list to electronic mail solicitors for a fee.

Senate Concurrent Resolution 91 by Senator Ellington (enrolled) creates the Task Force of Louisiana Rural Internet Access to study and report on the availability of high-speed Internet access in Louisiana's rural communities.

House Bill 743 by Representative Pinac (Pending House Commerce Committee) would have created the Louisiana Rural Internet Access Commission, and provided the commission shall implement strategies to close the digital divide and expand economic development in rural areas.

House Bill 1468 by Representative Schwegmann (Act 1221) requires the Department of Wildlife and Fisheries to promulgate rules and regulations that control the importation and possession of nonhuman primates and nonindigenous reptiles, including Internet purchases of such animals.

House Concurrent Resolution 97 by Representative Gallot (Pending Senate Final Passage) would have requested the Department of Economic Development to develop and add a rural development link to its website.

LEGISLATIVE AGENCIES

Senate Bill 1104 by Senator Hollis (Pending House and Governmental Affairs Committee) would have created and provided for the Joint Legislative Committee on Science and Technology to promote state policy regarding the development of science and technology.

House Bill 1936 by Representative Michael Jackson (Pending House and Governmental Affairs Committee) would have created and provided for the Joint Legislative Committee on Science and Technology to promote

state policy regarding the development of science and technology.

LEGISLATIVE POWERS/FUNCTIONS

Senate Bill 623 by Senator Mount (Act 827) requires e-mail notification to all members of the legislature of reports made to the legislature, and provides that such reports be made available electronically. Also provides that the David R. Poynter Legislative Research Library distributes a list of such reports to the members of the legislature via printed and electronic copy.

LIABILITY

Senate Bill 691 by Senator Ullo (Act 59) exempts from liability certain participants of the "Amber Alert" program, including but not limited to the Louisiana Lottery Corporation and the National Emergency Alert System (EAS).

House Bill 519 by Representative Johns (Pending Senate Judiciary A Committee) would have exempted from liability certain participants of the "Amber Alert" program, including but not limited to the Louisiana Lottery Corporation and the National Emergency Alert System (EAS).

House Bill 1109 by Representative Martiny (Pending House Judiciary Committee) would have provided an exception to the provisions governing confidentiality of information pertaining to juvenile crime victims for purposes of child abduction alert systems, such as AMBER Alert.

LOCAL AGENCIES

Senate Bill 693 by Senator Ullo (Act 542) requires local governing authorities to notify area legislators by facsimile, certified mail and/or electronic mail prior to hearings regarding a facility that stores hazardous material.

LOTTERIES

Senate Bill 686 by Senator Ullo (Act 229) provides that lottery ticket terminals statewide shall be utilized to assist the “Amber Alert” system in communicating information concerning child abductions.

MOTOR VEHICLES

House Bill 450 by Representative Downer (Act 373) requires the Office of Motor Vehicles (OMV) to register certain persons with the federal Selective Service System and requires OMV to forward to the Selective Service System, in electronic format, the necessary personal information required for registration.

House Bill 461 by Representative Diez (Act 917) changes the definition of “used motor vehicle dealer” to include vehicles sold over the Internet, if the person sells five or more used motor vehicles in any twelve-month period.

House Bill 769 by Representative Diez (Act 417) provides for the renewal of an expired Class “D” or “E” driver’s license by mail or electronic mail under certain conditions.

NOTARIES

House Bill 855 by Representative Bruneau (Pending Civil Law and Procedure Committee) creates the Louisiana Notary Public Examination and Standards Commission and requires the Secretary of State to develop and maintain an accurate database of all notaries in this state and assign to each notary a unique “notary identification number.”

House Bill 1854 by Representative Bowler (Act 1142) establishes uniform standards for notary examinations and notary identification numbers, and requires the Secretary of State to develop and maintain an accurate database of all notaries in this state and assign to each notary a unique “notary identification number.”

NURSING HOMES

House Bill 99 by Representative Broome (Pending House Health and Welfare Committee) would have permitted a nursing home resident or the resident’s legal representative to monitor the resident through the use of electronic monitoring devices, including but not limited to Internet video surveillance devices.

House Concurrent Resolution 206 by Representative Broome (enrolled) provides for the implementation of a pilot program to study the practicality of installing electronic monitoring devices in nursing home facilities.

PRINTING

Senate Bill 1125 by Senator Cain (Pending Senate and Governmental Affairs Committee) would have prohibited any branch, department, agency, official, employee, or any political subdivision from knowingly and intentionally printing or distributing material containing illegal, false or fraudulent information, including but not limited to electronic mail, Internet, or website posting.

PUBLIC CONTRACTS

Senate Bill 89 by Senator McPherson (vetoed) would have required the commissioner of administration to designate a goal for awarding a portion of anticipated total state procurement of data processing equipment and software to small businesses, to encourage small business to bid on supplying data processing equipment.

PUBLIC RECORDS

House Bill 937 by Representative Quezairé (Pending House and Governmental Affairs Committee) would have provided that a local governmental entity can require that a party requesting geographic information system (GIS) data sign a statement expressly agreeing not to sell, donate, or in any manner transfer the information or data to any third party and agreeing or recognizing

other specified limitations.

REVENUE

House Bill 1741 by Representative Pinac (Act 1128) provides for the regulation of the sale of cigarettes through means of telephone, mail, or the Internet when delivery is made in Louisiana to ensure that the person purchasing the cigarettes is of legal age and that all applicable taxes are paid.

House Bill 1752 by Representative Pinac (Pending House Judiciary Committee) would have revised provisions relative to the tax on cigarettes, that deal with the illicit sale of cigarettes, and provides for the regulation of the sale of cigarettes by means of telephone, mail or Internet sales, when delivery is made in Louisiana.

SCHOOLS

House Bill 456 by Representative Thompson (Act 267) provides that schools which operate over the Internet are included in the definition of proprietary schools.

TAX/TAXATION

Senate Bill 551 by Senator Bill Jones (Act 73) enacts the Uniform Local Sales Tax Code, requires local sales tax to be administered in conformity with such provisions, provides for certain uniform regulations and electronic returns and remittance.

Senate Bill 719 by Senator Bill Jones (Pending Revenue & Fiscal Affairs Committee) would have provided for a Uniform Electronic Local Return and Remittance System for local sales tax.

House Bill 579 by Representative Daniel (Pending Ways and Means Committee) would have required the Louisiana Tax Commission to create a statewide ad valorem tax assessment database for public viewing on the Internet, to

include information on location, owner, assessed value, and other information.

House Bill 1379 by Representative Landrieu (Pending Ways and Means Committee) would have enacted the Uniform Local Sales Tax Code, required local sales tax to be administered in conformity with such provisions, provided for certain uniform regulations and electronic returns and remittance.

TECHNOLOGY

House Bill 90 by Representative Gary Smith (Pending House Commerce Committee) would have prohibited the transmission of unsolicited commercial electronic mail advertisements, unless such advertisements contain a toll-free number or sender-operated return e-mail address allowing the recipient to be removed from the list to receive further advertisements. Required the subject line of such advertisements to contain "ADV:" or "ADV:ADLT" for adult advertisements.

House Bill 1027 by Representative Scalise (Pending House Commerce Committee) would have required unsolicited commercial electronic mail messages to contain information that identifies them as advertisements, and further requires that such messages contain a mechanism whereby the recipient may remove himself from the sender's address list. Would have required the Louisiana Public Service Commission to establish a "do no spam" listing of e-mail subscribers who no longer wish to receive spam.

House Bill 1151 by Representative Hunter (Pending House Commerce Committee) would have created a "do not spam" listing of Internet electronic mail subscribers who do not wish to receive electronic mail solicitations. Would have provided that the Louisiana Public Service Commission shall administer the listing and enforce the provisions of the "Internet Electronic Mail Solicitation Relief Act of 2003."

House Bill 2015 by Representative LaFleur (Act 1275) prohibits a person from sending unsolicited commercial electronic mail advertisements from Louisiana or to a Louisiana address, and provides that if this provision is held invalid, then senders of unsolicited e-mail advertisements must make certain disclosures to recipients.

TELECOMMUNICATIONS

House Bill 1183 by Representative Pinac (Act 114) authorizes the Public Service Commission to research the establishment of a statewide regionally based "211" information and referral telephone system.

VIDEO POKER

Senate Bill 482 by Senator Chaisson (Act 349) provides for the use of thermal printers in video gaming devices and other alternate means of capturing duplicate information of a ticket voucher.

Insurance

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AUTOMOBILE INSURANCE

Act 1256 (House Bill 1448 by Representative Hebert)

and Senate Bill 56 by Senators Fields and Boissiere (Subject to Call - Pending House Final Passage) limit the use of credit information by insurance companies for the



issuance, denial, cancellation, and nonrenewal of personal insurance policies, including homeowners' and automobile insurance. In its original form, Senate Bill 56 contained a complete ban on the use of credit scoring to determine insurance premiums, but a compromise proposal now limits the use of credit scoring only in certain instances. Both measures prohibit insurance companies from denying, canceling, or nonrenewing a policy based solely on credit scores.

HEALTH INSURANCE

Act 816 (Senate Bill 408 by Senate Gautreaux) requires health insurance and HMO coverage for hearing aids for a child under the age of eighteen if the hearing aids are fitted and dispensed by a licensed audiologist or hearing aid specialist following medical clearance by a physician licensed to practice medicine and an audiological evaluation medically appropriate to the age of the child. Under the measure benefits are limited to \$1,400 per hearing aid for each hearing-impaired ear every 36 months. Insurers are not prohibited from providing coverage that is greater or more favorable to the insured or enrolled individual.

Senate Bill 958 by Senator Irons (Withdrawn from the files of the Senate) would

require any health insurance policy which provides coverage for prescription drugs to cover prescription birth control drugs approved by the United States Food and Drug Administration. This proposal provides an exemption for religious employers and excludes coverage for any antiprogesterin or other abortifacient class drug.

Act 1115 (House Bill 1606 by Representatives Morrish and Faucheux) places a moratorium on additional mandated health insurance benefits and options beyond the current statutory requirements. The act does not prohibit a health insurance issuer from electing to expand coverage on any group or individual health benefit plan. The moratorium is effective beginning January 1, 2004 and runs through December 31, 2008.

PROPERTY AND CASUALTY INSURANCE

Act 351 (Senate Bill 721 by Senators Hainkel and Cravins) implements a flexible rating process for property and casualty insurance rates and allows insurers to adjust their rates for property and casualty insurance by up to 10% above or 10% below the rate in effect without prior approval by the Louisiana Insurance Rating Commission. The filing and rate changes within the limitations are subject only to the authority of the commissioner of insurance. The Louisiana Insurance Rating Commission is required to submit a report to the legislature highlighting the impact of the flexible rating process on or before February 1, 2008.

Act 1133 (House Bill 1788 by Representative Morrish and Senator Dardenne) creates the Louisiana Citizens Property Insurance Corporation to operate and manage the FAIR and Coastal plans. The FAIR and Coastal plans are recreated to continue to function exclusively as residual market mechanisms to provide essential property insurance for good faith applicants who are unable to procure insurance through the voluntary market. The corporation is authorized to

assess insurers participating in the FAIR and Coastal plans to remedy any deficit in the plans and to use the revenue stream from assessments to bond payments to remedy deficit situations.

INSURANCE GENERALLY

Act 994 (House Bill 1476 by Representatives Hebert, Fruge, and Bowler) allows unauthorized insurers, or surplus line insurers, to file lawsuits and enter pleadings without posting a bond if the insurer is placed on the Department of Insurance's list of approved unauthorized insurers, generally referred to as the "white list". Presently, all unauthorized insurers are required to post bonds, with no distinction for unauthorized insurers placed on the "white list".

Judiciary

*by: Tom Wade
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COURTS

Senate Bill 108 by Senator Hoyt (Act 803) authorizes each judicial district to establish job intervention programs for first-time offenders convicted of certain offenses. It provides that the district attorney may propose to the court that an individual defendant be screened for eligibility as a participant in the job intervention program if two conditions are met:

- (a) The defendant is a first-time offender charged with a non-violent offense where the court has the authority to suspend the imposition or execution of the sentence and place the defendant on probation under the supervision of the division of probation and parole.



- (b) It is in the best interest of the community and in the interest of justice to place the defendant in an employment program as opposed to incarceration or other sanctions.

Upon successful completion of the program, the judge, after receiving the recommendation from the district attorney, may vacate the judgment of conviction and dismiss the criminal proceedings against the probationer or may discharge the defendant from probation in accordance with law. The discharge and dismissal have the same effect as acquittal, except that the conviction may be considered to provide the basis for subsequent prosecution of the party as a multiple offender and can be considered as an offense for the purposes of any other law or laws relating to cumulation of offenses.

Senate Bill 414 by Senator Smith (Act 901) provides for the appointment of a court magistrate by the board of aldermen of certain villages upon the request of the mayor. It applies only to villages with a population greater than three hundred ten and less than three hundred twenty-five. The magistrate serves at the pleasure of the mayor. He may be designated by the mayor to serve as the presiding official over the mayor's court. The salary of the magistrate is fixed and paid by the board of aldermen.

Senate Bill 596 by Senator Chaisson (Act 824) provides that chief judges and other appellate judges of the courts of appeal shall be reimbursed for expenses incurred while on official duty. The reimbursement is payable out of self-generated funds and a House amendment placed on the bill requires final approval of the reimbursement by the Supreme Court.

Senate Bill 952 by Senator Bill Jones (pending House Committee on Ways and Means) would have created a tax court as an

administrative agency to hear tax cases.

CONSTITUTIONAL AMENDMENTS

Senate Bill 217 by Senator Marionneau (pending House Legislative Bureau) would have amended the Louisiana Constitution to provide that a judge not remain in office beyond his seventy-sixth birthday. The Louisiana Constitution currently prevents a judge from remaining in office beyond his seventieth birthday.

Senate Bill 221 by Senator Hainkel (withdrawn) would have amended the Louisiana Constitution to provide for selection and retention election of judges. Under the present constitutional provisions, justices serving on the supreme court are elected for ten year terms, judges serving on the courts of appeal are elected for ten year terms, and judges serving on the district courts are elected for six year terms.

COSTS AND FEES

Senate Bill 253 by Senator Dardenne (Act 202) provides for submission of any proposed new court cost or fee or any increase of an existing court cost or fee to the Judicial Council for review and recommendation to the legislature. This legislation is the result of a study conducted pursuant to Senate Concurrent Resolution 148 of the 2001 Regular Session authored by Senator Dardenne to study court costs imposed in civil, traffic, and criminal matters in the state, parish, and city courts of the state and the uses of such court costs and other fees. It seeks to address the concerns of the legislature with the mounting number of bills filed to increase court costs and fees to fund a variety of projects.

Labor/Employment

by: *Tabitha Irvin-Gray*
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The 2003 Regular Session focused on employment, unemployment, wages, industry and occupation. Department of Labor described Louisiana's workforce to be approximately 46 percent female, 54 percent male, 72 percent majority and 28 percent minority. It was explained to the Committee that according to the data for years 2000 through 2001, there was a one percent growth in Louisiana's employment. Employment declined in October 2001 and continued through March 2002.



According to the Secretary of the Department of Labor, Louisiana's April 2003 preliminary unemployment rate of 6.2 percent edged downward 0.1 percent over the month and remained the same as a year ago. The state's unemployment rate was slightly above the national unemployment rate of 6.0 percent in April 2003. The national unemployment rate was up over the month and over the year, from 5.8 percent in March 2003 and 5.9 percent in April 2002.

The unemployment rates for the MSAs were: Alexandria, 5.1 percent, down from 5.2 in April 2002; Baton Rouge, 5.1, same as a year ago; Houma, 3.3, down from 4.0; Lafayette, 4.6, down from 5.3; Lake Charles, 5.7, up from 4.8; Monroe, 5.1, up from 4.4; New Orleans, 4.7, down from 4.9 and Shreveport-Bossier City, 7.7, up from 6.4.

Among the parishes, Lafourche Parish had the lowest unemployment rate with a preliminary April 2003 figure of 3.1 percent, while East Carroll Parish led the state with the highest unemployment rate of 15.8 percent.

Preliminary seasonally adjusted statewide nonfarm employment for April 2003 was 1,894,000, compared to 1,901,500 for April 2002.

The breakdown was as follows: natural resources and mining, 45,600, employed in April 2003, compared to 48,800, in April 2002; construction, 119,400 up from 119,300; manufacturing 155,100 down from 161,700; trade, transportation, and utilities, 386,700, up from 386,300; information, 29,600 up from 29,100; financial activities, 99,100, down from 100,300; professional and business services, 176,100, down from 182,900; educational and health services, 239,100, up from 233,700; leisure and hospitality, 196,400, down from 195,600; and government, 376,100, up from 372,700.

For more detailed information on the April 2003 employment data for Louisiana, visit our Web site at www.LAWORKS.net, under the Quick Menu locate "Labor Market Info/LOIS," click on "Publications & Reports," then select "LMI Bulletin."

Employment. Senate Bill 533 of the Regular Session by Senator Fields (pending Senate committee) which was deferred indefinitely in Committee would have provided that the minimum wage in Louisiana be equal to the federal minimum wage plus one dollar. If the bill was to be enacted, minimum wage would have been \$6.15 per hour. The bill would have provided that whenever the federal government raises its minimum wage, Louisiana shall have a minimum wage that will be a dollar above the federal minimum wage.

Testimony was provided that the working people of Louisiana could not live off \$5.15 per hour. It was further explained that most people working at minimum wage jobs have to work two or three jobs to make ends meet. Statistics state that Louisiana have the poorest people in the nation. A report from the Department of Health

and Hospitals states that 50 percent of Louisiana's population live below the legal poverty line. The legal poverty line is approximately of \$16,000.00 per year for a family of four. Testimony in opposition of the bill stated that an increase in the minimum wage would be a disadvantage to the people who earn minimum wage. Opposition felt that the legislature could mandate a minimum wage, however, they could not mandate the number of persons hired or the hours worked.

Workers' Compensation. **Senate Bill 819 by Senator Dardenne (Act 1207)** amends the provision relative to the payment of medical benefits, which provides that the failure to pay medical benefits shall result in a penalty of 12 percent of any unpaid compensation or medical benefits or \$50 per calendar day, whichever is greater, for each day in which any and all compensation or medical benefits remain unpaid, plus attorney fees. The \$50 per day penalty shall not exceed \$2,000 for any claim. **Act 1204** broadens the medical benefits by providing that the failure to approve the employee's request to select a treating doctor or change doctors when the approval is required for in R.S. 23:1121, a penalty of 12 percent of any unpaid compensation or medical benefits or \$50 per calendar day, whichever is greater, will be imposed. The maximum penalty imposed at a hearing is \$8,000 and attorney fees shall be res judicata as to any and all claims for penalties imposed. If the employer or insurer does not approve the employee's request to select a treating doctor or change doctors or the payment of claims are discontinued and it is found to be arbitrary, capricious, or without probable cause, reasonable attorney fees will be imposed.

Workers' Compensation. **Senate Concurrent Resolution 112 of Regular Session by Senator Charles Jones (enrolled)** creates an advisory council to study workers' compensation laws of the state and make recommendations regarding proposed legislation before the next

Regular Session in the legislature. The council shall be comprised of seventeen members, including the Chairman of the Senate and House Labor and Industrial Relations Committee, representatives of labor, representatives of business interest, representatives of self-insured industries, licensed attorneys who has represented claimants and employers in workers' compensation claims, Louisiana Medical Society, Louisiana Orthopaedic Association, Louisiana Pulp and Paper Association and the general public.

Employment. **House Bill 1643 by Representative Guillory (Act 671)** changes the law by prohibiting minors who have not graduated from high school from working after 10:00 p.m. on any day prior to a day during which school is in session, or after midnight on any day prior during which school is not in session. Minors under the age of 16 who have not graduated from high school are prohibited from working before 7:00 a.m. or after 7:00 p.m. on any day prior to a day during which school is in session or after 9:00 p.m. on any day prior to a day during which school is not in session. No minor under the age of 16 who has not graduated from high school shall be employed more than 40 hours in any one week.

Legislative Affairs

*by: Yolanda Dixon
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APPOINTED OFFICIALS

A number of measures were introduced this year to provide for the manner in which appointed officials are reappointed and subsequently confirmed by the legislature. **Senate Bill 23 by Senator**



Marionneaux (pending House committee) would

have provided for automatic removal of a person from office who is appointed by the governor and who serves at the pleasure of the governor, or who serves a term concurrent with that of the governor if the person is not reappointed as provided by law. The removal would be effective on October 31st of the year the new term of office for the governor begins. The bill additionally provided that a person who serves a term fixed by law who is not reappointed as provided by law, shall automatically be removed from office at the end of the legislative session.

Conversely, **Senate Bill 890 by Senator Hainkel (Act 774)** removes the required reconfirmation of certain gubernatorial appointments every two years after initial confirmation.

GOVERNOR

In an effort to reduce the influence and power of the governor **House Bill 1973 by Representative Hebert (pending Senate committee)** would have added a provision to the Code of Governmental Ethics prohibiting a governor, governor-elect and candidates in the general election for governor from taking any action to support the nomination, election or appointment of certain legislative officers, including the speaker of the House of Representatives, president of the Senate, speaker pro tempore of the House of Representatives, president pro tempore of the Senate, or the chairman or vice chairman of any legislative committee.

House Bill 656 by Representative Hebert (pending House committee) would have repealed the governor's authority to veto line items in an appropriations bill.

LEGISLATIVE AGENCIES

A vacancy in the office of the Legislative Auditor, and the inability of both houses the

legislature to concur in the selection of a legislative auditor prompted introduction of **Senate Concurrence Resolution 113 by Senator Ullo (pending Senate committee)**. The resolution would have suspended the authority of the Legislative Audit Advisory Council to appoint a temporary legislative auditor until January 12, 2004 and would have appointed a senior staff member in the legislative auditor's office as temporary legislative auditor until the next legislature convenes for taking the oath of office on January 12, 2004. Unable to agree on the suspension resolution, **Senate Concurrence Resolution 116 by Senator Ullo (Senate calendar)** was introduced which requested the president of the Senate, the speaker of the House of Representatives and certain members of the Legislative Audit Advisory Council to fill the vacancy in the office of the legislative auditor and to appoint a senior staff member in the legislative auditor's office as temporary legislative auditor.

In the midst of attempting to fill the vacancy in the office of legislative auditor, **House Bill 576 by Representative Leblanc (Act 1306) a constitutional amendment**, prohibits the legislative auditor and his employees from participating or engaging in political activity, including being a candidate for nomination or election to any public office, being a member of any national, state or local committee of a political party, making or soliciting contributions for any political party, or taking an active part in the management of the affairs of a political party, faction, candidate or any political campaign. It would additionally prohibit a legislative auditor for a period of two years following the termination of his service as legislative auditor from qualifying for elected public office.

PUBLIC CONTRACTS

To ensure that the legislature has some oversight with regard to contracts and agreements of the state and state agencies, **Senate Bill 556 by**

Senator McPherson (vetoed) would have required the commissioner of administration to provide a system of tracking cooperative endeavor agreements involving the state or any of its agencies. The commissioner would develop and transmit forms to each agency to be used to provide information to the commissioner on each cooperative endeavor agreement entered into by the agency. Cooperative endeavor agreements exceeding one hundred thousand dollars, those not included in the capital outlay budget, or those which do not contain funds derived from the U.S. Army Corps of Engineers of the Louisiana State National Guard would have been submitted to the Joint Legislative Committee on the Budget for review and approval prior to execution of the agreement.

House Bill 280 by Representative DeWitt (Act 262) authorizes the commissioner of administration to evaluate any offer of donation of immovable property to determine whether or not the donation is in the best interest of the state. The commissioner may refuse the donation and if refused, the commissioner shall notify, on a quarterly basis, the House and Senate committees on Natural Resources of the offer, the refusal, and the reasons for the refusal unless the donor has requested in writing that the offer remain confidential if not accepted. The Act would require that upon acceptance, all donations receive the approval of the House and Senate committees on Natural Resources in a process similar to adoption of rules under the Administrative Procedures Act. The commissioner would additionally be required to submit an annual report detailing the property received by the state through donation, the estimated value of the property, and the agencies receiving the property.

REAPPORTIONMENT

The House of Representatives redistricted itself in order to ratify the agreement of the parties in *The Louisiana House of Representatives, et al. v.*

John Ashcroft, et al., CA No. 1:02CV00062 (United States District Court for the District of Columbia) in **House Bill 779 by Representative DeWitt (Act 2)**. The act reapportions the state's population in Districts 11, 12, 13, 19, 20, 21, 62, 72, 73, 74, 75, 77, 82, 89, 91, 93, 94, 95, 96, 97, 98, 99, 100, and 101, effective for election purposes with the opening of the qualifying period for the 2003 primary election for members of the legislature. In order to clarify precincts for House of Representative Districts Nos. 11, 12, 52, 53, 74, 75, 79, 80, 81, and 82, **House Bill 2011 by Representative Lancaster (Act 174)** was adopted. The Senate also took the opportunity to redistrict Senate Districts 36 and 37 in **Senate Bill 927 by Senator Adley (Act 7)**.

SENATE

The Senate made an effort to provide more clarity for the processes surrounding conference committee reports in **Senate Resolution 85 and Senate Resolution 88 by Senator McPherson (Senate calendar)**. **Senate Resolution 85** would have provided that unless a public hearing is held on the instrument, the report of the conference committee would be limited to resolving the differences between the two houses regarding the proposed amendments which were rejected by the house of origin and proposing technical amendments. The form of a conference committee report could be objected to as not being confined to the differences between the two houses as a point of order. If it is determined to not be so confined, the Senate shall not vote on the report. Additionally, upon the motion of a member, other than a member of the conference committee, and adoption of the motion, a public hearing of the conference committee is required. **Senate Resolution 88** would have provided that a conference committee report shall contain the signature of at least two of the Senate members of the committee.

Additional rules of procedure were addressed in **Senate Resolution 86 by Senator**

McPherson (Senate calendar) which would have provided that a legislative instrument shall be returned to the calendar, subject to call, upon motion by the member authoring the instrument, or the member handling the instrument if it originated in the House or another member. authorized by the author of a Senate instrument, or the member handling a House instrument. The resolution would also provide that an instrument may be returned to the calendar, subject to call, upon motion by any other member, without objection. In either case, the instrument may be called from the calendar at any time the Senate is in that order.

Senate Resolution 87 by Senator McPherson (Senate calendar) would have prohibited a standing committee from reporting a legislative instrument if the member authoring the instrument, or the member handling the instrument if it originated in the House, or another member authorized by the author of a Senate instrument, or the member handling a House instrument requests that the instrument be deferred.

Local Government

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SUBSTANDARD PROPERTY

Several bills were introduced addressing various methods of handling substandard property. **House Bill 200 by Representative Montgomery (Act 314)** authorizes Bossier Parish to require property owners to repair or demolish derelict structures or to collect costs for the repairs or demolish which the parish may perform on such property. **Senate Bill 826 by Senator Jones (Act 546)** authorizes the city of Monroe to dismantle and remove dilapidated structures located within its

limits. **House Bill 717 by Representative Flavin (Act 648)** authorizes the city of Lake Charles to repair condemned structures in lieu of demolition or removal. **Senate Bill 800 by Senator Bajoie (Act 307)** reduces the redemptive period for post-adjudicated abandoned property from 3 years to one year. Such property may then be donated, however, the donations are subject to revocation or dissolution in the event the nonprofit organization fails to renovate the property within 270 days of receiving the donation. **Senate Bill 830 by Senator Bajoie (Act 234)** provides for local governing authorities of any parish or municipality to enact an ordinance approving the private sale of adjudicated vacant lots to adjoining landowners who have maintained the property for a minimum period of one year. **Senate bill 902 by Senator Bajoie (Act 241)** authorizes municipalities or parishes to sell abandoned property at public or private sales.

HEALTH

Senate Bill 901 by Senator Johnson (Act 515) authorizes adoption of stringent local ordinances regulating smoking. **Senate Bill 869 by Senator Johnson (Act 772)** prohibits smoking in all areas of the Louisiana Superdome. **Senate Bill 1090 by Bajoie (Act 846)** creates the Metropolitan Human Services District to provide mental health, developmental disabilities and addictive disorders services to residents in certain parishes. Similar services are provided in **House Bill 954 by Representative Winston (Act 594)** for the Florida parishes through its Florida Parishes Human Services Authority.

LOCAL OFFICIALS

In every legislative session, several municipalities seek to reverse the process of acquiring a chief of police. For example **Senate Bill 68 by Senator Smith (Act 468)** changed the chief of police from an elective official to an appointive official. Thus, in an attempt to allow local governing authorities more control over this issue,

Senate Bill 413 by Senators Smith and Dupre (Act 492) creates a procedure for the election or appointment of this type of local official in municipalities with a population of 250,000 or less.

SALES TAXES

Senate Bill 551 by Senators B. Jones and Hoyt (Act 73) creates the Uniform Local Sales Tax Code (UTC) and provides for the creation and implementation of a uniform electronic local return and remittance system and a uniform paper return for local sales and use tax.

PRIVATIZATION OF PUBLIC FACILITIES

Senate Bill 781 by Senator Boissiere (Act 768) establishes procedures for the privatization of any public sewage and water facility located in municipalities with a population in excess of 475,000. **House Bills 1726 (Act 1126) and 1761 by Representative Morrell (Act 1130)** requires voter approval of certain privatization contracts by the Sewerage and Water Board of New Orleans.

MISCELLANEOUS

Senate Bill 77 by Senator Mount (Act 1173) designates full-time day care centers and any area within 1000 feet of such center as drug free zones.

House Bill 283 by Representative DeWitt (Senate Committee) prohibits blackouts of local professional football telecasts.

House Bill 1207 by Representative Pitre (Act 281) prohibits local governmental subdivisions from regulating cellular telephone usage in motor vehicles. Further provides that such regulations are exclusively reserved to and preempted by the state.

House Bill 988 by Representative LeBlanc (Act 595) authorizes parish and municipal governing authorities to establish, by ordinance, times during which mobility-impaired parking

spaces at high school athletic facilities or stadiums are not reserved for use by mobility-impaired persons. Requires that such variance be indicated by signage at the parking space.

Natural Resources

by: *Michelle Broussard*
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Senate Concurrent Resolution 20 by Senator McPherson (enrolled) requests the Department of Wildlife and Fisheries to research and document the number of ducks in federal refuges in the Mississippi

Flyway. Hunters have been denied access to Louisiana's 24 national wildlife refuges covering ninety-five million acres. Since the US Fish and Wildlife Service has conducted numerous bird counts on these refuges, it has been anticipated that over 50% of all ducks in the Mississippi Flyway winter in these refuges. It is suggested Louisiana citizens want more documentation on the number of ducks from these refuges and how they effect Louisiana hunting seasons.

Senate Concurrent Resolution 58 by Senator Holden (enrolled) requests a study of the effects of mercury in seafood. This request creates a special 17 member committee to include two members from each of the following Senate and House committees: Senate Committee on Environmental Quality, House Committee on Environment and the Senate and House committees on Health and Welfare and Natural Resources; LSU Health Science Center toxicologist; Woman's Hospital maternal fetal medicine specialist; Southern University heavy metal specialist; an American Academy of Pediatrics pediatrician; and an LSU Baton Rouge marine biologist.

Senate Bill 3 by Senator Dupre (Subject to Call-House Final Passage) would have authorized the purchase of an additional fresh products license, to authorize the spouse of a commercial fisherman to sell the catch while the commercial fisherman continues to fish. For an additional \$5 dollar fee, the spouse of a commercial fisherman, may purchase a secondary fresh products license, whereby the commercial fisherman continues to fish, while the spouse shells the catch. The Department of Wildlife and Fisheries would have authority to promulgate rules and regulations for proper implementation.

Senate Bill 14 by Senator Cain (Act 3) provides for senior licensing privileges for saltwater charter boat fishing guides. Current law requires that a saltwater charter boat fishing guide to possess a valid state charter boat fishing guide license, a captain's license from the U.S. Coast Guard, and a valid recreational fishing license. Proposed law retains present statute while authorizing the use of a senior hunting and fishing license in lieu of a valid recreational fishing license.

Senate Bill 47 by Senator McPherson (Assigned to House Natural Resources) a proposed constitutional amendment to preserve the freedom to hunt, fish, and trap subject to regulation, restriction, or prohibition imposed pursuant to law. This amendment sought to preserve the freedom to hunt, fish, and trap wildlife, including all aquatic life, traditionally taken by hunters, trappers, and anglers. It further emphasized such freedom to be a valued natural heritage, forever preserved for the people of Louisiana.

Senate Bill 75 by Senator Marionneaux (Assigned to House Natural Resources) would have provided for statewide uniformity in size and number of antlers, and antlered buck deer must possess. The provision would have required uniformity in size and number of antlers which an

antlered deer must possess in order to be taken. The Wildlife and Fisheries Commission would have been authorized to restrict the number and size of antlers under any program or experiment undertaken by the commission on a state wildlife management area.

Senate Bill 617 by Senator Barham (Assigned to Senate Natural Resources) would have given the Department of Wildlife and Fisheries authority to regulate breeding, propagating, selling, and killing of deer and elk. This provision would have changed the authority from the Department of Agriculture to the Department of Wildlife and Fisheries. In addition, elk, red deer, or other exotic deer or any member of the family *Cervidae* would be added to the list of animals breeder's licenses must be obtained. It would have further prohibited the issuance of any new license after 10.31.03 except to zoos, educational institutions, or scientific organizations. The proposed law would have provided for violations arising from possession of white tailed deer or elk constituting a class four violation.

Senate Bill 732 by Senator Romero (Act 1286) reduces the minimum size mesh for commercial crawfish traps from 3/4 inch to 11/16 of an inch. Prior law provided until June 30, 2003 the minimum mesh size for traps used to harvest crawfish commercially shall be a hexagon of 3/4 by 11/16 of one inch. It further provided that beginning July 1, 2003 and thereafter, the minimum mesh size for traps used to harvest crawfish commercially shall be a hexagon of 3/4 by 3/4 of one inch. The Act deletes all references to dates and establishes the traps used to harvest crawfish commercially shall be a hexagon of 11/16 by 11/16 of one inch.

House Concurrent Resolution 89 by Representative McDonald (enrolled) memorializes Congress not to fund programs that effect the migration of ducks. Some governmental

policies intended to benefit wildlife may alter historic life-cycle patterns when grain crops are left in the fields to enhance food supplies. It is believed migrating bird species may not complete their normal migration routes because of this. Many contribute the absence of waterfowl to programs in Midwestern states to grain left in the fields and thereby detrimental on Louisiana hunting and on bird populations by subjecting flocks to stress from harsher weather.

House Bill 1173 by Representative Triche (Act 945) provides relative to the minimum size for taking bowfin. Current statutes set a 22 inch total length limit, with the mouth closed, for the commercial taking of bowfin (choupique) and prohibits fishermen from possessing bowfin eggs (roe) that are not normally connected to the whole fish. In addition, specified bodies of water are designated where taking of choupique less than 22 inches is not authorized. The proposed law deletes references to specific bodies of water, retains the commercial minimum size limit of 22 inches, and establishes a minimum size limit of 16 inches for recreational fishermen.

Public Safety



by: *Alan Miller*
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Senate Bill 143 by Senator Dupre (Act 535) increases the penalties for first and second DWI offenses when the offender has a blood alcohol content of 0.20 or greater. The increased penalties include a minimum fine of \$750 and a mandatory suspension of driving privileges for 180 days for a first offense. For a second offense, the minimum fine increases to \$1,000 and the mandatory suspension is increased to twelve months.

Senate Bill 70 by Senator Gautreaux (Act 1171) seeks to prohibit the operation of a motor vehicle with a television unless the television is behind the driver's seat or is not visible to the driver while operating the vehicle.

Senate Bill 479 by Senator Chaisson (Assigned to House Transportation Committee) would have prohibited a passenger of a motor vehicle from possessing an open container while in a vehicle.

Senate Bill 554 by Senator Dupre (Failed House Final Passage) would have suspended the driver's license, without exception, for one year for a person convicted of a second or subsequent offense DWI and would have also required the installation of an ignition interlock device on all vehicles of the offender for six months after the suspension is lifted.

House Bill 1686 by Representative DeWitt (Act 732) creates the "Driving is a Privilege Law" that authorizes the Department of Public Safety and Corrections to, upon notification from the principal or headmaster at a public or private school, suspend the driver's license for one year, of a student between the age of 15 and 18, who has been subjected to disciplinary action at the school.

House Bill 713 by Representative Hutter (Act 1238) requires child passenger restraint systems for children transported in motor vehicles according to age and weight. This law seeks to require that: a child less than one year old or weighing less than twenty pounds shall be placed in a rear-facing child safety seat; a child at least one but less than four years old or weighing more than twenty pounds but less than forty pounds shall be placed in a front-facing child safety seat; a child at least four but less than six years old or weighing at least forty but less than sixty pounds shall be placed in a child booster seat unless there is only a lap belt

in the seating position; and that a child at least six years old shall be in a safety belt or booster seat. If a child fits into more than one category, the child shall be placed in the more protective category.

Retirement

by: *Angela Lockett-DeJean*
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STATE POLICE RETIREMENT SYSTEM

State Police Retirement System supported two pieces of legislation during the 2003 Regular Session of the Legislature. **Senate Bill 281 by Senator Boissiere (Act 748) and Senate Bill 283 by Senator Boissiere (Act 538)**



provides an increase in benefits for certain categories of state troopers. Members of the State Police Pension and Retirement System who participated in DROP prior to June 30, 2003 and who continued employment without a break in service, post DROP, are eligible to receive a monthly salary equal to the greater of: (1) the monthly benefit as presently provided by law or (2) the sum of the member's original benefit plus 20% of his original average monthly salary with the passage of **Act 748**. **Act 538** authorizes an increase in disability benefits for catastrophic injuries such as loss of limb or organ, total loss of sight or hearing, paralysis, or permanent damage to the brain or spinal cord which a member sustained solely as a result of performance of his official duties. As a result of **Act 538**, the disabled member shall receive a disability benefit equal to the greater of 100% of his average annual salary, or \$36,000 annually.

LEGISLATION AFFECTING STATE AND STATEWIDE RETIREMENT SYSTEMS

Senate Bill 1076 by Senator Boissiere (Act 788) requires each Louisiana state public retirement or pension system, plan, or fund to direct at least ten percent of all equity separately managed and fixed income account trades through a broker-dealer who maintains an office in Louisiana and ten percent through a broker-dealer who has been incorporated and domiciled in Louisiana for at least two years. The trades are subject to best efforts and best executions as defined by the Securities and Exchange Commission and the National Association of Securities Dealers. **Act 788** also requires Louisiana state public retirement or pension system, plan, or fund to prepare a policy to be presented to the Senate and House Retirement Committees by December 31, 2003, on how it intends to invest in in-state and out-of-state small and emerging businesses, venture capital firms, and in-state money management firms which are either incorporated and domiciled in this state for at least two years or maintains an office in the state of Louisiana.

In light of the fact that the state and statewide retirement systems' investment portfolio suffered significant losses in the past two years, the issue arose as to what happens to the interest earned or loss thereof on participants' DROP accounts. The law with respect to DROP generally provides that the DROP account shall earn interest at a rate equal to the percentage rate of return of the system's investment portfolio, less certain costs. However, the Attorney General has opined that under the Louisiana Constitution, it is unconstitutional for an employee's account or subaccount in DROP to be diminished or impaired, even when the overall investment portfolio of the retirement system loses money. Therefore, under the Constitution, the systems are prevented from passing those losses onto the employee's accrued benefit. In an attempt to reduce the cost to the systems and the state of future losses in investments, legislation was introduced.

LASERS

Senate Bill 425 by Senator Boissiere (Act 818) relative to Louisiana State Employees' Retirement System, removes the provisions that DROP shall not be subject to any fees, costs, or expenses of any kind and that the account shall be credited with interest at the end of each plan year at a rate equal to the realized return on the system's portfolio for that plan year. Instead, the legislation requires that a member of the Plan shall have a contributing period, wherein a subaccount shall be established and deposits contributed but no earnings shall be credited to the subaccount. After the contributing period, the member's balance shall be moved to a self-directed subaccount which shall be known as the investment period. Prior to **Act 818**, LASERS administered DROP. With **Act 818**, DROP remains within the trust of the LASERS and the system manages the subaccounts while members are in the contributing period. However, the system selects a third party administrator to administer the subaccounts during the investment period.

Similarly, **House Bill 1426 by Representative Daniel (Act 962)** provides the state and statewide (except District Attorneys' Retirement System) retirement systems the option of investing DROP and Back-DROP funds in a money market or self-directed plan. Specifically, **Act 962** requires DROP or Back-DROP monies left with any of the retirement systems to be invested in liquid asset money market investments to be selected by the boards of trustees or at the option of the system, the funds may be credited to a self-directed plan. The member's account balances will be credited with interest at the actual rate of return on such account balance investments, less an administrative fee one-fourth of one percent per year.

With the self-directed plan there is a "contributing period" which is the time when funds are being credited to the participant's subaccount

which is maintained by the system. Management of the funds shall be by the systems during the contributing period. After the contributing period ends, the balance of the subaccount then may be transferred to a self-directed subaccount, which shall be known as the "investment period". Both subaccounts shall be within the Deferred Retirement Option Plan established by **Act 962**.

When the funds are transferred to the self-directed subaccount for the investment period, the system is authorized to hire a third party provider. The third party provider acts as an agent of the system for purposes of investing balances in the self-directed subaccounts of the participant as directed by the participant.

The participant in the self-directed portion of the plan agrees that any benefits payable, returns and other rights of the plan are the sole liability and responsibility of the participant and the designated provider to which contributions have been made, not the obligation and liability of the state of Louisiana or the System. Each participant expressly waives his constitutional rights as it relates to his subaccount in the self-directed portion of the plan.

However, for those individuals who were eligible to participate in DROP prior to July 1, 2003, all amounts which remain credited to the individual's subaccount after termination of participation in the plan shall be credited as provided by present law. Prior to **Act 962**, after participation in DROP ends, any DROP monies left with the retirement systems were invested with and earned a rate of return at or near that of the rest of the systems' funds.

FIREFIGHTERS' RETIREMENT SYSTEM

The municipalities filed a lawsuit, naming the state of Louisiana, Firefighters Retirement System (FRS) and others as defendant, in the 19th Judicial District Court for the Parish of East Baton Rouge due to the increase in employer contribution

rates. Generally, funding for firefighter mergers comes employee and employer contributions rates, the Insurance Premium Tax Fund (IPTF) and the municipalities for any shortfalls. However in 2002, the employer contribution rate increased from 9% to 18.25% and is anticipated to increase again to 25.25% in 2003. The increase in employer contribution rate can be partially attributed to 2001 legislation (Act 1160) which divided the IPTF between FRS, Municipal Police Employees' Retirement System (MPERS), Sheriff Pension and Relief Fund (SPRF) and State Police Retirement System (SPRS). For the first time in years, FRS, MPERS, and SPRF each suffered poor investment returns and all needed money from the IPTF. Unfortunately, there was not enough of the IPTF to divide among the systems. As a result, the legislature divided what was available from the IPTF, after mergers, evenly (25% each) among the three retirement systems. The 25% was far less than FRS was accustomed to receiving and therefore fell short of funding.

In an attempt to relieve the burden on the municipalities, **House Bill 353 by Representative Townsend (Act 620)** which changes the amortization period for investment gains and losses from 15 years to 30 years, with respect to computing employer contribution rates. Presently, changes in actuarial liability due to actuarial gains and losses, changes in actuarial assumptions or method of valuing assets, and changes in actuarial accrued liability due to plan changes experienced by a state or statewide public retirement system whose benefits are not constitutionally guaranteed shall be computed as level dollar amounts over a 15-year period from the year of each such actuarial gain or loss, if appropriate for the system's statutorily specified funding method. Changes in actuarial liability of such systems due to changes in actuarial funding methods are computed over a 30-year period.

The Act doesn't change existing law but requires that all outstanding amortization bases (excluding merger bases) of the Firefighters' Retirement System in existence on June 30, 2002, to be combined, offset, and reamortized over the period ending June 30, 2029.

Revenue & Taxation

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While the 2003 Regular Session was a "non-fiscal" session, there was still room within the constitutional restrictions for some tax-oriented legislation.



For instance, only one-half of a sales tax problem, the local tax aspect, could be remedied by **Senate Bill 791 by Senator Barham (Act 61)**. That Act insured that "other constructions" (i.e. structures which are not buildings) which are permanently attached to the ground would be treated as immovable for local sales tax. Since sales tax is levied on repairs to "movable" property, repairs to these "other constructions" would not be taxable for local purposes. Fixing the state tax side will have to wait until the 2005 Regular Session.

Since the Louisiana Supreme Court has allowed the legislature to deal with local taxes, **House Bill 425 by Representative Pitre (Act 1297)** will be re-submitted to the voters for their approval. That proposed constitutional amendment exempts from property tax drilling rigs used exclusively for the exploration and development of minerals in OCS waters, which are within the state for storage, or for conversion, renovation, or repair, as well as any property related to the rigs.

A problem for both business taxpayers and tax collectors not only in Louisiana, but throughout the United States, has been Louisiana's unique local tax system. Unlike most states, each parish has a sales tax collector which collects that parish's tax. That this requires larger taxpayers to file many tax returns in multiple jurisdictions is a problem, but even more distressing is that there have been differences in interpretation of the same tax provisions among local collectors, and between state and local collectors.

Senate Bill 515 by Senator Bill Jones (Act 73) is an attempt to modify some of these problems by the creation of a Uniform Local Sales Tax Code [the "UTC"]. That bill does three important things:

1. It requires the UTC to apply in the assessment, collection, administration, and enforcement of the sales tax of any local taxing authority except for a few areas and requires common provisions in the UTC and in state law to be interpreted by the courts to have the same meaning and application.
2. It will allow the adoption of uniform regulations. After local collectors are given a chance to amend existing sales tax regulations which are common to both the state and the local collectors, then the regulations become applicable to all local tax collectors. A procedure is provided for local collectors to have input in the formulation of new regulations, and all parties may seek a declaratory judgement to declare a regulatory action contrary to or inconsistent with the tax law.
3. If sufficient funds are appropriated, a uniform electronic local return and remittance system which allows a taxpayer to file a uniform local sales tax return each month and remit the tax over the internet is

created. In addition, information concerning local tax law is posted on the web site and taxpayers' reliance on the information is an absolute defense against a local collector's claim.

Senate Bill 952 by Senator Bill Jones (House committee) was less successful. It would have created a two-judge, appointed, administrative Tax Court to handle state tax and local non-property tax cases.

There was some tinkering with the Louisiana Quality Jobs Program to make it more attractive and available to businesses. **Senate Bill 1126 by Senator Lentini (Act 847)** reduces the amount of the premium for health insurance that employers must pay for their employees whose wages are equal to or greater than \$50,000 from 85% to 70% in order for the employer to qualify for the program. Employers who bring their employees to Louisiana will be allowed to count those employees as "new direct jobs" for purposes of the program under **Senate Bill 1029 by Senator Hollis (Act 47)**.

Using driver's and other types of licenses as enforcement tools has finally reached the tax area. **House Bill 1296 by Representative Triche (Act 380)** requires the suspension or denial of a hunting or fishing license to an individual who has a final judgment against him for \$500 or more of individual income tax. You lose your driver's license if your income tax final judgement is \$1,000 or more under **House Bill 1315 by Representative Triche (Act 453)**.

Athletic teams will pay heavy penalties if they play games with income earned from events in Louisiana. **House Bill 1378 by Representative Murray (Act 119)** levies a penalty of \$500 for the first failure, \$1,000 for the second, and \$2,500 for the third failure and each failure thereafter.

And taxpayers can now keep an unexplained refund check issued by the state Department of Revenue without having to worry that, if the department later thinks it made an error, the taxpayer will be liable for interest when he returns the money **House Bill 830 by Representative Hammett (Act 36)**. But you better call if the refund is over \$50,000.

Social Services

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WELFARE REFORM
Senate Bill 574 by
Senator Jay Dardenne
(Act 58) is legislation designed to continue the transition of individuals

from cash assistance to become self sufficient. The intend of the legislation is to enable those citizens still dependent on government benefits for basic needs. With the exception of the permanently disabled or incapacitated, the Department of Social Services aims to ensure that all individuals receiving benefits are actively engaged in purposeful activities in an effort to transition from cash assistance to self reliance. To that end, the FINDWork program within DSS has been replaced with Strategies to Empower People, or STEP. Participants in STEP are expected to personal responsibility in achieving self reliance through employment and increased workplace literacy with the help of various state agencies.

The Family Success Agreement is a contract between DSS and the recipient on behalf of their family that sets forth mutual and time bound responsibilities. The contract outlines specific responsibilities, expectations, activities, and goals designed to transition a participant from welfare to self sufficiency. In addition Transitional

Assessment is a mutually developed plan for participants nearing the end of their eligibility for cash assistance, or have recently entered unsubsidized employment to identify the action necessary to ensure success.

Each Family Success Agreement shall incorporate a plan to ensure child development, educational accomplishments, and school attendance for children within the agreement. The plan shall include the obligation of the parent to actively participate in their child's education, and to be fully aware of their child's academic problems and school attendance.

MEDICAID

Senate Bill 305 by Senator Tom Schedler (Act 207) requires the Department of Health and Hospitals to create a Medicaid Buy-In Program for persons with disabilities. This legislation also would provide coverage for those receiving Social Security Disability Insurance benefits (SSI). This program intends to help working people with disabilities to live above the poverty level, by providing health care coverage, and eliminating costly trips to emergency rooms for their health care. Individuals with severe mental illness who can work and are on medication and those with severe physical disabilities who need medical supports in order to work, will benefit greatly by this legislation.

PUBLIC ASSISTANCE

House Bill 1613 by Representative Diane Winston (Act 726) requires the Department of Social Services to develop an integrated case management model which includes multidisciplinary teams, and department in an effort to establish a "no wrong door" concept for the delivery of services for individuals with multiple needs. Service integration is a process by which social services would be delivered in a coordinated effort. The concept is that early intervention and prevention opportunities, improve client outcomes,

and establish provider accountability through performance measures. This concept of "no wrong door" would make it easier for clients to obtain services and allow the service teams to link together its resources.

State Government

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VOTERS/VOTING

In the state's continuing effort to upgrade its elections process, **House Bill 1594 by Representative K. Carter (Act 286)** authorizes the secretary of state to create statewide standards for voter registration programs and creates a statewide voter registration week. The secretary of state will prescribe uniform rules, regulations, forms, and instructions as to standards for effective nonpartisan voter education.



The Act provides for approval of rules, regulations, forms, and instructions by the attorney general and the uniform implementation of such rules, regulations, forms, and instructions by each registrar of voters in the state and would standardize the following: voter registration, balloting procedures (absentee and polling places), distribution of sample ballots, and effective voter education methods such as public service announcements and other public awareness methods.

The registrars of voters will report to the secretary of state regarding the voter education programs implemented in the parishes and requires the secretary of state to report on the voter education programs to the governor, the president

of the Senate, and the speaker of the House of Representatives by Jan. 31 of each year following a general election. Furthermore, the bill provides for the official state voter registration week to be the last full week which occurs two weeks prior to the close of registration for the regular fall primary election.

The secretary of state will be responsible for the implementation of voter registration week and provides that the state policy is to encourage full voter participation by all state citizens.

STATE SYMBOL

In a tasty move, **House Bill 27 by Representative Hill (Act 76)** designates mayhaw and Louisiana sugar cane jellies as the two official state jellies and authorizes their use on official state documents and with the insignia of the state.

PUBLIC RECORDS

Medical Information

To protect the confidentiality of medical information as it relates to public employee and public official's personnel records, the legislature passed **House Bill 1649 by Representative Martiny (Act 342)**.

Currently "public records" include: All books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of this state, or by or under the authority of any ordinance, regulation, mandate, or

order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of this state.

Furthermore the following items in the personnel records of a public employee of any public body are confidential:

- (1) The home telephone number of the public employee where such employee has chosen to have a private or unlisted home telephone number because of the nature of his occupation with such body.
- (2) The home telephone number of the public employee where such employee has requested that the number be confidential.
- (3) The home address of the public employee where such employee has requested that the address be confidential, except that the home address of any employee of a city or parish school board shall be made available to recognized educational groups.

The Act provides that medical information in the personnel records of a public employee or public official would be confidential and would further provide that the medical information of dependents of public employees and public officials be confidential when contained in the personnel records of the public employee or public official.

Financial Institutions

Attempting to protect the identity of the citizens of the state, **House Bill 695 by Representative Martiny (Act 326)** provides that information in the personnel records of a public employee regarding the name and account number of any financial institution to which the employee's wages or salary are directly deposited shall be confidential. The Act also provides that both the social security number and financial institution

information of such an employee will be confidential unless disclosure of such information is required by any other provision of law.

Currently, specified items in the public employee personnel records are confidential, including the employee's home telephone number, if private or unlisted because of the nature of his occupation or at the employee's request, and the employee's home address at his request, with one specific exception that the confidential home address of an employee of a city or parish school board are made available to recognized educational groups.

The Act specifically provides that the name and account number of any financial institution to which the public employee's wages or salary are directly deposited as contained in the employee's personnel records would be confidential.

Providing further security, the social security number of an employee of a city or parish school board as contained in the employee's personnel records would be confidential, yet the employee's social security number would be disclosed when other provisions of law, including such purposes as child support enforcement, health insurance, and retirement reporting, require such disclosure.

The Act specifies that the social security number and the financial institution direct deposit information of a public employee of any public body would be confidential, however that employee's social security number or financial institution direct deposit information would be disclosed when any other provision of law, including such purposes as child support enforcement, health insurance, and retirement reporting, requires such disclosure.

ETHICS

In an effort to increase public scrutiny of

state officials, **Senate Bill 256 by Senator Dardenne (Act 203)** augments the current Board of Ethics Computerized Data Management System which was established to provide for the efficient and economical dissemination of information; to be capable of handling each report required to be filed with the board; to permit electronic filing of such reports; to provide for in-house review of all such reports; to be categorized to provide for citizen's access of all reports; and to aid in the distribution of ethics information materials to state and local agencies.

The bill requires the board to maintain a website which allows the public to quickly and easily review disclosure reports filed with the board, agendas of board meetings, and opinions and decisions rendered by the board in order to enhance the public's ability to easily gather information regarding the conduct of elected officials, public employees, and other persons regulated by the board. It further requires the board to regularly review and update its website to improve access to its public information and prohibits the board from reducing or impairing the level of the public's access via the Internet to the information provided by the board on its website.

PUBLIC EMPLOYEES

In an attempt to run the state more like the private sector, **Senate Bill 889 by Senator Hainkel (Act 240)** reenacts the existing procedure for terminating a state employee wherein it would also apply to classified employees.

The La. Constitution, in Art. X, Sec. 25.1 which was approved by the electorate in November 2002, authorized the legislature to provide by general law for the removal of any state, district, parochial, ward, or municipal employee, whether classified or unclassified, from his position of employment, for conviction, during his employment, of a felony as defined by law. A "conviction" means a conviction that is final and all

appellate review of the original trial court proceedings is exhausted. This statute as applied to a classified employee was declared unconstitutional.

The current law requires that the employee-employer relationship existing between a state employee, classified or unclassified, and the state be terminated and the employee removed from his position of employment upon conviction, during his employment, of a felony as defined by the laws of this state or by the laws of the United States. Ten days after a conviction is final and all appellate review of the original trial court proceedings is exhausted, the appointing authority of the employing agency will terminate any state employee who is convicted of a felony and is holding a position of employment with the agency.

Along with the inclusion of classified employees, the Act extends its provisions to district, parish, ward, and municipal employees, whether classified or unclassified.

HEALTH/HOSPITALS DEPT

In a move to further protect our senior citizens, **Senate Bill 964 by Senator B. Jones (Act 244)** modifies the existing law relative to abuse and neglect of adults, the relevant reports which are required, and the investigation to be undertaken. The Act requires an investigation by law enforcement when a report of abuse or neglect is received from an adult protection agency.

The Act further provides for access to records that are necessary in investigations of abuse and neglect and allow for both emergency protective orders and verbal emergency protective orders.

PROPERTY/PUBLIC

In an effort to streamline government, **House Bill 280 by Representative DeWitt (Act 262)** provides for a procedure for the acceptance by

the state of a donation of immovable property. The Act authorizes the commissioner of administration to evaluate any offer of donation to determine whether or not it is in the best interest of the state to accept the donation. The commissioner could refuse the donation. If the donation is refused, the commissioner would notify, on a quarterly basis, the House and Senate committees on natural resources of the offer, the refusal, and the reasons for the refusal, unless the donor has requested in writing that the offer remain confidential if not accepted. However, if he determines that it is in the best interest of the state to accept, he would negotiate the terms and conditions of the donation.

Prior to final acceptance of the donation, all donations would receive the approval of the House and Senate committees on natural resources. The commissioner would submit a report to the two committees that provides a description of the property, the evaluation of the property that was conducted by the division of administration, and the terms and conditions that have been negotiated by the commissioner. The division of administration would be required to submit an annual report detailing property received by the state through donation, the estimated value of the property, and the agencies receiving the property.

Transportation & Development



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ROADS AND HIGHWAYS

When highway construction requires the closure of an interstate highway lane, the Department of Transportation and Development must now require that such road work be performed during off-peak

traffic hours. **Senate Bill 323 by Senator Lentini (Act 753)** requires DOTD to perform a traffic queue analysis if a lane closure will be involved, and if the analysis shows a potential for significant delays to motorists, the work has to be done either at night, between 8 p.m. and 6 a.m., or on weekends. On such projects providing incentives to construct expeditiously, the contractor has to perform such work during off-peak traffic hours or provide just cause for failure to do so in order to qualify for the incentive. The bill also requires DOTD to post signs warning of potential delays at a location in advance of the last exit prior to the traffic buildup.

Senate Bill 214 by Senator Dupre (Act 1302) is a constitutional amendment that was passed providing that an additional use for non-recurring revenue would be for highway projects that have a federal match.

DOTD shall now be required to ask for alternate bids on selected highway projects based on life cycle cost analysis and other engineering data, where feasible, provided that alternate bids do not conflict with federal law relative to bid selection for a project. The provisions of **Senate Bill 44 by Senator McPherson (Act 181)** apply to contracts over \$250,000. It also requires DOTD to report quarterly to the legislative transportation committees.

Numerous bills were filed to designate various roads around the state for different persons, including LA 23 in Gretna as the *Mel Ott Parkway*, a portion of LA 27 in Calcasieu Parish as the *Horace Lynn Jones Memorial Highway*, U. S. Hwy. 190 in St. Tammany Parish and East Baton Rouge Parish as the *Ronald Reagan Highway*, LA 3132 in Caddo Parish as the *Terry Bradshaw Passway*, and I-55 in Tangipahoa Parish for *Congressman Jimmy Morrison*, to mention just a few.

LOUISIANA INFRASTRUCTURE BANK

The Louisiana Infrastructure Bank legislation is a constitutional amendment, **Senate Bill 177 by Senator Heitmeier (Act 1299)**, that would enable the state to participate in an innovative finance method under federal transportation legislation. The constitutional amendment would authorize the loan or pledge of public funds by a state infrastructure bank to fund eligible infrastructure projects. The enabling legislation was enacted in 1997; **House Bill 1690 by Representative Diez (Act 1125)** amends the existing law to redefine eligible projects as those approved by DOTD, make loans available only to public entities, increase the loan repayment period from five to 15 years, and authorize public entities, state retirement systems, and private entities to invest in the bank.

TIMED PROGRAM

A constitutional amendment, **Senate Bill 223 by Senator Barham (Act 1301)**, is the vehicle employed to make certain technical changes to the TIMED projects. The alterations are:

1. U.S. Highway 61 from Thompson Creek to the Mississippi Line (in lieu of US 61-Bains to Mississippi Line); adding the few miles from Thompson Creek to Bains would four-lane all of U.S. 61 between Baton Rouge and the Mississippi Line.
2. U.S. Highway 165 from I-10 to Alexandria to Monroe to Bastrop and thence on U.S. Highway 425 from Bastrop to the Arkansas Line (in lieu of US 165-I-10 Alexandria-Monroe-Bastrop-Arkansas Line); including U.S. Highway 425 would connect Louisiana's four-laned road to a major highway in Arkansas and provide a more direct route to Pine Bluff and Little Rock, Arkansas.
3. LA 15-Natchez, Mississippi to Chase (in lieu of LA 15-Natchez, Mississippi to

Monroe); an already existing four-lane highway connects LA 15 to I-20 a few miles east of Monroe, and this change will decrease the number of miles required to be four-laned.

A bill to authorize design-build for the New Mississippi River Bridge at St. Francisville, a TIMED project, died in the legislative process **House Bill 605 by Representative Diez, (pending Senate Transportation Committee)**.

DRIVER'S LICENSE

"Driving is a privilege" is the message being delivered in **House Bill 1686 by Representative Diez (Act 732)**. Under this Act, a student between the ages of 14 and 18 who is suspended from school or assigned to an alternative educational setting for at least 10 days for possession or sale of drugs or alcohol, possession of a firearm, or assaulting a school staff member would have his license suspended for one year. The Act provides a process for appeal and obtaining a hardship license.

Another Act, **House Bill 365 by Representative G. Smith (Act 622)**, authorizes a court to order the suspension of the driver's license of a person showing a pattern of non payment of child support.

A driver's license will cost 25 cents more a year with the passage of **House Bill 1876 by Representative K. Carter (Act 527)**. The additional one dollar for the issuance and renewal of a driver's license (every four years) will be deposited into the Louisiana Environmental Education Fund and will be used to pay for educating and training Louisiana drivers regarding littering and for financing local littering enforcement activities. The funds are to be distributed equally among the five Public Service Commission districts.

MOTORIST SAFETY

A bill to tighten child car seat regulations was finally passed by the legislature. **House Bill 713 by Representative Hutter (Act 1238)** details the type of passenger restraint required for a child based on age and weight. As amended, police may stop a motorist only if a child is totally unrestrained; otherwise, the police can only stop the car and check for compliance if the driver has committed a traffic offense. The fine for a first offense would be \$50, and subsequent violations would cost \$100 each.

An attempt to require all passengers in a vehicle to buckle up failed to pass. **Senate Bill 88 by Senator Dupre (pending Senate Transportation Committee)** would have made it mandatory for passengers in rear seats to wear a seat belt; it also provided that the vehicle operator could not be stopped solely for a violation of this proposed law.

Motorcyclists over the age of 21 still have the choice as to whether to wear a helmet or not. **House Bill 41 by Representative Odinet (pending House Transportation, Highways & Public Works Committee)**, which would have made wearing a helmet mandatory for all ages, was deferred in the House Transportation Committee after a lengthy hearing earlier in the session.

LICENSE PLATES

Once again, legislators introduced bills to create special prestige license plates for various groups. Those prestige plate bills that have been signed into law by the governor represent the following organizations or causes: Junior Golf, Invest in Children, Louisiana Leadership Institute, commissioned police officers, honoring and promoting foster parenting and adoption, Louisiana organ donation, and certain churches.

In another effort to slow the proliferation of prestige plates, **House Bill 1935 by**

Representative Katz (Act 1261) requires that a plate be established by the Department of Public Safety and Corrections only when the group for whom it was created either prepays or guarantees payment for 1,000 orders for the plate.

Bills were introduced to change the slogan on Louisiana's official license plate from "Sportsman's Paradise" to "America's WETLAND". The goal of changing the license plate was to highlight the wetlands of Louisiana and promote wetland restoration. Following a debate on the Senate Floor earlier this session, **Senate Bill 123 by Senator Dupre** was returned to the **Senate calendar subject to call**.

TRUCK PERMITS

A few bills dealt with truck permits which affect the state's highways --**House Bill 1154 by Representative Diez (Act 1219)** provides for the phase-in of mandatory three axles on vehicles hauling sugar cane, which will spread the weight of the load more evenly. Another bill, **House Bill 768 by Representative Diez (Act 147)**, requires sugar mills to lock out their scales at 100,000 pounds and provides that the owner or producer forfeit any overage and prohibits compensation to the producer or hauler for the forfeited sugarcane.

Act 1219 was also amended in conference to add a special one-way permit from Pineville to New Orleans for sealed containerized cargo of certain paper products intended for export. The annual permit will cost \$750 and would authorize up to 90,000 pounds on certain trucks.

Another of this year's bills which had been enacted into law earlier in the session had to be repealed in the same session **Senate Bill 729 by Senator McPherson (Act 257)**. A special permit for trucks would have allowed them to use I-49 in the Alexandria-Pineville area as an alternate route. Even though the bill said that the permits would not be issued if the feds objected, a letter was issued by

the FHWA saying if the bill became law, we would lose some \$65 million in federal highway funds. **Act 257** was then repealed by **House Bill 1154** by **Representative Diez, (Act 1219)**.

Wildlife & Fisheries

by: *Arthur McEnany*
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BOATS/SHIPS/VESSELS

House Bill 560 by **Representative Jack Smith (Act 921)** requires that all boaters born after 1988 be required to take a boater safety class in order to operate a motor boat with more than a ten horsepower motor.



House Bill 1579 by **Representative Nevers (pending Senate Natural Resources)** would have created the Louisiana Boat and Motor Titling Act which establishes a permissive system for titling vessels and outboard motors to be administered by the Department of Wildlife and Fisheries.

FISH/FISHING

Senate Bill 45 by **Senator McPherson (Act 48)** authorizes the Wildlife and Fisheries Commission to establish a program for the removal of abandoned crab traps during a special season.

Senate Bill 732 by **Senator Romero (Act 1286)** reduces the minimum mesh size for commercial crawfish traps.

House Bill 496 by **Representative Odinet (pending House Natural Resources)** would have modified the season and time for the commercial taking of mullet and allows for night fishing of

mullet with strike nets.

House Bill 1160 by **Representative Pierre (pending House Natural Resources)** would have prohibited the taking of red drum with a bow and arrow.

House Bill 2003 by **Representative Baldone (Act 1164)** establishes a commercial spotted sea trout annual quota not to exceed one million pounds, nor less than five hundred thousand pounds in a January through July season by means of rod and reel. Also provides that a commercial fisherman must possess a spotted sea trout permit in order to sell his catch.

HUNTERS/HUNTING

Senate Bill 27 by **Senator Hainkel (pending conference committee)** would have prohibited the use of aircraft for hunting, shooting, or taking of wild deer and wild turkey.

Senate Bill 47 by **Senator McPherson (pending House Natural Resources)** a proposed constitutional amendment would have preserved the right to hunt, fish and trap subject to regulation, restriction, or prohibition imposed pursuant to law.

TAX/TAXATION

House Bill 1296 by **Representative Triche (Act 380)** provides for the suspension or denial of a recreational hunting or fishing license to an individual who has a final and nonappealable assessment or judgment in excess of \$500 of individual income tax.

WHITE LAKE PROPERTY

Senate Bill 158 by **Senator McPherson (pending Senate Finance)** a constitutional amendment would have established the White Lake Property Fund with the monies in the fund available only for the operation and management of the White Lake properties.

Senate Bill 560 by Senator McPherson (pending Senate Finance) would have established the White Lake Property Fund as a special fund in the state treasury with the funds available only for the operation and management of the White Lake properties.

Senate Bill 561 by Senator McPherson (withdrawn from the files of the Senate) would have established the White Lake Property Fund as a special fund in the state treasury and creates the White Lake Property Advisory Board within the Department of Wildlife and Fisheries consisting of 15 members appointed by the governor.

Senate Bill 230 by Senator Hines (pending Senate Natural Resources) would have provided for the creation, powers, duties, functions and responsibilities of the White Lake Commission in the office of the governor. Would have provided that the Department of Wildlife and Fisheries is responsible for all fishery and wildlife management of the White Lake property.

Senate Bill 682 by Senator Ullo (pending Senate Natural Resources) would have transferred management and operation of White Lake Management Area to the Department of Wildlife and Fisheries.

WILDLIFE AND FISHERIES COMMISSION

Senate Bill 17 by Senator Dupre (withdrawn from files of the Senate) and House Bill 141 by Representative Baldone (pending House Natural Resources) would have provided that the three members of the commission representing commercial fishing interests would come from a list provided by legislative members of the coastal parishes.

WILDLIFE AND FISHERIES DEPARTMENT

House Bill 559 by Representative Pierre (Act 27) re-creates the Department of Wildlife and Fisheries through July 1, 2009.

Senate Bill 617 by Senator Barham (pending Senate Natural Resources) would have authorized only the department to regulate and control all breeding, propagating, selling and killing of imported exotic deer and antelope, elk and farm-raised white tail deer for commercial purposes in the state. This proposed law would have repealed the authority of the Department of Agriculture and Forestry to regulate these activities

Senate Bill 948 by Senator Barham (pending Senate Natural Resources) would have authorized only the Department and the Wildlife and Fisheries Commission to have sole authority to regulate all hunting in the state.

WILDLIFE MANAGEMENT AREAS

House Bill 585 by Representative Fauchaux (pending Senate Natural Resources) would have allowed certain former lease holders to retain their leases in the Maurepas Wildlife Management Area.

Issues: Point by Point

by: *Brenda*

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OVERVIEW

The work of the last regular session of this legislative term is now complete. Senators concluded their work taking final action on key state spending measures and reaching agreement with the House on a number of key bills dealing with education, coastal restoration, health care and government reform. The 2003 Regular Legislative Session was a general session, where lawmakers

could consider any issue except specific tax measures. Lawmakers introduced over 3100 bills at the session and finally approved over 1300.

BUDGET ISSUES

Legislators approved a \$16.8 billion state operating budget that keeps the state's commitment to setting the right kind of priorities for state spending with an emphasis on education, health care and economic development. With the help of about \$263 million in one time federal aid for Medicaid and other state services, legislators were able to reduce long term state debt by defeasing \$95 million of state debt over three years and restore anticipated cuts in vital health care and education programs.

The capital outlay budget for the 03-04 budget year totals about \$3.8 billion in cash and bond financing for various state and local infrastructure projects. The state limits bond sales each year to about \$260 million each year to hold down growth in state debt. With that limit and considering the dollars set aside for on-going projects, there is only about \$83 million available for new projects. As has been the practice in recent years, most local projects include some kind of match through in-kind or other sources from the local government entity.

EDUCATION

- Plan to Rescue Students from Failing Schools - A proposed constitutional amendment and a new state law will allow BESE to take over management, supervision and operation of failing schools, schools that are considered unacceptable under the state's accountability program. Schools that are "failing" for four consecutive years or those where the school system does not submit an acceptable plan to address problems at the school could be placed in a "recovery" district for operation by BESE or an entity

designated by BESE such as a university. The local and state dollars to operate the school will move to the recovery district. The latest state report rates 65 schools across the state as academically unacceptable.

- Driving is a Privilege - This is one of several measures approved by lawmakers to address discipline problems in the classroom. A student suspended or expelled for 10 or more days for discipline problems involving the possession of drugs or alcohol, the possession of a firearm or assault or battery on a teacher or school staff member will lose their drivers' licenses for up to one year.
- Teachers' Bill of Rights - This measure consolidates the various state laws dealing with the rights and authorities of teachers into one place in state law.
- Commission on Best Practices in School Discipline - This commission will review and compile information regarding school discipline programs in Louisiana and across the nation. A report with recommendations on needed changes in state law will be submitted to the legislature before the next regular session.
- Personal Financial Responsibility - To address growing problem with student credit card debt, beginning in the 2004-05 school year the free enterprise course required for graduation will include instruction on personal finances.
- Physical Education - Beginning in the 2004-05 school year, 30 minutes of quality physical education activities will be required in grades K-6. Louisiana is the first state in the nation to adopt such a requirement.
- Driver's Education & Organ Donation - This act requires 30 minutes of instruction on organ donation as a part of drivers' education courses. The requirement can be

waived if parents of the student object.

- Pager/Cell Phone Ban - Prohibits the use of pagers, cell phones and other electronic communication devices in a school or on a school bus. The prohibition takes effect this fall.
- Temporary Teaching Certificates - To encourage uncertified teachers to become certified, temporary teaching certificates which are granted for one year will only be renewable twice.
- Teach Louisiana First Program - Provides bonuses of \$4000 to \$6000 a year for up to four years for certain teachers who work in failing schools with a shortage of certified teachers or in rural schools with academic deficiencies in disadvantaged areas. Initial funding for the program totaling about \$200,000 may be available from federal education loan funds to provide the bonus to about 33 educators.

PRE-K TO 12 EDUCATION DOLLARS

- MFP - The Minimum Foundation Program which provides state aid to local schools is fully funded and totals \$2.5 billion.
 - Funding is increased by \$80 million including \$19 million to annualize the \$476 raise provided school support workers last year and about \$25 million for teacher pay raises amounting to about \$350 per year. Not all school systems will receive the extra teacher pay raise dollars. Those who do receive the money will decide how the pay raise funds are allocated.
 - Per pupil allocation is increased by 2.75%.
 - For the first time, the formula includes an accountability provision that requires a report from low performing schools as to how that school utilized the funds available.

- Accountability Program - Additional funds are set aside for various accountability programs. While the increase is not the 45% increase requested by education officials, there is a \$2 million increase for remediation and after school tutoring programs. An additional \$5 million is added for the accountability awards program and an extra \$1 million for the Distinguished Educators Program.
- Early Childhood Education - The early childhood education initiative will continue with increased funding for both the public and private programs with a total of \$39 million now set aside for the highly successful public programs and another \$8.5 million for the private programs. The expanded funding will provide the early childhood education services to an additional 2000 at-risk children.
- Lottery Funds for Education - Voters will decide this fall on a proposed constitutional amendment that “officially” dedicates all but \$500,000, which is earmarked for compulsive gaming treatment programs, from lottery proceeds to education. For several years, lottery funds have been specifically appropriated to education as part of the annual budget process.

HIGHER EDUCATION ISSUES & DOLLARS

- Academic Excellence Fee - Lawmakers authorized higher education institutions to levy an academic excellence fee beginning with the fall semester. The fee will total \$120 a semester at colleges and universities and \$90 a semester at the community and technical colleges. The measure will raise \$16 million for the University of Louisiana system campuses, \$15.5 million for the LSU system campuses and \$3.2 million for the Community and Technical Colleges. Most universities have already acted to institute the fee.

- Tuition Increases - Legislators approved a tuition increase at SU Law Center of \$2445 over three years to upgrade technology and library equipment and supplies and a LSU Vet School tuition increase of \$750 for current students and \$1500 for new students to assist the school in maintaining accreditation. Tuition and fees will also increase at LSU-Alexandria which is now an approved four year institution.
- Facilities Fees - Authorization of \$60 a semester fee at UNO and SUNO to help finance facilities improvements.
- Tuition Policy - This measure requires the Board of Regents to formulate a state tuition and fee policy for all state colleges and universities. The policy will address the alignment of tuition and fees with state funded student aid programs.
- Slots at the Tracks Special Allocations - \$750,000 for the equine research program at the LSU Vet School and \$750,000 for the SU AgCenter. The funds are set aside from increased revenues from newly authorized slots at Evangeline Downs and Louisiana Downs beginning in January, 2004. If voters approve slot machines at the Fairgrounds Race Track, about \$230,000 from the slot operations will support the School of Allied Health at the Louisiana Technical College in New Orleans.
- Higher Education Funding - The state operating budget and capital outlay bill include additional monies for higher education with over \$57 million in enhancements and adjustments for higher education. For instance, over \$9.6 million was restored to the higher education budget to cover the costs of mandated merit pay increases. Most other state agencies are being required to absorb those costs. Louisiana is second in the nation in increased spending for higher education this fiscal year and one of only a few states that

increased funding for higher education rather than decreasing it.

- Economic Development/Research Programs - Included in the enhancements for higher education is an additional \$18.5 million for technology research and \$4.25 million for biotechnology research.

TOPS & TUITION ASSISTANCE REFORMS

- Returning Students - Allows students who qualified for TOPS but chose to attend school out of state to return to Louisiana and receive their remaining TOPS eligibility to complete their education.
- Course Requirements - Increases the core course requirements to qualify for TOPS beginning in the 07-08 school year to require an additional credit unit of computer related education.
- Military Families - Various proposals approved at the session make it easier for children whose parents are serving in the military and based in Louisiana to qualify for TOPS. Changes are also made in the program to accommodate the special needs of military personnel.
- Graduate Students - Allows use of TOPS for graduate school if the 8 semesters of tuition assistance are not used for undergraduate school.
- Minimum ACT Score - Sets the minimum required ACT score to qualify for TOPS at 20, now 19.
- Nursing Student Loan Program - Sets up a guaranteed loan program for nursing students. The loans can be forgiven if the student practices or teaches full time in Louisiana upon graduation.
- Job Skills Grants - Provides tuition grants to qualified graduates of the Louisiana National Guard Youth Challenge Program for job skills training at a public or private technical college. These grants are dependent upon funds being made available

for the program.

HEALTH & HOSPITALS

- Charity Hospital Management Reform - Referred to as the first major step to reform the charity hospital system, the new law gives the LSU Health Care Services Division more authority to manage their resources by allowing reduction of services up to 35% without legislative approval. Such reductions are now limited to 10% with lawmakers' okay. No facility or emergency room can be closed without legislative approval and local advisory councils will have input on the management decisions. Additionally, a centuries old law that guarantees treatment to anyone at a charity hospital is repealed. Patients with incomes at least twice the poverty level, \$36,000 for a family of four, will be required to pay at least something for their care. No one will be denied treatment in an emergency situation.
- LA Senior Rx Program - Coordinated through the Office of Elderly Affairs and Councils on Aging, seniors 60 years of age and older with incomes up to three times the poverty level (\$26,940 for an individual) will be eligible for reduced price drugs offered through pharmaceutical companies. There is \$500,000 set aside in the state budget to help get the program going.
- LA Seniors Pharmacy Assistance Program - DHH is authorized to use Medicaid funds to subsidize the drug costs for those 65 years of age or older who live below the poverty level. Start up of the program which could cost over \$5 million is dependent on DHH finding the available funds.
- Insurance for the Working Poor - Requires DHH to seek a federal waiver to use Medicaid money to create a new insurance plan for the working poor who do not

qualify for Medicaid. Any plans would have to be approved by the Jt. Budget Committee. The program, which would start no earlier than January, 2004 if DHH finds available funds, would be available to families of four with incomes no higher than two times the poverty level or \$36,000 a year. There are an estimated 800,000 uninsured in Louisiana.

- Louisiana Safety Net Health Insurance Program - Program to provide for insurance companies to offer minimal health care coverage to public employees who have not had health insurance for at least one years, to private employers who have not offered health coverage for at least one year and to private employers who have at least 50% of their employees with incomes no more than 200% of the poverty level. Insurers will contract with providers for reduced set reimbursement rates for services. Employers will have to pick up at least 50% of the premium costs.
- Health Care for the Disabled - Allows disabled citizens with incomes less than about \$22,450 to "buy in" to the Medicaid program to get health care coverage. The program begins in January 2004 and eases the burden of the possible loss of health coverage faced by many disabled who want to return to the workforce.
- Public Smoking Bans - Legislators outlawed all smoking in the Superdome and authorized local governments to ban smoking in all public buildings except facilities that serve alcohol, gambling facilities, hotel guest rooms and tobacco businesses.

PUBLIC SAFETY

- DNA Data Bank - Expands current law to collect DNA samples from anyone arrested for a felony or certain misdemeanor sex offenses such as a "peeping Tom". The

samples would be placed in the state crime search data base. One of the most aggressive DNA laws in the nation, the new law will make Louisiana eligible for federal funds to analyze DNA samples from 27,000 state inmates. An additional \$4 million is set aside in the state budget for the new DNA sampling. Louisiana is also getting \$2.4 million from the federal government to buy crime lab equipment and to work old cases. *A suit has been filed in federal court in Baton Rouge claiming that the law is unconstitutionally vague and an invasion of privacy.

- DNA & Sex Offense Cases - Removes the statute of limitation for the prosecution of sex offenders when DNA is collected, but not identified until a later date. Includes pending cases.
- DNA Sampling of Peace Officers - As of August 15, 2003, new law enforcement officers will be required to submit DNA samples and fingerprints. Current officers may do so voluntarily.
- Amber Alert reform - Clarifies state law to allow for the release of a juvenile crime victim's name in connection with the use of the Amber Alert system that assists law enforcement when a child is missing or abducted in connection with a crime. A companion measure also requires lottery officials to use their electronic communication system with lottery retailers to distribute Amber Alert notices.
- Domestic Violence - Various changes in state law to crack down on domestic violence including increasingly stiff penalties for repeat offenses, inclusion of spousal rape in the definition of simple rape, elevates the murder of a person under a legal protection order to first degree murder and creation of a pilot program in EBR and Lafourche parishes that will require electronic monitoring of domestic violence offenders under protection or restraining orders.
- Sexually Explicit E-Mail - Requires electronic mail of a sexually explicit nature to be labeled in the subject line ADV-Adult.
- Identity Theft - Various measures address the rights of victims in identity theft crimes including allowing the victim to file a complaint in their home towns even though the criminal use of the identity may occur elsewhere, responsibilities of credit granting agencies, banks, retailers regarding security alerts on accounts and a responsibility of the investigating agency to provide to the victim the name of the offender to assist in the restoration of the victim's credit history.
- Child Sex Abuse - Several measures addressed this continuing problem including the requirement that members of the clergy acting as social advisors and counselors to report incidents of child abuse or sex abuse. The requirement would not apply to clerical advisors. Another measure allows a judge to consider a defendant's prior criminal history, the potential continuing threat to the victim and statistical evidence regarding the likelihood that a sex offender will continue to offend when granting bail. The measure also changes the aggravated rape law to apply the law to child sex abuse victims up to age 13, rather than age 12.
- Sex Offenders on College Campuses - Requires convicted sex offenders to notify state police when they enroll at a college or university or work at the institution. University officials are required to notify students where the list of sex offenders on campus can be reviewed.
- Drug Crimes - To address increasing problems with methamphetamine labs, legislators approved a new law relating to the crime of purchasing products to create the drug. Another measure addresses the possession of ephedrine for other than legitimate medicinal uses.

- Contraband & Personal Property - Voters will consider a proposed change in the state constitution to make clear that contraband is not considered "personal property" protected in the constitution.
- Homeland Security Measures - Lawmakers officially created the State Homeland Security and Emergency Preparedness Office. Ports are required to develop homeland security plans. Various public record laws were also changed to limit general public access to security sensitive information relating to things like pipelines. Funds were also set aside in the state budget for the Homeland Security and Bioterrorism Research Fund to capitalize on economic development opportunities arising from the homeland security efforts.

CORRECTIONS

- Mentally Retarded & Capital Punishment - To comply with the U.S. Supreme Court ruling declaring execution of the mentally retarded unconstitutional, a system is established for determining if a defendant is mentally retarded. The jury will decide after the verdict if the defendant is disabled by significant limitations in intellectual, social and practical skills. If such a disability is determined, the maximum sentence is life.
- Re-entry Program for Released Inmates - Creates a program to provide counseling and referral programs for inmates six months prior to release. 15,000 inmates are released each year with about 1/2 of them arrested again within 5 years.
- DNA/Wrongful Conviction - Extends the deadline until August 31, 2007 for inmates to apply for post conviction relief through DNA testing.
- Risk Review/Drug Offenders - Allows inmates who have served at least 20 years of a life sentence for a serious drug charge to apply for early release before the Risk

Review Panel.

- Indigent Defense - Require anyone seeking "free" legal assistance from Indigent Defender Offices to pay a minimal \$40 one-time fee for the assistance.
- Inmate Health Care - Prohibit the use of public funds for organ transplants for convicted murders or rapists.
- Juvenile Justice Reform - Establishes a commission to develop a plan for a new state agency to coordinate and provide services to troubled children and their families with an eye to moving away from incarceration of juveniles to alternative treatment programs. Requires the transition of the Swanson Correctional Center in Tallulah from a juvenile facility to an adult DWI offender facility by the end of 2004.

CHILDREN & FAMILY

- Child Support - Makes permanent the authority of DSS to suspend drivers' licenses and various other professional and recreational licenses for failure to pay child support. Also allows a judge to suspend a driver's license if a parent shows a pattern of late payments.
- Welfare Reform - Enacts the Strategies to Empower People (STEP) program to better prepare welfare recipients for the workforce. Requires recipients to immediately seek employment and participate in on-going activities relating to job readiness skills such as job interviewing, job training and resume preparation.
- "211" Program - Authorizes the Public Service Commission to set up a "211" program in Louisiana. Similar to the 911 program, the 211 program would send the caller to a central location to ask for help in seeking state assistance to deal with family and personal issues.
- "No Wrong Door" Program - Requires the

Department of Social Services to develop a pilot program involving multi-disciplinary teams working together to address the needs of multi-need clients in one setting to reduce red tape and provide more comprehensive services and support to families and children.

- Day Care Centers/Drug Free Zones - Creates a drug free zone around licensed day care centers and prevents the location of a facility serving alcohol within 1000 feet of the center.
- Child Abuse - Several measures addressed this issue including one to establish multi-disciplinary teams to investigate child abuse cases with new standards set for child advocacy centers and child abuse investigators. Another measure terminates the parental rights of an adult convicted of child sexual abuse.

TRANSPORTATION & HIGHWAYS

- Night-time Construction - Requires highway work that will cause undue hardships or traffic delays to be conducted at night or during off-peak traffic hours. DOTD still has some discretion to alter such plans under certain circumstances.
- Construction Notice - Requires DOTD to establish a policy for notifying legislators and local officials about construction or maintenance projects that will disrupt traffic for more than 48 hours on heavily traveled highways.
- Highway Funding - Adds highway projects with matching federal funds to list of items that can be funded with one time monies available from the settlement of mineral disputes.
- State Infrastructure Bank - Proposed change in the state constitution to authorize a state infrastructure bank to loan or pledge funds for infrastructure projects. The idea is to provide an alternate means of financing major highway, bridge and mass transit

projects. The bank would use federal seed money matched with state funds to provide low interest loans and credit enhancements to public entities for infrastructure improvements. *A similar amendment failed in 1998.

- Drivers Licenses Suspension - Suspends license of driver who has been convicted of a crime and does not pay the court ordered fines or penalties.
- Drivers Licenses & the Military - Requires all males between 18 and 26 years of age to register with Selective Service when they apply for or renew their drivers licenses. Also requires males between 15 and 18 years of age who apply for a license, permit or id card to provide personal information necessary to register for military service when they reach 18.

HIGHWAY SAFETY

- DWI -
 - Increases penalties for DWI offenders with blood alcohol levels of .20 or greater.
 - Requires chemical test of driver following a fatal accident or one involving serious injuries to determine blood alcohol level. Current law requires the test if there is reason to believe that the driver may be impaired. Sets up penalties for refusing to take the test and limits suspension of sentence to include some jail time or community service.
 - Expands the list of DWI offenses where an interlock device must be installed on the offender's vehicle and requires the device to be installed by an approved LA installer.
 - Provides criminal penalties for those who refuse a blood alcohol

test for a third or subsequent offense.

- Alcoholic Beverages & Minors - In an effort to track alcoholic beverage purchases for minors, requires retailers to record the name, address and phone number of a buyer of a keg. Requires the buyer to sign a declaration that the alcohol is not for minor consumption.
- Driver & Passenger Safety -
 - Prohibits the showing of videos in a vehicle where the driver can see the video.
 - Beginning January 1, 2004, children riding in vehicles must be restrained in proper restraints and approved seats depending on their weight and age.

INSURANCE

- “Flex-band” Insurance Program - To allow insurance companies to adjust rates up or down by 10% without the approval of the Insurance Rating Commission. If the insurance department actuary objects to the action, the company may appeal to the commission. The 10% change in rates will be spread across a company’s policies so that some individual policies may increase or decrease more or less. The measure is seen as vital to encourage insurance companies to operate in Louisiana. To see if the new law is effective, the legislature will receive a report on how rates and competition are affected over the next two years.
- Insurance of Last Resort Reform - Creates the LA Citizens Property Casualty Corporation, a quasi public/private non-profit entity to operate the current high risk programs (FAIR and Coastal) and to establish a catastrophic reserve fund. The plans will be able to retain surplus funds in the years when there are no big claims to build up a rainy day reserve. Also allows

the sale of bonds to cover catastrophic losses when the funds are depleted. The bonds would then be paid off over time with money from a surcharge on all policy holders. This is an effort to maintain availability of property insurance in Louisiana. Currently there are only 12 companies writing property insurance in Louisiana.

- Insurance Rating and Credit Scoring - Prohibits rate setting based solely on credit scores and requires review of an insured’s credit score on a continual basis. Sets up other requirements to regulate the use of credit scoring in the sale and rate setting of policies.
- “Mandates” Moratorium - Places a moratorium on new mandates on insurance companies that require the companies to provide certain coverage to their clients from January 2004 to the end of 2008.

ECONOMIC DEVELOPMENT

- Louisiana Major Projects Development Authority - To help secure large projects worth at least \$300 million and creating at least 500 jobs with salaries on average 25% higher than the average state wage. The authority, which is composed of the governor, legislative leaders and the commissioner of administration, will have the power to select sites, expropriate land with some limitations and hire architects, engineers, etc. The legislature will have the final say on the plans.
- Quality Jobs Program - Fine tunes the program that provides tax credits for new and expanding businesses that create jobs at a certain salary level and with certain employer paid benefits to lower the required employer contribution to an employee’s health insurance coverage from 85% to 70% for jobs paying \$50,000 a year or more.

- Incumbent Worker Training Program - Removes sunset on program that was set to expire this year and makes other adjustments to better meet the needs of businesses.
- Film & Television Development - Creates the Governor's Office of Film and Television Production with the authority to act on tax credits for the industry rather than the State Board of Commerce and Industry.
- Arts & Entertainment Development - Creates the LA Arts and Entertainment Industry Development Fund to receive state funds, donations and grants to support development of the recording and music publishing industry in Louisiana.
- Louisiana Opportunity Fund - \$4.7 million to lure or keep businesses and industries in Louisiana.
- Local Economic Development Programs - Voters will consider a proposed change in the state constitution to allow a city or parish government to donate industrial development and economic development tax funds or property to a private entity for economic development purposes such as buying or maintaining property, buildings, factories or machinery. The entity must provide employment to a certain number of local residents. Any such local agreement with a private entity would have to be approved by the State Bond Commission.

GAMBLING

- Fair Grounds Race Track/Slot Machines - Allows slot machines at the Fair Grounds Race Track in New Orleans once voters have approved the move in a local option election set for October and the State Gaming Board has approved an amended New Orleans Casino contract allowing the slots.
- Racetrack Gaming Space - Widens the

aisles between machines at racetracks with gaming by six inches. The additional space will not be included the track's "gaming space limit".

- Video Poker - Several measures changed the operation of video poker in the state including one measure to reduce the required number of hours of operation for restaurants at video poker truck stops from 24 to 12 hours; another series of measures lower the minimum video poker bet to a nickel, allow the playing of more than one "hand" at a time and raise the maximum size bill accepted by the machine from \$10 to \$20.

ENVIRONMENT & NATURAL RESOURCES

- La Groundwater Management Plan - Places groundwater management under the authority of the Commissioner of Conservation who will work with the Ground Water Management Commission to develop an emergency water use plan for critical groundwater areas. New large wells will require a state permit. The permit requirement does not apply to home use wells. An advisory task force will work with the commissioner and the management commission.
- Reclaimed Water Program - Requires the use of reclaimed water on golf courses, cemeteries, parks, etc. built after 8/15/03. The sales tax collected on the reclaimed water sales will go into a special fund to assist municipalities with meeting clean water standards and sewer needs.
- Groundwater Contamination - Allows the state to intervene in any lawsuit in which a landowner is claiming groundwater contamination and requires the judge in such cases to oversee any remediation to insure that settlement funds provided for cleanup are indeed used for that purpose. This change in the law is the result of a

recent court ruling that gave the landowner complete control over the use of any settlement funds.

- Littering - Increased fines for simple and intentional littering with an additional special court fee for those convicted of intentional littering. Also added \$1 to every new and renewed driver's license to provide funds for anti-litter education programs in our schools.
- Pollution Permits - Allows DEQ to issue "permits by rule" to certain industries seeking approval for temporary variances from their existing permit. Such variance requests now can take over a year and usually involve small emissions. The change will allow DEQ to focus on major pollution permit requests. Such "permits by rule" are used by other states and the federal government. Environmentalists have expressed concern that the law creates a major loophole in the state's air pollution laws with DEQ empowered to decide how the permits will work.
- DEQ Operations - Various bills change the operations of DEQ to improve efficiency and performance including a measure to expedite the handling of minor violations and a measure to change the way annual facility inspections are scheduled to place a priority on those facilities that warrant more frequent inspections.
- Coastal Restoration - Proposed change in the state constitution to dedicate at least \$35 million from one time money from mineral dispute settlements that total over \$5 million to the Wetlands Conservation and Restoration Fund and allows appropriation of other one-time monies to the fund. Removes the current cap on the fund and sets the new cap no lower than \$500 million. Another constitutional amendment would set aside 20% of any money realized from future securitization of the state's tobacco settlement to coastal restoration. The state is seeking \$14 billion from the federal government to tackle our coastal restoration problems and the state monies are vital to receiving the federal assistance.
- State Liability & Coastal Restoration - A constitutional amendment that authorizes the legislature to limit damage awards connected to coastal restoration projects so that any award is limited to the fair market value of the property damaged or destroyed by a coastal restoration project. To avoid future liability, oyster leases up for renewal will not be renewed if there is a possibility that the oyster beds will be damaged by a planned coastal restoration project.
- Private Property Donations/ Natural Resources - Requires review and approval of future donations of private property to the state by the House and Senate Natural Resources Committees and sets up a system for the commissioner of administration to negotiate the conditions and contracts for such donations.
- Land Owner Rights - Revamps the state trespassing law to remove fencing and posting requirements and places the burden on those entering another's property to show they have permission to be there. Landowners are also immune from damages if someone is injured on property that doesn't belong to them or does not have permission to be on the property.
- Commercial & Recreational Fishing Changes - Various measures change state law relating to such things as the size of crawfish nets to permit the catching of smaller crawfish for processing; the method for determining who is a full time commercial fishermen and who is not; the addition of a summer commercial trout fishing season; a new life time gear fee option for life time hunting and fishing license holders; reduced hunting and fishing

license fees for the disabled and increased penalties for the sale of recreational catch.

TAXES

- Uniform Local Sales Tax Code - Standardizes the hundreds of local tax ordinances so that policies are uniform throughout the state. Sets up an electronic filing system for local and state taxes. Eliminates red tape for businesses operating in Louisiana.
- Drilling Rig Property Tax - A proposed change in the state constitution to exempt drilling rigs used for exploration in outer continental shelf waters that are in the state for storage, conversion or repairs from property taxes in those parishes where voters approve the exemption. Texas has such property tax exemptions. This would enable Louisiana to compete for the rig business that would mean jobs and investment in the local economy.
- Licenses Suspensions/Back Taxes - Suspends the driving licenses and recreational hunting and fishing licenses of those who owe state income taxes. You could lose your driving license if you owe at least \$1000 in back state income taxes or your sports licenses if you owe \$500 or more.
- Stelly Plan Study - As the state continues implementation of the Stelly Plan which reduces sales taxes on food and home utilities and changes the state income tax, lawmakers approved a resolution to require a study of the true impact of the tax changes with the results of the study due before the next legislative session.

GOVERNMENT REFORM & OPERATIONS

- Candidate Qualifications - The state constitution prohibits a convicted felon from running for office until ten years after completion of sentence. In connection with

that constitutional requirement, lawmakers agreed to require candidates to fill out a notarized form declaring that they are qualified to run for office. District attorneys are also authorized to contest a candidates qualifications upon the receipt of a citizen's complaint.

- Legislative Auditor Reform - A proposed change in the state constitution to prohibit the state legislative auditor and the auditor's employees from political activities and bans a former auditor from seeking office for 2 years after leaving the job.
- Department of Veteran's Affairs - Elevates the current veteran's affairs agency operating in the governor's office to a cabinet level Department of Veteran's Affairs in January 2004 when the Department of Elections is officially eliminated as a separate state department. Requires the new Department of Veteran's Affairs to be headed by a veteran.
- Citizen Access - Requires state ethics officials to maintain a web site for public access to candidate information, ethics rulings and other matters.
- Help America Vote - Various changes in state law to comply with newly enacted federal election mandates. Beginning with elections in January, 2004, voters will be allowed to cast "provisional" ballots. First time voters who register to vote by mail will be required to show a picture id when voting. The various changes make Louisiana eligible for \$41 million in federal aid to upgrade Louisiana's voting machines.
- Poll Commissioners - Allows 17 year old students who are seniors to serve as poll commissioners.
- Judges - A proposed change in the state constitution to allow a judge who reaches the mandatory retirement age of 70 to complete the current term.

- Jury Duty Pay - Sets jury pay at \$25 a day. Now courts have the option to pay as little as \$12 a day.
 - Local Officials Pay Raises - Lawmakers approved a series of measures authorizing pay raises for local assessors, registrars of voters and sheriffs. The raises, if instituted, would be financed through self generated monies at the local level.
 - Public Retirement System Investments/Reforms - Authorize the investment of public retirement funds in small and emerging businesses and venture capital endeavors. It is an effort to use Louisiana financial resources to develop new businesses and jobs in Louisiana rather than some other state. Another measure requires future DROP retirees to choose between low and high risk investments and to share in any losses to the system as a result of those investments.
 - Firefighter's and Municipal Police Retirement Funding - To deal with underfunding problems in the systems, lawmakers authorized the systems to spread out actuarial gains and losses over 30 years, rather the 15 years now required by law. The move reduces the impact of the retirement funding problems on local governments that were facing double digit increases in their contributions to the systems.
 - Local Government Employees Dismissal - In accordance with a recent change in the state constitution, local government employees are added to an existing state law that requires that a state employee convicted of a felony be fired.
- have been referred to you by someone you know. Another measure adds wireless customers to those eligible to be placed on the Do Not Call list.
- Crematories - Sets up a licensing procedure and new regulations for the operation of crematories in Louisiana in an effort to avoid a situation like the one that occurred in Georgia where authorities discovered the mishandling of hundreds of bodies.
 - Personal Information & Cash Sales - Prohibits retailers from requiring your personal information such as your name, address , phone number, etc. when you are paying in cash.
 - Real Estate Sales Reform - Requires sellers to provide buyers with a property condition disclosure form prior to the sale and sets up new licensing requirements for appraisers.
 - Abandoned & Blighted Property - A series of measures to promote the repair and renovation of abandoned and blighted property including a measure to allow the sale of abandoned property to an adjacent landowner who has maintained the property for a certain time and a measure to allow an individual to take over the property if back taxes are paid and the property is repaired within 9 months.
 - Official State Symbols - Mayhaw and cane preserves are the official state jellies. The Natchitoches Meat Pie is the official state meat pie. The official state vegetable is the sweet potato and the official state vegetable plant is the creole tomato.

OTHER ISSUES

- Do Not Call List - Changes the Do Not Call Law to allow calls from newspapers that are official journals for government agencies, political campaigns, pollsters and those who