

2020

**Regular and
First Extraordinary
Legislative Sessions
*Highlights***



COMMENT

This document was compiled for distribution at adjournment sine die of the *First Extraordinary Session*. This document is presented to you to provide an immediate resource regarding session activity from the *Regular and First Extraordinary Sessions*. However, the information contained herein was based on status as of early Monday morning, **June 29th** and may **not** be the final disposition of legislation.

The final highlights edition report will be prepared and distributed to you after all action has been completed on the bills passed by the legislature and signed by the Governor.

Agriculture/Rural Development

by: *Curry Lann*
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2020 Regular Session

AGRICULTURE COMMODITIES

Senate Bill 212 by Senator Cathey (Act 235), relative to the membership of the La. Agricultural Commodities Commission. The bill changes the nominating authority for the producer appointed by the La. Soybean Association to the La. Cotton and Grain Association.

House Bill 426 by Representative Thompson (Act 148) exempts the analyses of certain purity, germination, and additional seed testing from the Public Records Law.

House Bill 496 by Representative Riser (Act 151) adds definitions and notice requirements for noncommercial grain buyers and unlicensed grain dealers to the agricultural commodity and warehouse law. The Act also allocates year end balances in the Grain and Cotton Indemnity Fund to the La. Ag Finance Authority, changes balance triggers for the suspension and resumption of collections to the fund, and clarifies claims made under it. The Act further requires noncommercial grain buyers to post notification that they are not licensed and prevents producers from making a claim under the Grain and Cotton Indemnity Fund for any transactions made with an unlicensed person or business.

FORESTRY

House Bill 392 by Representative McFarland (Act 80) removes the production of seedlings and propagation stock as a function of the office of forestry. The Act also repeals the authority granted to the La. Forestry Commission to set prices for the sale of forest tree seedlings.

House Bill 393 by Representative McFarland (Act 81) requires the commissioner of agriculture to develop regulations establishing the state's level of resources contributed in a cooperative agreement with a landowner under the La. Forestry Productivity Program and removes financial thresholds on the cooperative agreements.

House Bill 394 by Representative McFarland (Act 82) changes requirement for adopting the forest and recreational management plan for Alexander State Forest and Indian Creek by rule under the Administrative Procedure Act to posting the plan on the La. Department of Agriculture and Forestry website and publishing in the La. Register.

HORTICULTURE

Senate Bill 163 by Senator Cathey (Act 308) exempts a licensed contractor that is performing repair work within a right-of-way that covers less than 5,000 sq. ft. from the licensure requirements of the Horticulture

Law. The Act defines "repair work" as the restoration or replacement of sod disrupted during the course of performing work within the scope of a construction contract or permit.

INDUSTRIAL HEMP

HB 843 by Representative Schexnayder (Act 344) provides for the regulation of industrial hemp, industrial hemp products, and industrial hemp-derived cannabidiol (CBD) products. The Act changes the allowable tetrahydrocannabinol (THC) level of industrial hemp to mirror the federally defined level and authorizes LDAF to issue stop orders and contract with public postsecondary education institutions for THC testing. The Act requires LDAF to obtain state and national criminal history records for determining an applicant's eligibility for licensure and requires that all such records be deemed confidential. The Act authorizes the sale of hemp rolling papers and repeals the requirement for statements regarding FDA evaluation and medical disclaimers. The Act provides for the authority of the office of alcohol and tobacco control, authorizes the commissioner of alcohol and tobacco to impose fines, and suspends retailer permits for nonpayment of taxes. The bill prohibits the sale of industrial hemp-derived CBD products to anyone under 18 years of age. The Act also creates the Industrial Hemp Advisory Committee to make recommendations on legislation relative to the regulation of industrial hemp and industrial hemp-derived CBD products.

LIVESTOCK

Senate Bill 108 by Senator Cathey (Act 306) changes the name of the La. Public Livestock Market Charter Law to the La. Livestock Market Charter Law and expands the law to

include buying stations. The Act provides that the owner of a livestock market operated and conducted as such on April 1, 2019, shall be issued a charter for the operation of the market.

House Bill 754 by Representative Dustin Miller (Act 159) expands the authority of livestock brand inspectors as peace officers by granting them certain law enforcement and police powers when exercising their duties under specific situations or by request of local law enforcement agencies.

2020 1st Extraordinary Session

Senate Concurrent Resolution 3 by Senator Robert Mills (Signed by the President) creates the Task Force on Log Truck and Agriculture Vehicle Liability Insurance to study the limitations on insurance options and the impediments to affordable automobile liability insurance for log trucks and agriculture vehicles and to make recommendations to the legislature no later than February 15, 2021.

Capital Outlay

by: Martha Hess
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House Bill 2 of the 2020 First Extraordinary Session by Representative Bishop (Pending Governor's Signature) provided for the comprehensive capital outlay budget for Fiscal Year 2020-2021, including funding from the following sources of monies:

Federal Funds (excluding TTF - Federal Funds)	\$	387,978,040
Transportation Trust Fund (TTF) - Federal Funds	\$	650,920,223
Transportation Trust Fund (TTF) - Regular	\$	178,002,235
Coastal Protection and Restoration Fund	\$	281,239,945
Natural Resources Restoration Trust Fund	\$	367,748,669
Fees and Self-Generated Revenues	\$	143,335,700
Interagency Transfers	\$	97,485,000
Miscellaneous Statutory Dedications	\$	39,298,000
General Fund (Direct') Non-Recurring Revenues	\$	178,193,343
Reappropriated Cash	\$	5,000,000
Interest Earnings and Reappropriated Interest Earnings	\$	10,000,000
Inter-Agency Transfers	\$	93,836,000
Revenue Bonds	\$	<u>28,690,000</u>
TOTAL CASH PORTION	\$	2,461,727,155

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

Priority 1	\$	685,781,042
Priority 2	\$	194,176,400
Priority 5	\$	2,384,532,850
TOTAL GENERAL OBLIGATION BONDS	\$	3,265,490,292
BONDS N.P.	\$	714,698
GRAND TOTAL ALL MEANS OF FINANCING	\$	5,726,932,145

Bonds N.P. is the reallocation of previously sold bonds.

*These numbers reflect the six projects vetoed by the Governor as well as the two projects which were declared null. Section 16 of the Act limits cash lines of credit or the authorization of the issuance of general obligation bonds to **\$881,402,800**.*

Children, Women & Family

by: *Mary Dozier O'Brien*
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2020 Regular Session

Because of the reduction in the active length of the regular legislative session as a result of the COVID-19 pandemic and accompanying state of emergency, the work of the Health and Welfare committee of the Senate was significantly scaled-back. Seventy-five instruments were originally assigned to the committee. Chairman Fred Mills spoke eloquently to the Senate from the floor regarding the difficulties of those citizens who are often directly affected by the Health and Welfare subject-matter legislation. Chairman Mills expressed his concern that if many of the bills assigned to Health and Welfare were scheduled for hearing, those wishing to testify, often the most vulnerable of the population, would face substantial obstacles in attempting to be present in committee and, also, creating an extraordinary risk to the health of those who would come to the capitol. Because of these hardships, Chairman Mills prevailed upon senators to have any non-emergency legislation deferred committee hearing until introduction of the bills in subsequent sessions, expected to be the 2021 RS.

Legislation that was considered to contain matters of an emergency nature was heard by the committee and that

legislation taken up is as follows:

CHILDREN

Birth and Death certificates under certain circumstances

House Bill 171 by Representative Hughes (Act 69) allows the Department of Children and Family Services to obtain a certified copy of the birth or death certificate of a child placed in the Department's custody. The department may also obtain a certified copy of the death certificate of a parent whose child is in the department's custody.

Children of Incarcerated Parents

House Bill 729 by Representative Marcelle (Act 284) establishes the Council on the Children of Incarcerated Parents and Caregivers and it reinstates the Children's Cabinet by way of repealing its termination.

2020 First Extraordinary Session

The First Extraordinary Session of 2020 was called to order immediately following the Sine Die of the 2020 Regular Session and was set for a thirty day session. No instruments were filed during this session that dealt with matters within the purview of the Department of Children and Family Services.

Civil Law & Procedure

by: *Margaret Corley*
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2020 Regular Session

House Bill 274 by Representative Garofalo (Act 254) provides for recordation of tangible copies of electronic acts. Allows for the performance of notarial functions remotely through the use of technology. The Act provides for limitations, qualifications, procedures, duties, and rulemaking relative to the performance of remote online notarization.

House Bill 826 by Representative Pressly (Act 336) provides for a limitation of liability for a person or local or state government or political subdivision from civil damages for injury or death resulting from exposure to COVID-19 in the course of or through the performance of a person's business operations unless it is proven that the person, government, or political subdivision was not in substantial compliance with applicable COVID-19 procedures, or unless such damage was caused by gross negligence or willful or wanton misconduct.

Senate Bill 418 by Senator Talbot (Vetoed by the Governor) would have created the Omnibus Premium Reduction Act of 2020, which had as its general purpose the reduction of the cost of motor vehicle insurance by legislation in regard to civil law and insurance policies. The Act would have increased the general one-year prescriptive period for delictual actions for injury or damages arising from the operation of any motor vehicle, aircraft, watercraft, or other means of

conveyance to a two-year prescriptive period and retained the liberative prescription of three years for any act of sexual assault. It would have reduced the threshold for a jury trial from \$50,000 to \$35,000, except for tort actions, for which the threshold is \$10,000.

Senate Bill 435 by Senator Abraham (Act 362) provides that, during the COVID-10 public health emergency, no person or entity, including any local or state governmental entity or employee thereof, shall be liable for damages or personal injury resulting from or related to an actual or alleged exposure to COVID-19 in the course of or through such person or entity's business services or while engaged in the performance of such person or entity's duties, provided that the person or entity was relying on and generally followed applicable government standards and guidance related to COVID-19 exposure, or unless such damage was caused by gross negligence or willful or wanton misconduct.

Senate Bill 491 by Senator Hewitt (Act 303) provides that, during a declared state of emergency, any natural or juridical person, who gratuitously and voluntarily renders disaster relief, recovery services, or products in coordination with the state or its political subdivisions, shall not be liable to the recipient thereof for any injury or death to a person or any damage to property resulting therefrom, except in the event of gross negligence or willful misconduct. Further provides that, during a declared state of

emergency, any natural or juridical person, who renders disaster relief, recovery services, or products outside of the typical course and scope of their operations in coordination with the federal government, the state, or its political subdivisions, shall not be liable to the recipient thereof for any injury or death to a person or any damage to property resulting therefrom, except in the event of gross negligence or willful misconduct.

Senate Bill 508 by Senator McMath (Act 305) provides that no owner, operator, employee, contractor, or agent of a restaurant which is in substantial compliance with Proclamation No. 25 JBE 2020 and any subsequent related proclamations and associated guidelines issued by the Centers for Disease Control and Prevention, shall have civil liability for injury or death due to COVID-19 infection transmitted through the preparation and serving of food and beverage products by the restaurant during the COVID-19 public health emergency as declared by the proclamation unless the injury or death was caused by gross negligence or wilful and wanton misconduct.

2020 First Extraordinary Session

House Bill 44 by Representative Garofalo (Pending House concurrence) would provide for collateral source recovery, that when a plaintiff's medical expenses have been paid by a health insurance company the plaintiff's recovery of medical expenses is limited to the amount actually paid to the health care provider, and not the amount billed.

House Bill 57 by Representative Schexnayder (pending Senate final passage) would create the Civil Justice Reform Act of 2020. It would provide for a reduction of the

jury threshold from \$50,000 to \$10,000, that the existence of insurance coverage shall not be communicated to the jury unless the coverage is a disputed issue. House Bill 57 also would repeal the law which prohibited consideration of the failure to wear a safety belt in violation of law as evidence of comparative negligence in any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle.

Senate Bill 9 by Senator Hewitt (Sent to Governor) repeals the law which prohibited consideration of the failure to wear a safety belt in violation of law as evidence of comparative negligence in any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle.

House Concurrent Resolution 18 by Representative Seabaugh (pending Senate final passage) and Senate Concurrent Resolution 14 by Senator Robert Mills (pending House referral) would suspend R.S. 32:295.1(E) which provides that the failure to wear a safety belt in violation of present law shall not be admitted to mitigate damages in any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, and the failure to wear a safety belt in violation of present law shall not be considered evidence of comparative negligence. The suspension would be Aug. 1, 2020, if HB 57 of the 2020 First E.S. is not enacted or is vetoed and fails to become law.

House Concurrent Resolution 19 by Representative Seabaugh (pending Senate final passage) and Senate Concurrent Resolution 15 by Senator Robert Mills

(pending Senate final passage) would suspend R.S. 22:333(E) which provides that in order to transact business in La., a foreign or alien insurer must obtain a certificate of authority, which requires the insurer to consent to being sued by an injured person or their heirs through direct action for injuries occurring in La., regardless of whether or not the policy itself forbids direct action; and suspends R.S. 22:1269(B) which provides that an injured third party has the right to take direct legal action against the insurer if that right is provided for within the terms and limits of the policy. The suspension would be effective on Aug. 1, 2020, if HB 57 of the 2020 First E.S. is not enacted or is vetoed and fails to become law.

House Concurrent Resolution 20 by Representative Seabaugh (pending Senate final passage) and Senate Concurrent Resolution 16 by Senator Robert Mills (pending Senate final passage) would suspend C.C.P. Art. 1732(1) relative to the jury trial threshold requirement for causes of action exceeding \$50,000. The suspension would be effective on Aug. 1, 2020, if HB 57 of the 2020 First E.S. is not enacted or is vetoed and fails to become law.

Coastal Restoration

*by: Jerry Jones
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2020 Regular Session

Senate Resolution 14 by Senator Hensgens and House Resolution 19 by Representative Zeringue (Sent to Secretary of State) approve the annual state integrated coastal protection plan for Fiscal Year 2021, as adopted by the Coastal Protection and Restoration Authority Board.

Senate Bill 359 by Senator Hensgens (Subject to call-Senate Final Passage) would have provided for the enforcement of coastal use permits by the state and by local governments, and would have been applicable to all claims existing or actions pending on its effective date and all claims arising or actions filed on and after its effective date.

Senate Bill 440 by Senator Fesi (Pending House Appropriations) would have provided relative to enforcement of the Coastal Zone Management Program.

House Bill 592 by Representative Magee (Act 89) authorizes the Coastal Protection and Restoration Authority to incur debt or issue bonds under certain circumstances.

House Bill 758 by Representative Zeringue (Act 92) provides relative to payments under public contract by authorizing a public works construction contract for a flood protection project or for an integrated coastal protection project to withhold certain liquidated damages from any payments or monies otherwise due

to the contractor.

House Concurrent Resolution 62 by Representative Hodges (Sent to Secretary of State) continues the Comite River Diversion Canal Project Task Force.

House Concurrent Resolution 64 by Representative Zeringue (Sent to Secretary of State) expresses support for the annual Gulf Hypoxia Mapping Cruise.

House Concurrent Resolution 99 by Representative Wheat (Sent to Secretary of State) commends the Pontchartrain Conservancy, formerly known as the Lake Pontchartrain Basin Foundation, on 30 years of working towards environmental sustainability and stewardship of the Lake Pontchartrain Basin through scientific research, education, and advocacy.

Senate Bill 189 by Senator White (Act 311) creates special funds for the deposit of certain federal monies in the state treasury relative to COVID-19 relief and recovery.

Senate Concurrent Resolution 7 by Senator Hewitt (Sent to Secretary of State) requests certain officials and local governments to dismiss coastal lawsuits.

Senate Concurrent Resolution 51 by Senator Hewitt (Sent to Secretary of State) extends the termination date for the Lower Pearl River Basin task force until April 1,

2022.

Senate Concurrent Resolution 56 by Senator Hewitt (Sent to Secretary of State) requests CPRA and DWF to cooperate in developing projects and programs to enhance the oyster industry.

Senate Concurrent Resolution 75 by Senator Fesi (Sent to Secretary of State) requests naming the new Grand Bayou Floodgate in Lafourche Parish as the Reggie P. Bagala Floodgate.

2020 First Extraordinary Session

House Concurrent Resolution 11 by Representative Fontenot (Sent to Sec of State) memorializes the U.S. Congress and the Louisiana congressional delegation to remove the revenue sharing cap on the Gulf of Mexico Energy Securities Act of 2006 for Gulf producing states and to take such actions as are necessary to rectify the federal revenue sharing inequities between energy producing states.

House Resolution 24 by Representative Wheat (Sent to Secretary of State) requests the Coastal Protection and Restoration Authority to work with the Department of Wildlife and Fisheries to develop integrated coastal protection projects aimed at preserving and maintaining healthy estuarine and essential fish habitat in and around Lake Pontchartrain.

Commerce & Consumer Protection

by: *Beth O'Quin*
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2020 Regular Session

The Committee on Commerce, Consumer Protection and International Affairs only heard a few Senate bills before session was suspended in March due to COVID-19. When session resumed in May, Senate members were asked to review their bills and only introduce bills that they considered essential. As a result of senators only going forward on bills they considered essential, many of the Senate bills filed were not heard by the Committee of Commerce, Consumer Protection and International Affairs.

CONSUMER PROTECTION

This legislation, **House Bill 763 by Representative Mcfarland (Act 323)** was in response to COVID-19 that added definitions for "abnormal economic disruption" and "costs" to the Louisiana Homeland Security and Emergency Assistance and Disaster Act. The Act provides that if an abnormal economic disruption occurs, the governor may prohibit excessive cost increases for a maximum of 15 days for the following consumer items:

- (1) Food items.
- (2) Repair or construction services.
- (3) Emergency supplies.
- (4) Medical supplies.
- (5) Building materials.
- (6) Motor vehicle fuels.
- (7) Transportation, freight, and storage services.

(8) Housing.

Abnormal economic disruptions do not include the following:

(1) Price fluctuations in applicable regional, national, or international commodity markets.

(2) Pricing set forth in any preexisting agreement, including stored and in-transit inventory.

(3) Additional costs imposed on the person by the supplier of the goods or services, including costs of replacement inventory.

(4) Additional costs to transport goods or services.

(5) Additional labor charges.

The object of **Senate Bill 395 by Senator Cloud (Vetoed)** was for legal advertisements to disclose the actual monetary amount the person received after all expenses for litigation were deducted from the recovery amount. A violation of this bill would have subjected the violator to penalties pursuant to the Unfair Trade Practices and Consumer Protection Law.

Senate Bill 443 by Senator Ward (Subject to Call-Senate Final Passage) would have made an advertisement for legal

or insurance services that billed the client or the customer for any expenses associated with the advertisement a violation of the Unfair Trade Practices and Consumer Protection Law.

ECONOMIC DEVELOPMENT

During the COVID-19 public health emergency, Taiwan donated 100,000 face masks to Louisiana, which was one of many acknowledgments recognized by **Senate Concurrent Resolution 47 by Senator Peacock (Sent to Secretary of State)** which requests the Legislature of Louisiana to encourage closer economic ties and relationships between the United States and Taiwan by negotiating a free trade agreement between the countries.

FEES/LICENSING/REGISTRATION

This legislation, **House Bill 613 by Representative Charles Owen (Act 200)** requires professional or occupational boards (board) to issue a license to a dependent of a military member assigned to duty in Louisiana if the dependent also meets certain requirements specified by these board. The Act defines "dependent" as a spouse, an unmarried child under 21 years old or a child who is a full time student under 24 years old and who is financially dependent upon the parent or a child of any age that is disabled and dependent upon the parent. Nothing in this Act applies to a license issued and regulated under the authority of the judicial branch of government, to any person covered under the Nurse Licensure Company, or to any person that obtains a license or registration through a nationwide licensing or registry system.

INTERNET

The object of **Senate Bill 406 by Senator Mizell (Vetoed)** would have authorized electric cooperatives (coop) to provide broadband high-speed internet services to only unserved areas. The bill was to be known as the "The Electric Cooperative and Rural Broadband Access Law." This bill would have allowed the coop to grant permission to a broadband affiliate or broadband service provider to use the coop electric delivery system for broadband services. The bill would have provided procedures for the application process. The bill also would have included prohibited acts of a coop. The bill would have provided the coop to make capital investments in an affiliate, issue bonds on behalf of an affiliate, make loans to an affiliate at a fair market rate, and to enter loan guarantees subject to the terms of the Public Service Commission. The bill would have provided the use of the coop's electric delivery system for broadband services by the affiliate or other broadband operator would not be considered an additional burden on the property and did not require the broadband affiliate or other broadband operator to obtain additional consent from anyone having an interest in the property.

OFFICE OF FINANCIAL INSTITUTION/BANKING

This legislation, **Senate Bill 268 by Senator Johns (Act 236)** provides procedures that banks, savings and loan associations chartered under the Louisiana Savings and Loan Association Law are required to follow for an abandoned safety deposit box. This Act provides the financial institution may sell the contents of an abandoned safety deposit box

by public, private, or judicial sale in accordance with the law and the terms of the safety deposit box contract. The Act requires the financial institution get an independent appraiser, an auctioneer, a pawn broker to classify the following items as unsalable:

(1) Documents, writings or photographs having little or no commercial value may be destroyed, excluding military medals and all associated documents.

(2) Coins or currency with a face value of \$20 or less that are valued at no more than twice the face value shall be treated as proceeds of a sale and used to satisfy the financial institution's lien and any excess proceeds remitted to the Louisiana Unclaimed Property Program.

(3) Coins or currency with a face value greater than \$20 or that are valued at 125% or less of the face value shall be treated as proceeds of a sale and used to satisfy the financial institution's lien and any excess proceeds remitted to the Louisiana Unclaimed Property Program.

(4) Any other tangible item having an estimated sale value of \$25 or less may be destroyed by the financial institution or donated by the financial institution to a charitable organization, provided that the aggregate value of the item from a specific abandoned safety deposit box does not exceed \$250.

Financial institutions are required by this Act to obtain an independent valuation of the contents prior to a public or private sale and items valued at more than \$1,000 and these items shall be sold for at least 66% of the independent valuation price at a public or

private sale. If no offer is received that meets the minimum valuation requirements, the financial institutions may sell the contents without a value restriction. Financial institutions are allowed by This Act provides that the financial institutions may sell contents valued at less than \$1,000, without a value restriction. In addition, if the items are firearms, the financial institution is required by this Act to sell firearms in one of the following ways:

(1) Through a federal firearms licensed dealer.

(2) Sold through a public auction through an auctioneer who possesses a federal firearms license.

(3) Turn the firearm over to law enforcement.

Cannabis-related legitimate businesses and service providers were having issues with obtaining a bank account due to cannabis being a violation of federal law. This legislation, **House Bill 211 by Representative Jordan (Act 100)** allows a state bank or credit union to open an account to a cannabis-related legitimate business and service provider and places restrictions on what the commissioner of Office of Financial Institutions would consider as a violation worthy of investigation or enforcement for a cannabis-related legitimate business or service provider. The Act defines a "cannabis-related legitimate business" as any person or company that participates in any business or organized activity that involves handling, cultivating, producing, manufacturing, selling, transporting, displaying, dispensing, distributing or purchasing cannabis or cannabis products, pursuant to a law

established in Louisiana. The Act defines a "service provider" as a business, organization, or other person who sells goods or provides services to a cannabis-related legitimate business or service provider. In addition, the Act prohibits the commissioner from doing any of the following:

(1) Prohibit or otherwise discourage a state bank or credit union from providing financial services to a cannabis-related legitimate business or service provider solely because the account holder is a cannabis-related legitimate business or service provider or is an employee, owner, or operator of a cannabis-related legitimate business.

(2) Penalize a state bank or credit union for providing financial services to a cannabis-related legitimate business or service provider solely because the account holder is a cannabis-related legitimate business or service provider or is an employee, owner, or operator of a cannabis-related legitimate business or service provider.

(3) Recommend, incentivize, or encourage a state bank or credit union not to offer financial services to an account holder or to downgrade or cancel the financial services offered to an account holder solely because the account holder is cannabis-related legitimate business or service provider.

(4) Take any adverse or corrective supervisory action on a loan made to a cannabis-related legitimate business or service provider solely because the account holder is cannabis-related legitimate business or service provider.

(5) Take any adverse or corrective supervisory action on a loan made to a

cannabis-related legitimate business or service provider solely because the employee, owner, or operator is employed by, owns, or operates a cannabis-related legitimate business or service provider.

(6) Prohibit or otherwise discourage a state bank or credit union from providing from authorizing, processing, clearing, settling, billing, transferring, reconciling, or collecting payments for a cannabis-related legitimate business or service provider.

(7) Penalize a state bank or credit union for authorizing, processing, clearing, settling, billing, transferring, reconciling, or collecting payments for a cannabis-related legitimate business or service provider.

PROFESSIONS

This legislation, **House Bill 827 by Representative Riser (Act 329)** lengthened the internship requirement from not more than 24 months, to 48 months, or 104 weeks to 200 weeks for an embalmer and a funeral director. The Act also added persons listed in R.S. 37:876 have the right to arrange funeral goods and services with a funeral director or funeral establishment. The Act included a no liability provision for the funeral director, funeral establishment, or any employee for permitting any interested person to review the human remains. For cremation authorization, the Act provides that a notary or the agent may execute the form before two witnesses. The Act also allows other ways to positively identify the remains when visual identification is not feasible. In addition, the Act allows a copy of the cremation authorization form that is signed by the authorizing agent to be delivered by facsimile or by electronic submission.

PUBLIC UTILITIES

This resolution, **Senate Concurrent Resolution 69 by Senator Allain (Sent to Secretary of State)** created a One Call Agricultural Study Group to determine whether amendments are needed to the Louisiana Underground Utilities and Facilities Damage Prevention Law. The study group is requested to review laws of the other states as it relates to underground utilities and facilities, and to include the impact any amendments would have on the agricultural industry. The study group is to report its findings and recommendations in a written report to the Senate Committee on Commerce, Consumer Protection and International Affairs and to the House Committee on Commerce no later than February 1, 2021.

2020 1st Extraordinary Session

The topics discussed in the Committee on Commerce, Consumer Protection, and International Affairs focused on topics specifically related to COVID-19. The legislation ranged from increased cost for vehicle cleaning supplies, the increased need for rural areas to have broadband high-speed internet, and for electric utilities requesting investment recovery costs when the governor declares a state of emergency.

COMMERCIAL REGULATIONS

COVID-19 increased the use of supplies to clean and sanitize vehicles brought in for mechanical repairs and services. Since 2006, the law has capped the amount a supplier may charge a customer for supplies at 5% of the total invoice for mechanical repairs or \$35, whichever is less. This legislation, **House Bill 21 by Representative Magee**

(pending Governor) increases the amount a supplier may charge a customer from 5% to 10% of the total invoice, and changes the maximum amount from \$35 to \$50, whichever is less.

INTERNET

Rural areas lack access to broadband high-speed internet. COVID-19 highlighted this lack of broadband access as COVID-19 forced schools to close and school children in rural areas had no access to on-line learning. **Senate Bill 10 by Senator Mizell (pending Governor)** begins the process for rural areas in Louisiana to have access to broadband high-speed internet. This legislation requires electric cooperative (coop) to grant permission to broadband affiliates or broadband service providers to use the coop electric delivery services for broadband services. The coop can only deny a broadband affiliate or broadband service access solely on a nondiscriminatory bases when there is insufficient capacity and for reasons of safety, reliability, and for a generally applicable engineering purpose. This legislation prohibits the coop from:

(1) Using its electric energy sales to subsidize provisions of broadband services to the public by a broadband affiliate or other broadband operator.

(2) Allowing the installation or operation of a broadband system on its electric system by a broadband affiliate or other broadband operator to diminish the reliability of the electric delivery system.

(3) Requiring a person to purchase broadband services from a broadband affiliate or other broadband operator, as a condition of receiving or continuing to receive electric

energy from the coop.

(4) Disconnecting, or threatening to disconnect, electric service to any customer due to the customer's failure to pay for broadband services provided to the customer by a broadband affiliate or other broadband operator.

In addition, this legislation requires the coop and the Louisiana Cable & Telecommunications Association and the Louisiana Telecommunication Association submit annual reports on March 1, 2021, and every March thereafter, to both the Senate Committee on Commerce, Consumer Protection, and International Affairs and House Committee on Commerce. The report includes the number of broadband affiliates and broadband service providers requests to use the coop's electric delivery system to rural residents of Louisiana and the associations are required to report broadband deployment data that is publicly available.

PUBLIC SERVICE COMMISSION

In response to COVID-19, additional language was added to the definition of "investment recovery costs" under the Louisiana Electric Investment Recovery Securitization Act. This legislation, **House Bill 39 by Representative Davis (sent to Governor)** allows the electric utility make a request for approval from the Public Service Commission (commission) for any other expenses, uncovered costs, capital expenditures, or write-offs incurred or to be incurred by the electric utility as a result of an event designated by the governor as a state of emergency, if the other expenses, uncovered costs, capital expenditures, or write-offs are approved in whole or in part, by the

commission is eligible for recovery under the Louisiana Electric Investment Recovery Securitization Act. In addition, this legislation requires the commission to determine if securitization is the appropriate way to for the electric utility to finance its investment recovery costs after proceedings in accordance with the commission rules.

Constitutional Amendments

by: Tom Tyler
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Article XIII, Section 1(A)(1) of the Constitution of Louisiana requires that each joint resolution proposing an amendment to your constitution specify the statewide election at which the proposal will be submitted to the voters. This year the statewide election is scheduled for November 3, 2020. The proposals listed in this document will be on the November ballot.

SEVERANCE TAX

Severance taxes on natural resources severed from the soil or water are to be paid proportionately by the owners at the time of severance and may be predicated upon either the quantity or value of production at the time and place of severance. No additional tax is to be levied or imposed on oil, gas, or sulphur leases or rights. While no additional value can be added to the assessment of land by reason of the presence of oil or gas **House Bill 360 by Representative Huval (Act 368) of the 2020 Regular Session** provides an exception in that the presence of oil or gas or its production may be included in the methodology to determine fair market value of an oil or gas well for ad valorem tax purposes.

STATE FUNDS

Expenditure Limit

The growth factor used in computing the expenditure limit of state funds for each fiscal year, formerly determined by the average annual percentage rate of change in personal income as defined reported by the federal Department of Commerce, is to be based on procedure determined by the legislature.

Under **House Bill 464 by Representative Beullieu (Act 366) of the 2020 Regular Session**, this procedure shall not provide for growth in the limit of more than five percent in any year. **Act 366** requires that this new procedure only be changed by a law enacted by two-thirds vote of each house of the legislature.

BUDGET STABILIZATION FUND

Federal disaster monies

In the event of receipt from the federal government of monies for reimbursement of state costs associated with a federally declared disaster, **House Bill 267 by Representative Carter (Act 367) of the 2020 Regular Session** requires the deposit of these monies into the Budget Stabilization Fund (aka "*Rainy Day Fund*"). The amount deposited is not to exceed the state costs associated with the disaster. Appropriations from the fund cannot exceed one-third of the fund balance and that this one-third cannot exceed the state costs associated with the federal disaster.

LOUISIANA UNCLAIMED PROPERTY PERMANENT TRUST FUND

Senate Bill 12 by Senator Fesi (Adopted) of the 2020 1st Ex. Session creates the Louisiana Unclaimed Property Permanent Trust Fund (UCP Permanent Trust Fund) as a special trust fund in the state treasury and prohibits appropriations from the UCP Permanent Trust Fund.

Requires the treasurer to annually deposit the net amount of monies received as a result of

the Uniform Unclaimed Property Act of 1997, or its successor, until the balance in the UCP Permanent Trust Fund equals the amount of the state's potential liability to unclaimed property claimants as reported in the previous fiscal year. Monies in excess of the state's potential liability are to be deposited into the state general fund.

Monies in the UCP Permanent Trust Fund are exempt from requirements regarding the deposit of all monies received by the state into the Bond Security and Redemption Fund. Requires that all realized capital gains, dividend income, and interest income earned on investments, net trust fund investment and administrative expenses be deposited into the state general fund.

Requires the treasurer to invest monies in the UCP Permanent Trust Fund and authorizes not more than 50% of the investment in equities. Authorizes the treasurer, with approval of the State Bond Commission, to contract for management fund investments with earnings being available for appropriation to pay expenses incurred in investment and management of the fund.

Creates a procedure for reporting to the legislature and the governor as to the balance in the UCP Permanent Trust Fund at the close of the prior fiscal year, the state's potential liability to claimants as of the close of the prior fiscal year, and certification of an amount to be allocated from the UCP Permanent Trust Fund if the claims exceed receipts.

Recognizes that property received pursuant to the Uniform Unclaimed Property Act of 1997 and deposited into the UCP Permanent Trust Fund is private property held in trust until a

claim is made for it by the owner.

If adopted, UCP Permanent Trust Fund becomes effective on July 1, 2021.

AD VALOREM TAXES

Special Assessment Level

Persons can qualify for one of the special assessment levels enumerated in the constitution provided their federal adjusted gross income does not exceed \$50,000 and this amount dollar limitation is adjusted annually, starting with tax year 2001, by the Consumer Price Index (CPI) reported by the United States Government. **House Bill 525 by Representative Hilferty (Act 369) of the 2020 Regular Session**, increases this income limitation from \$50,000 to \$100,000 and provides for annual adjustments based on the CPI beginning with tax year 2026.

Exemption under Cooperative Endeavor Agreement

Senate Bill 272 by Senator Abraham (Act 370) of the 2020 Regular Session authorizes property owners and one or more taxing authorities to execute a cooperative endeavor agreement in which the property owner agrees to make payments in lieu of property taxes as provided by law but only limited to property of a new manufacturing establishment or an addition to any existing manufacturing establishment. While the legislature is to enact laws to implement this process authorized by the constitution, the enactment of this law and any amendment to it once enacted requires a two-thirds vote of the elected members of each house of the legislature.

The exemption authorized by **Act 370** is limited to the extent agreed upon in the cooperative endeavor agreement and all property exempt is to be listed on the

assessment rolls and submitted to the Louisiana Tax Commission.

Standard, Local, and Executive Exemptions
House Bill 41 by Representative Ivey of the 2020 1st Ex. Session (Pending Sen Rev & Fiscal Affairs Cmte) would remove authority for the State Board of Commerce and Industry, with gubernatorial approval, to execute contracts exempting ad valorem taxes on new or additions to manufacturing establishments.

Would authorize standard, local, and executive ad valorem tax exemptions for capital investment projects implemented by law enacted by two-thirds vote of the elected members of each house of the legislature.

Would provide for a standard exemption for a term of eight calendar years and that the exemption be for 80% of property taxes of a capital investment project. The standard exemption is to be reviewed by the Board of Commerce and Industry and be subject to local approval as prescribed by law enacted by two-thirds of the elected members of each house of the legislature.

Would provide for a local exemption shall be for a term of no more than fifteen years and that the exemption would be for up to 100% of the property taxes of a capital investment project. This local exemption would be subject to local approval as prescribed by law enacted by two-thirds of the elected members of each house of the legislature.

Would provide for an executive exemption shall be for a term determined by the governor and that the exemption be for up to 100% of the property taxes of a capital investment project. An executive exemption would

require approval from the governor and is subject to local approval as prescribed by law enacted by two-thirds of the elected members of each house of the legislature.

Would authorize one or more local government taxing authorities within a parish may enter into a joint or separate cooperative endeavor agreement for payments in lieu of taxes with any owner of non-residential immovable property located within the parish. Would require that the agreement provide for payments in lieu of taxes in the form of an abatement and enactment of any law to administer this provision require a favorable vote of two-thirds of the elected members of each house of the legislature.

HB 41 (creating a Capital Investment Program for Diverse Economic Growth) would be contingent upon passage of HB 54 of the 2020 First Extraordinary Session.

Corrections

by: *Tim Prather*
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2020 Regular Session

Addressing insurance fraud, **HB 828 by Representative Huval (Act 14)** extends the insurance fraud investigation unit within the Dept. of Public Safety and Corrections and the Sledge Jeansonne Louisiana Insurance Fraud Prevention Act, authorizing the attorney general to pursue a civil action against anyone who commits fraud or any other illegal practice to obtain insurance payments, from July 1, 2020, to July 1, 2024.

To combat recidivism, **House Concurrent Resolution 14 by Representative Moore (Sent to Secretary of State)** requests the Dept. of Public Safety and Corrections, the La. Dept. of Health, and the La. Dept. of Education to work collaboratively to identify the solutions and resources necessary to fully address the barriers that impede the successful reintegration of incarcerated persons back into society and to provide a report of its findings to the legislature prior to the convening of the 2021 R.S.

With the pandemic in mind, **House Concurrent Resolution 46 by Representative Jones (Sent to Secretary of State)**, requests the DPS&C to study the impact of COVID-19 on its operations, specifically as it pertains to the safety and security of inmates and staff at its facilities, as well as the feasibility of releasing nonviolent offenders and its impact on mitigating the spread of COVID-19, and to report the

number of inmates and staff that have died as a result of COVID-19.

2020 FIRST EXTRAORDINARY SESSION

No instruments were filed relative to Corrections.

Crimes/Criminal Procedure

by: *Alden Clement*
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2020 Regular Session

While the fiscally-oriented First Extraordinary Session of 2020 was not directly concerned with matters of criminal law and procedure, the Regular Session saw the creation of several new crimes, the enhancement of penalties for some existing crimes, and a continued emphasis on matters related to domestic violence and firearms, among others.

NEW CRIMES, EXPANDED CRIMES, AND PENALTIES

Senate Bill 32 by Senator Connick (Act 32) provides that the entire sentence of imprisonment for the commission of second degree rape must be served without benefit of parole, probation, or suspension of sentence.

House Bill 67 by Representative Fontenot (Act 64) increases the penalty for second and subsequent offenses of battery of a police officer and for a second or subsequent offense that produces an injury requiring medical attention. For a second or subsequent offense, the offender is to be fined up to \$1,000 and imprisoned, with or without hard labor, for between one and three years. However, if the second or subsequent offense produces an injury that requires medical attention, then the offender is to be fined up to \$2,000 and imprisoned, with or without hard labor, for between three and five years.

House Bill 136 by Representative Mincey (Act 171) creates the crime of adulterating a food product, defined as the intentional contamination of a food product by adding to the product, or mingling with the product, any bodily substance, with the intent that the product be provided to or consumed by another person who has no knowledge of nor consents to the contamination. The offender is to be fined up to \$2,000, imprisoned with or without hard labor for up to five years, or both.

House Bill 150 by Representative Bacala (Act 174) expands the crime of battery of a police officer to include the throwing of water or other liquids, and removes the requirement that the offender be incarcerated or detained at the time of the throwing of the substance for the offense to apply.

House Bill 434 by Representative Hilferty (Act 105) provides that the crime of manslaughter includes those instances in which the offender commits or attempts to commit any crime of violence that is part of a continuous sequence of events resulting in the death of a human being, where it was foreseeable that the offender's conduct during the commission of the crime could result in death or great bodily harm, even if the offender has no intent to kill or to inflict great bodily harm to the victim.

House Bill 450 by Representative Hilferty (Act 288) increases the penalty for

the crime of simple burglary by providing that, if the offender is armed with a firearm, the offender is to be imprisoned, with or without hard labor, for between three and twelve years.

DOMESTIC VIOLENCE

Senate Bill 505 by Senator Smith (Act 246) specifically requires the court, before releasing a defendant, to consider the offenses of battery of a dating partner, cyberstalking, violation of a protective order, and unlawful communication, when considering the previous criminal history of the defendant. The Act further requires the court to consider, as a condition of bail, that the defendant be prohibited from communicating with the victim, or with any of the victim's immediate family members. However, the Act prohibits this condition of bail from being applied if the victim consents by way of a request to the court, and the court issues an order permitting the communication.

House Bill 212 by Representative Marino (Act 101) amends the definition of "household member" for purposes of domestic violence laws to include persons who have not reached the age of majority and, with regard to any person presently or formerly living in the same residence with the offender, to include any person who is involved or has been involved in a sexual or intimate relationship with the offender.

DWI

Senate Bill 322 by Senator Smith (Act 40) provides, among other things, that when a law enforcement officer places a person under arrest for operating while intoxicated and the person refuses to submit

to an approved chemical test or fails the test, such that the officer seizes the person's driver's license and issues a temporary receipt, the notice provided by that receipt must include the name and employing agency of all law enforcement officers involved in the traffic stop, detention, investigation, or arrest of the person.

Senate Bill 352 by Senator Henry (Act 41) provides that, in addition to other available options under present law, on a second or subsequent conviction for operating a vehicle while intoxicated, the court may order the offender, at the offender's sole expense, to undergo an assessment that uses a standardized evidence-based instrument performed by a physician to determine whether the offender has a diagnosis for alcohol or drug dependence and would likely benefit from a court-approved medication-assisted treatment indicated and approved for the treatment of alcohol or drug dependence by the FDA. The Act further provides that, upon considering the results of the assessment, the court may refer the offender to a rehabilitative program that offers one or more forms of court-approved medications that are approved for the treatment of alcohol or drug dependence by the FDA. However, these provisions do not apply when the offender shows the court that he is unable to pay the costs of the assessment and rehabilitative programs, either personally or through a third party insurer.

FIREARMS

House Bill 140 by Representative Miguez (Act 299) provides that a political subdivision can only prohibit the possession of a weapon or firearm in certain commercial establishments and public buildings

enumerated in the list of places where a concealed handgun permit holder is prohibited from carrying a concealed handgun, including but not limited to law enforcement offices or stations, detention facilities, courthouses, meeting places of a governing authority, and the state capitol building. Otherwise, state law preempts local laws relative to firearms.

House Bill 334 by Representative Fontenot (Act 186) authorizes a concealed handgun permit holder to carry a concealed handgun in a church, synagogue, mosque, or other similar place of worship by repealing the present law limitations on a permit holder's authority to carry in such places. However, each church, synagogue, mosque, or other similar place of worship still retains the ability to prohibit the carrying of firearms on its premises.

House Bill 746 by Representative Garofalo (Act 322) creates an exception to the crime of illegal carrying of weapons for any person who is not prohibited from possessing a firearm and who is carrying a concealed firearm while in the act of evacuating during a mandatory evacuation order. "In the act of evacuating" is defined as the immediate and urgent movement of a person away from the evacuation area within forty-eight hours after a mandatory evacuation is ordered.

House Bill 781 by Representative Miguez (Act 325) removes the authority of the governor, the parish president, the chief executive officer of a municipality, and the chief law enforcement officer of a political subdivision to regulate the sale, dispensing, or transportation of firearms, and further provides that the authority to regulate the sale, dispensing, or transportation of combustibles

does not apply to the component parts of ammunition. The Act also removes the authority to issue a proclamation that imposes a curfew that would include the regulation and control of the possession, storage, display, sale, transport, and use of firearms and other dangerous weapons and ammunition.

CRIMINAL PROCEDURE

Senate Bill 433 by Senator Mizell (Act 122) provides that, with regard to any "mandatory reporter" who is required by law to report child abuse or child welfare issues to the proper authorities, the pregnancy of a child under the age of 13 years constitutes cause to consider whether the child has been abused.

House Bill 189 by Representative Wilford Carter (Act 252) provides that pretrial motions are to be filed within 30 days after receipt of initial discovery, instead of within 15 days after arraignment as provided in present law.

House Bill 241 by Representative James (Act 78) repeals the limitation on obtaining an expungement once every five years for an arrest and conviction of a misdemeanor offense and once every 10 years for a misdemeanor DWI offense, and repeals the limitation on obtaining an expungement once every 15 years for an arrest and conviction of a felony offense. Accordingly, a person may obtain an unlimited number of expungements, provided that all criteria for obtaining each expungement are met and any required fees are paid.

House Bill 257 by Representative Muscarello (Act 79) allows the payment of fees for an expungement to be made by money

order or a check issued by a law firm or an attorney. Prior to this Act, some courts did not accept an attorney or law firm check to file and process an expungement.

House Bill 759 by Representative Marino (Act 285) authorizes the Louisiana Supreme Court to issue an order suspending certain time periods, limitations, and delays during a gubernatorially declared emergency, disaster, or public health emergency for a period of up to 30 days. The Act further provides that the 30-day period commences to run from the date the court issues the order, or from a particular date specified by the court in the order, whichever is earlier. The 30-day period may be extended by further order of the court for additional successive periods, with each period not exceeding 30 days. The period of suspension terminates upon order of the supreme court or upon termination of the declared emergency, whichever is earlier.

House Bill 775 by Representative Marino (Act 160) provides that, for any noncapital offense, a defendant who is confined in a jail, prison, or other detention facility may, with the consent of the court and the district attorney, appear at the entry of his plea of guilty, at any revocation hearing for a probation violation, and at sentencing, by simultaneous audio-visual transmission if the court, by local rule, provides for the defendant's appearance in this manner.

2020 1st Extraordinary Session

No legislation on this topic during the 1st Extraordinary Session.

Culture, Recreation & Tourism

CULTURE

by: Cheryl Serrett
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2020 Regular Session

Several bills were enacted during the 2020 Regular Legislative Session that dealt with the Department of Culture, Recreation and Tourism (CRT). **House Bill 203 (Act 74) by Representative Huval** recreates the department through 2024. **House Bill 406 (Act 83) by Representative Huval** allows the CRT secretary to employ, appoint, remove, assign, and promote personnel of an office within CRT when a vacancy exists in the assistant secretary position for that office. **House Bill 335 (Act 257) by Representative Huval** authorizes the lieutenant governor and the secretary of the CRT to appoint designees to serve on certain boards and commissions.

Senate Bill 104 (Act 212) by Senator Milligan removed the individual authority of certain museum boards to establish policies and rules for setting and charging admission and rental fees, to employ personnel, or to enter into contracts, and instead provides such authority to the secretary of state. The museums impacted were the Old State Capitol Museum, State Exhibit Museum, State Cotton Museum, State Oil and Gas Museum, Delta Music Museum, Tioga Heritage Park Museum, Mansfield Female College Museum, and the Germantown Colony Museum. **House Bill 213 (Act 75) by Representative Miguez** removed the Louisiana Military Hall of Fame and Museum from the Department of State and repealed all statutory provisions relative to the museum.

RECREATION

by: Tammy Crain Waldrop
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2020 Regular Session

House Bill 40 by Representative Mack (pending House Natural Resources and Environment) would have required that agreements between an acquiring agency and a landowner for integrated coastal protection projects ensure public recreational boating and recreational fishing access to waterways in the acquired land.

House Bill 203 by Representative Huval (Act 74) re-creates the Department of Culture, Recreation and Tourism for four more years. Changes termination date from July 1, 2021, to July 1, 2025.

House Bill 679 by Representative Nelson (pending House Municipal, Parochial and Cultural Affairs) would have provided certain limitations on the powers granted to the secretary of the CRT with respect to the sell and lease of immovable property under the department's supervision, with respect to the jurisdiction, management, and the powers and duties of the secretary of the department with respect to the sale and lease of such property.

Senate Bill 94 by Senator Allain (pending Senate Judiciary A) relative to the limitation of liability of a landowner of property used for recreational purposes, and would provide for the award of reasonable attorney fees and court costs in certain circumstances.

Senate Bill 470 by Senator Morris (Act 244) provides relative to recreational vehicles, with respect to warranty agreements involving recreational vehicle transfers, and the rejection of claims.

2020 First Extraordinary Session

No legislation on Recreation.

TOURISM

*by: Sharon Lyles
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2020 Regular Session

RE-CREATION OF THE DEPARTMENT OF CULTURE, RECREATION AND TOURISM

The Department of Culture, Recreation and Tourism was re-created until July 1, 2025, by **House Bill 203 by Representative Huval (Act 74)** effective June 30, 2020. Each executive department of state government is required by statute, commonly referred to as the Sunset Law [R.S. 49:190 et seq.], to be re-created periodically.

HOTEL OCCUPANCY TAX

House Bill 292 by Representative Stephen Dwight (Act 184) effective July 1, 2020, relative to tourist commissions and convention and visitor's bureaus created as special districts, changes the definition of "hotel" for purposes of levying hotel occupancy taxes to the definition of "hotel" for the levy of state sales taxes on hotels, which provides that "hotel" means any establishment or person engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consists of sleeping rooms, cottages, or cabins at any of the following: (1) a single business location; (2) a residential location, including but not limited to a house, apartment, condominium, camp, cabin, or other building structure used as a residence. Further, **Act 184** excludes any establishment or person leasing apartments or single family dwellings on a month-to-

month basis and certain facilities operated by nonprofit organizations from the definition of "hotel".

House Bill 463 by Representative John Stefanski (Act 270) effective June 11, 2020, authorizes the city of Crowley to levy a not to exceed five percent hotel occupancy tax within the city limits and to impose the tax by ordinance, subject to voter approval. **Act 270** requires that the proceeds of the tax be used to promote tourism, recreation, and culture; to promote economic development; and to finance the construction, maintenance, and operation of a convention and conference center.

TOURISM COMMISSION

House Bill 476 by Representative Huval (Act 86) reduces the members of the Louisiana Tourism Development Commission from 21 to 20 members and removes the member appointed by the Louisiana Business League. Further, **Act 86** changes the person to whom the commission shall submit a list of qualified nominees from the governor to the lieutenant governor.

2020 1st Extraordinary Session

No legislation on this topic during the first extraordinary session.

Economic Development

by: *Morgan Robertson*
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COVID-19 ECONOMIC RECOVERY

Senate Bill 189 of 2020 Regular Session by Senator White (Act 311) carves out \$300 million in federal funds provided in connection with COVID-19 recovery and the CARES Act. Louisiana is slated to receive \$1.8 billion in federal dollars in accordance with the CARES Act. The governor's office has allocated the full 45% allowable distribution to local usage, amounting to \$811.2 million. This measure specifies that of that amount, \$300 million will be set aside to fund a program for small business grants. The measure creates two special funds – the Coronavirus Local Recovery Allocation Fund and the La. Main Street Recovery Fund. \$511.2 million will be deposited into the former for local government expenditures and the latter will receive \$300 million for eligible local small businesses. An eligible small business is one that meets a list of requirements, including that it had no more than 50 full-time employees as of March 1, 2020. \$40 million is reserved for businesses owned by women, minorities and veterans. For the first 21 days the money is available, only businesses that haven't already received federal aid through another program are eligible.

House Bill 70 of the 2020 First Extraordinary Session by Representative Jenkins (pending House concurrence) authorizes a one-time \$250 hazard pay rebate to eligible essential critical workers whose adjusted gross income was no more than

\$50,000 on their 2019 income tax return. \$50 million of payments will be made from the Coronavirus Local Recovery Allocation Fund and the Louisiana Main Street Recovery Fund. Additional rebates will be made if additional money becomes available and the Joint Legislative Committee on the Budget approves such payments in the future. Eligible workers include those on the front-line in health care, child-care, first responders, waste management, grocery store works, and more. Applications for payment must be submitted between July 15 and October 31, 2020.

EXPANSION OR SUSPENSION OF TAX PROGRAMS

Senate Bill 6 of the 2020 First Extraordinary Session by Senator Allain (sent to Governor) suspends the corporation franchise tax levied on domestic and foreign corporations and the initial tax levied on certain business entities. It suspends the first tier of the tax (\$1.50 per \$1,000 on the first \$300,000 of taxable capital) for firms subject to the tax that have up to \$1 million of taxable capital as well as the first-time initial tax of \$110. The suspension will apply to franchise tax periods between July 1, 2020 and June 30, 2021 and is expected to cost the state at least \$7.5 million in state general fund revenues. This measure supersedes HCR 66 of the 2020 Regular Session, which provided a similar suspension.

House Bill 13 of the 2020 First Extraordinary Session by Representative

Wright (pending House Concurrence) expands the Enterprise Zone tax program. The Enterprise Zone program is a jobs incentive program that provides Louisiana income and franchise tax credits to a new or existing business located in Louisiana creating a certain number of jobs. This measure expands eligibility for participation in the program to retailers, hotels, bars, and restaurants that have no more than 50 employees nationwide. It is effective for advance notification filings from July 1, 2020 to December 31, 2021. Eligibility to receive benefits will terminate after June 30, 2025. The program as a whole is extended to allow advance notification filings up to July 1, 2026. This measure is expected to cost the state about \$5 million in 2021 and more than \$68 million over the course of five years.

House Bill 19 of the 2020 First Extraordinary Session by Representative Pressly (pending Senate final passage) expands the state's Quality Jobs tax program. Quality Jobs program provides a cash rebate to companies that create well-paid jobs and promote economic development. This measure expands eligibility for participation in the program to retailers, hotels, bars, and restaurants that have no more than 50 employees nationwide. It is effective for advance notification filings from July 1, 2020 to December 31, 2021. Eligibility to receive benefits will terminate after June 30, 2023.

House Bill 4 of the 2020 First Extraordinary Session by Representative Magee (pending conference) makes changes to the state's tax credit for the rehabilitation of historic structures. The tax credit for the rehabilitation of historic structures authorizes an income and corporation franchise tax credit for the amount of eligible costs and expenses incurred during the rehabilitation of a

historical structure located within a downtown development or cultural district. This measure extends the program by four years and establishes an annual program cap on the amount of credits that may be granted.

Senate Bill 24 of the 2020 First Extraordinary Session by Senator Harris (pending House passage) makes changes to the state's Angel Investor Tax Credit. Louisiana's Angel Investor Tax Credit encourages accredited investors to invest in early stage, small wealth-creating Louisiana businesses that seek startup and expansion capital. Under prior law, the credit rate was 25% of eligible investments, with an annual program credit award cap of \$3.6 million for applications received before July 1, 2021. This measure extends program applications through 2025 and provides an enhanced credit of 35% for investments in businesses located in newly established federal opportunity zones. It also allows all program credits, with or without enhancement, to be spread over two years rather than three years. The annual program credit award cap is increased by \$3.6 million, to a total of \$7.2 million.

Senate Bill 13 of the 2020 First Extraordinary Session by Senator Ward (pending Governor) makes changes to the Louisiana New Markets Jobs Act. The Act provides a credit that may be claimed against insurance premium tax and eligibility is based on the investment of private capital in low-income community businesses. This measure allows for an additional \$41 million of transferable premium tax credit and lowers the cap amount of qualified low-income community investment in qualified businesses from \$10 million to \$5 million. It also authorizes an additional \$475 million of investment authority for certification and

allocation for the purpose of earning tax credits. The credits would be issued on August 1, 2020 but could be claimed against tax liabilities until 2023-24.

House Bill 11 of the 2020 First Extraordinary Session by Representative Stefanski (pending House concurrence) increases vendors' compensation. Certain Louisiana businesses are allowed to keep a portion of the state sales tax they collect to help offset the costs of collecting the tax. This policy is commonly known as "vendors' compensation. This measure would allow businesses to retain a larger portion of the sales and use taxes they collect. Dealers may deduct and retain 1.1% of the total amount of taxes due, increased from .935%. The measure also reduces the monthly maximum to \$1,200 per month, rather than \$1,500 per month. The measure could cost the state \$3.3 million in Fiscal Year 21.

INDUSTRIAL TAX EXEMPTION PROGRAM

House Concurrent Resolution 4 of the 2020 Regular Session by Representative Beullieu allows parishes to designate themselves as "ITEP Ready." The resolution allows local governments to approve or reject all industrial ad valorem tax exemption applications in their jurisdictions in advance. For local governments that choose to declare themselves "ITEP Ready," the 30-day notice period for public hearings will not apply and no further action evidencing local approval will be required.

COOPERATIVE ENDEAVOR AGREEMENTS

Senate Bill 272 of the 2020 Regular Session by Senator Abraham (Act 370) a proposed constitutional amendment and **Senate Bill 396 of the 2020 Regular Session by Senator Abraham (Act 240)** allows local entities to enter into cooperative endeavor agreements with an industry eligible for an industrial property tax exemption. The local entity can receive money from the industry in lieu of paying ad valorem taxes. The act also calls for the local tax accessor and Louisiana Economic Development to be involved in negotiations for the agreement and for a public hearing to be held before the agreement can be finalized. Agreements will be subject to the approval of the parish governing authority, the school board, the municipal governing authority, and the parish sheriff and can have a term of up to 25-years. The measure is an attempt to give local governments another tool to negotiate with industry in an effort to fund capital projects. Voters will vote on the issue at the November 3, 2020 election.

K-12 Education

by: *Jeanne Johnston*
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2020 1st Extraordinary Session

SCHOOLS, SCHOOL EMPLOYEES, & SCHOOL GOVERNING AUTHORITIES

House Bill 59 by Representative Mincey (pending Senate Final passage) would provide for immunity for public, nonpublic, and charter schools from civil liability from damages resulting from exposure to infectious disease or acts undertaken in an effort to respond to a the COVID-19 public health emergency.

The bill would prohibit causes of action related to the contraction of an infectious disease at a public, nonpublic, or charter school facility, bus, or event and at a public or nonpublic postsecondary education facility or event based on the actions or failure to act of school agents.

The bill further provides that schools and postsecondary institutions will not be immune from civil liability for damages resulting from actions or inactions that (1) are in violation of a policy adopted by the school and (2) are determined to be grossly negligent or wanton or reckless misconduct.

The provisions of this legislation would be applied retroactively to March 11, 2020, as well as prospectively.

2020 Regular Session

ACCOUNTABILITY & ASSESSMENTS

The school and district accountability system was created by the State Board of Elementary and Secondary Education (BESE) in 1997, pursuant to R.S. 17:10.1, to provide for a statewide system of accountability for schools and school districts based on student achievement and minimum standards for the approval of schools. The accountability system includes the statewide testing program and the assignment of letter grades indicating the performance of schools and school districts. School letter grades are determined by the school performance score calculated for each school and district, which is based upon a 150 point scale.

State law, through the Competency-Based Education Program, establishes the La. Educational Assessment Program (LEAP), which is a program of academic testing of students in English language arts, mathematics, science, and social studies in at least grades 3 through 11.

Due to the COVID-19 pandemic, on March 13, 2020, the governor announced the closure of all school buildings, which caused disruption in the delivery of K-12 instruction and negatively impacted student learning for the remainder of the 2019-2020 school year.

To ameliorate the negative impacts of COVID-related school closures on students,

teachers, schools, and districts, **Senate Bill 481 by Senator Fields (Act245) and Senate Concurrent Resolution 23 by Senator Fields (Sent to Secretary of State)** provide for the suspension of current statutes relative to student assessments and the school and district accountability system for the 2019-2020 school year.

To address concerns that COVID-related disruptions in the normal learning environment are inevitable when schools reopen for the 2020-2021 school year, **Senate Concurrent Resolution 72 by Senator Barrow (Sent to Secretary of State)** requests the BESE to review the necessity to suspend all statewide assessments for the 2020-2021 school year.

COVID-19 PANDEMIC

The public health emergency resulting from the COVID-19 pandemic is ongoing and is impacting every aspect of life in Louisiana, the United States, and the world. The negative impacts of this health crisis on our public school system and the delivery of instruction to approximately 800,000 students in Louisiana cannot be understated. Governor Edwards declared a public health emergency on March 11, 2020, and on March 13, 2020, ordered the closure of all public school buildings. Schools and educators scrambled to continue instruction through online and paper resources and parents found themselves in the position of being both parent and teacher.

The Louisiana Senate was quick to recognize that many statutory requirements regarding the conduct of public education would have to be suspended for the 2019-2020 school year in response to COVID-19 and Senator Fields worked closely with the governor's office

regarding the issuance of executive proclamations suspending specified statutes, while working on legislation to formally codify these statutory suspensions.

Senate Bill 481 by Senator Fields (Act 245) and Senate Concurrent Resolution 23 by Senator Fields (Sent to Secretary of State) provides for suspension of certain laws pertaining to elementary and secondary education for students impacted by the public health emergency declared by the governor in response to the novel coronavirus, COVID-19, including:

- (1) School and district accountability, including the annual administration of state assessments through the Louisiana Educational Assessment Program (LEAP).
- (2) Assessment and accountability system for publicly funded early childhood education programs.
- (3) Minimum number of instructional days/minutes per school year.
- (4) Minimum required teacher work days per year.
- (5) Mandatory attendance requirements for students.
- (6) Teacher evaluations and use of value-added data as a criteria for teacher certification.

Senate Concurrent Resolution 72 by Senator Barrow (Sent to Secretary of State) requests BESE to review the necessity to suspend all statewide assessments for the 2020-2021 school year.

Senate Concurrent Resolution 63 by Senator Jackson (Sent to Secretary of State) requests BESE to create a continuous learning task force to assist the Department of Education develop guidance for Louisiana educators to meet the immediate need to support learning outside of normal practices.

DUAL ENROLLMENT

Dual enrollment of high school students in courses in which they will earn both high school and college academic credit is a major initiative of the Department of Education and the emphasis on this program is increasing significantly. BESE, DOE, and the Board of Regents have engaged through the Dual Enrollment Task Force to collaboratively develop increased funding for and student access to dual enrollment opportunities.

House Bill 734 by Representative Brass (Act 204) establishes a statewide dual enrollment program. The legislation also establishes the Higher Education Initiatives Fund and provides that money in the fund shall be used for higher education purposes. The Act creates a dual enrollment grant to be used to implement dual enrollment programs and to provide for equitable access and participation. A portion of the money in the Higher Education Initiatives Fund must be used for the grant.

EARLY CHILDHOOD

The Early Childhood Care and Education Network is the mechanism through which BESE manages and oversees publicly funded programs that provide early childhood care or education. The Advisory Council on Early Childhood Care and Education (advisory council) provides input and guidance to BESE

and the state Dept. of Education on such programs.

Statutory authority for the Early Childhood Care and Education Commission, which was created to study and make recommendations relative to early childhood care and education issues, terminated on March 31, 2020. **House Bill 251 by Representative Hilferty (Act 180)** re-creates the commission and requires it to collect data, consider research and current practices, determine a sustainable infrastructure, identify opportunities for collaboration, determine a time frame and necessary funding to achieve affordable access to quality care and education for all children from birth through age four, and make recommendations on the incorporation of family child care providers into the early childhood care and education network. Also requires the commission to produce reports for the governor, legislature, state superintendent of education, and BESE and to establish a task force to identify and recommend funding strategies.

This legislation establishes July 1, 2022, as the new termination date for the commission.

MINIMUM FOUNDATION FORMULA

The minimum foundation program and formula is the constitutionally required mechanism to calculate and allocate state funds to public schools in Louisiana. The legislature is constitutionally prohibited from amending the formula and can only approve or reject the formula submitted by BESE. In most legislation sessions, passage of the concurrent resolution that provides for legislative approval of the minimum foundation program formula annually adopted by BESE is a routine matter. Should the

legislature fail to approve the formula most recently adopted by the board, the last formula adopted by BESE and approved by the legislature shall be used.

Senate Concurrent Resolution 21 by Senator Fields (Senate Education Committee) and House Concurrent Resolution 26 by Representative Garafalo (House Education Committee) would have provided for legislative approval of the minimum foundation program (MFP) formula for FY 2020-2021. Neither of these instruments were considered, due to the budget constraints resulting from the COVID-19 pandemic. The formula, as submitted to the legislature, contained an increase in the base per pupil amount and included extra funding for programs in Level 4 of the formula. When the legislature is facing future decisions regarding possible budget cuts, an increase in funding for the MFP for the coming fiscal year was not considered prudent.

As the formula submitted for FY 2020-2021 was not approved, the formula for FY 2019-2020 will remain in effect for FY 2020-2021.

SCHOOL BOARDS

Currently, state law requires each local school board to hire and enter into contract with a local superintendent. Selection of the local superintendent requires a favorable vote of a majority of the board membership. There were no provisions in law to address a short-term vacancy in the office of local superintendent. To prevent a void in leadership and to ensure administrative continuity, **House Bill 655 by Representative Mincey (Act 292)** allows a local school board to elect an interim superintendent, who shall be elected in the same manner as provided in law, in the event

of certain circumstances including a superintendent's death, resignation, termination, or placement on administrative leave. The interim superintendent shall have the same authority as a superintendent but shall not be employed for more than six months in a twelve month period.

STUDENTS

To help students focus on high school graduation requirements and to start planning to successfully earn a high school diploma, students are required to develop individual graduation plans beginning in the eighth grade. **Senate Bill 365 by Senator Cloud (Act 238)** additionally requires that students be provided information from the Louisiana Workforce Commission (LWC) about high-demand, high-wage jobs when developing and reviewing their plans. Also requires that students be shown how to access the LWC's website relative to information on such jobs and to also be provided with written information.

This legislation requires BESE to develop a guidance policy for middle and high school grades that local school districts can use to equip guidance personnel with skills and information needed to help students with individual graduation plans and ensure that they receive the assistance they need.

Postsecondary Education

by: Cheryl Serrett
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2020 Regular Session

FEE AUTHORITY and OPERATIONAL AUTONOMIES

Act 377 of the 2015 Regular Session of the Legislature provided the public postsecondary education management boards the power to establish and set student fees through June 30, 2017. The fee setting authority was extended to June 30, 2020 by Act 293 of 2017 Regular Session of the Legislature.

As well, Act 741 of the 2010 Regular Session of the Legislature and Act 418 of the 2011 Regular Session of the Legislature granted certain public postsecondary education institutions the ability to operate autonomously in certain areas if they met the requirements of their GRAD Act agreements and received approval by the Division of Administration. The authority for such autonomies expires on June 30, 2020.

House Bill 689 by Representative Zeringue (Subject to call- Senate Final Passage)

sought to enact new sections of law to provide public postsecondary education management boards the authority to set fees and operate autonomously in certain areas. The fee setting authority would have been effective until June 30, 2023, but the operational autonomies did not have a sunset provision.

SICK LEAVE

Senate Bill 437 by Senator Jackson (Act 241) allows public postsecondary employees to use their earned sick leave to care for

immediate family members or to accompany immediate family members to medical, dental, or optical appointments. The legislation defines "immediate family members" as spouses, parents, or children of the employee.

DUAL ENROLLMENT

House Bill 724 by Representative Brass (Act 204) authorizes funds in the Higher Education Initiative Fund to be used to support dual enrollment programs.

TAYLOR OPPORTUNITY PROGRAM FOR STUDENTS (TOPS)

Senate Bill 318 by Senator Cathey (Act 225) allows an individual who is honorably discharged from a military installation in Louisiana to be eligible for a TOPS-Tech Award for the 2020 through 2022 academic years. The individual must be a United States citizen, who served in the military for at least three years, earned at least a 17 on the ACT, and established domicile in Louisiana within one year after discharge.

Act 287 of the 2019 Regular Session of the Legislature renamed the Northwest Louisiana Technical College to the Northwest Louisiana Technical Community College and provided for an expansion of its mission and educational programs. The expanded mission allows the institution to offer associate programs and confer associate degrees. With the mission expansion, it is expected that the institution will increase the amount of tuition charged to the same level as other technical community colleges. **House Bill 37 by**

Representative McMahan (Act 6) provides that the TOPS award for students enrolled in Northwest Louisiana Technical Community College shall be the same as the award amount provided to students at all other technical community colleges.

COVID RESPONSE

During the spring of 2020, in response to the public health emergency caused by COVID-19, the governor issued several proclamations and executive orders to lessen the impact of the pandemic upon the citizens of Louisiana, including students. Several bills were enacted to codify those orders, including **Senate Bill 481 by Senator Fields (Act 245)** and **House Bill 870 by Representative Garofalo (Act 346)**. Act 245 codifies the governor's actions relative to all levels of public education and TOPS. Act 346 was TOPS specific and also delays by one year the requirement for higher grade point averages for certain TOPS awards.

Senate Concurrent Resolution 52 by Senator Fields (sent to the Secretary of State) urges and requests the Board of Regents to adopt a flexible and holistic admission policy for the summer and fall semesters of the 2020 academic year to help ensure students are not negatively impacted by school closures and the movement of classes online.

2020 1st Extraordinary Session

FEE AUTHORITY

As a response to House Bill 689 (see above) of the Regular Session not being enacted, **House Bill 26 by Representative Zeringue (Subject to call- House Final Passage)** was introduced. House Bill 26 sought to extend the authority of the public postsecondary education management boards to establish and increase student fees until June 30, 2021. House Bill 26 did not address the operational autonomies.

Vocational/Technical Education

by: *Jeanne Johnston*
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2020 1st Extraordinary Session

There was no legislation specifically impacting vocational-technical education during the first extraordinary session.

Please see the section on Postsecondary Education for legislation impacting postsecondary education as a whole.

2020 Regular Session

There was no legislation specifically impacting vocational-technical education during the regular session.

Please see the section on Postsecondary Education for legislation impacting postsecondary education as a whole.

Elections

by: *Tim Prather*
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2020 REGULAR SESSION

In preparation for the fall elections, **Senate Bill 36 by Senator Bernard (Act 208)** addresses the existing law that provides that upon receipt of a notice of candidacy, the secretary of state or the clerk of court would endorse upon it the date and time of filing and either the amount of the qualifying fee paid by the candidate or a statement that a nominating petition was filed by the candidate.

The Act provides that upon receipt and acceptance of a notice of candidacy that meets the requirements of existing law, the secretary of state or the clerk of court will endorse upon it the date and time of filing and either the amount of the qualifying fee paid by the candidate or a statement that a nominating petition was filed by the candidate.

Furthermore, the acceptance of a notice of candidacy that meets the requirements of existing law by the secretary of state or the clerk of court is mandatory and ministerial and the secretary of state or the clerk of court shall not have discretion to verify the qualifications of a potential candidate.

Relative to the withdrawal or disqualification of a candidate, **Senate Bill 173 by Senator Bernard (Act 35)** clarifies existing law that provided that if the early voting election ballot was prepared with a withdrawn or disqualified candidate's name on it, the registrar of voters of any parish where such ballot will be used would cause notice to be posted of the

withdrawal or disqualification of such candidate at any location for early voting where the candidate's name appears on the ballot.

Moreover, existing law provided that if the election ballot was printed with a withdrawn or disqualified candidate's name on it, the clerk of court of any parish where the ballot will be used would cause notice to be posted of the withdrawal or disqualification of such candidate at any polling place where the candidate's name appears on the ballot.

The Act retains existing law and further provides that such withdrawal or disqualification notice would be at the direction of the secretary of state. The new language provides that if the early voting election ballot was prepared with a proposition that has been canceled, the registrar of voters of any parish where such ballot will be used will, upon direction of the secretary of state, cause notice to be posted of the cancellation of the proposition at any location for early voting where the proposition appears on the ballot.

The Act further provides that if the election ballot was printed with a proposition that has been canceled, the clerk of court of any parish where such ballot will be used will, upon direction of the secretary of state, cause notice to be posted of the cancellation of the proposition at any polling place where the proposition appears on the ballot.

In an effort to maintain free and open elections, **Senate Bill 183 Senator Harris (Act 220)** modifies the existing law which prohibited law enforcement officers from being stationed at polling places on election day, with the exception of when the commissioners summon law enforcement officers to assist them. The Act provides that the registrar may use law enforcement officers to maintain order at any location where early voting is conducted.

The Act retains the existing law and adds that the clerk of court may summon law enforcement officers to assist them at polling places. Law enforcement officers may enter a polling place when there is reasonable belief there is an emergency and the commissioners are unable to summon the law enforcement officers. The Act retains the existing law and allows law enforcement officers to enter the early voting location when there is a reasonable belief there is an emergency and the registrar is unable to summon the law enforcement officers.

To provide more transparency, **Senate Bill 218 by Senator Cloud (Act 312)** addresses the current law that requires that a person who desires to become a candidate in a primary election qualify as a candidate by the timely filing of notice of his candidacy, which will be accompanied either by a nominating petition or by the qualifying fee and any additional fee imposed.

The Act retains these provisions and requires that the candidate provide proof of identity in the form of a valid La. driver's license or an identification card issued by the DPS&C. Furthermore the Act requires that if a notice of candidacy is filed in person by the candidate, the qualifying official is to compare the name

and address on the proof of identity with the information on the notice of candidacy; make a notation in the database of the secretary of state; if the address on the proof of identity is different than the address on the notice of candidacy, the qualifying official is to return the proof of identity to the candidate.

Moreover, the Act requires that if notice of candidacy is filed by an agent on behalf of a candidate then proof of the agent's identity shall be provided in the form of a valid La. driver's license or an identification card issued by DPS&C.

Following the move for more transparency in elections, **House Bill 110 by Representative Miller (Act 128)** addresses existing law that provides for the qualifying for elective office and the conducting of elections including procedures for objecting to the candidacy and contesting an election. By filing notice of candidacy, a candidate appoints the clerk of court for each parish in which he is to be voted on as his agent for service of process in any action objecting to his candidacy or contesting his election. If service of process is made on the appointed agent in an action objecting to candidacy or contesting an election, service is made by serving a citation. Existing law requires that a diligent effort be made to make personal service on the defendant at his domiciliary address as shown by his qualifying papers. The Act retains the existing law.

The existing law further provides that when service is made on the appointed agent, he shall send notice, together with a copy of the citation, by certified mail, return receipt requested, or by commercial courier when the person to be served is located outside of this state, to addressee only, to the defendant at his

domiciliary address as listed in his notice of candidacy. If the appointed agent has reason to believe that the candidate is temporarily absent from his domiciliary address, the agent shall mail a copy of the citation to any place where the candidate temporarily resides.

The Act provides instead that when service is made on the appointed agent, he shall immediately notify the defendant by telephone and send notice thereof, together with a copy of the citation, by electronic mail to the address listed on his notice of candidacy. If the defendant did not list an electronic mail address on his notice of candidacy, the appointed agent shall mail a copy of the citation to the defendant at his domiciliary address as listed on his notice of candidacy.

The existing law requires that proof of mailing be filed in the proceedings. The Act repeals existing law.

In an attempt to prohibit certain persons from serving as designees or appointees on a parish board of election supervisors, **House Bill 114 by Representative Bagley (Act 130)** modifies the existing law that provides that a parish board of election supervisors is composed of the registrar of voters, the clerk of court, the chairman of the parish executive committee of each recognized political party or his designee, and one member appointed by the governor. If the parish does not have an executive committee of a recognized political party or there is a vacancy in the executive committee's office of chairman, the chairman of the state central committee of that political party may appoint a person to serve on the board.

The Act provides that a designee or appointee cannot be an employee or an immediate family member of the clerk of court or registrar of voters in the parish.

Prohibiting disclosure of the address or telephone number of an election commissioner who is certified to serve in an election, **HB 290 by Representative Bishop (Act 136)** changes the existing law that provides that the records of the registrar of voters are public records.

The Act prohibits a registrar, a clerk of court, and the Dept. of State from disclosing the address or telephone number of any election commissioner who is certified to serve in an election.

2020 FIRST EXTRAORDINARY SESSION

No instruments were filed relative to elections.

Energy

by: *Jerry Jones*
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2020 Regular Session

House Bill 592 by Representative Magee (Act 89) authorizes the Coastal Protection and Restoration Authority to incur debt or issue bonds regarding certain infrastructure projects in accordance with the master plan and the eligible uses of the Gulf of Mexico Energy Security Act of 2006, and certain construction or project funds.

House Concurrent Resolution 22 by Representative James (Pending House Commerce) would have requested the PSC to temporarily prohibit energy and water companies from disconnecting services.

House Concurrent Resolution 90 by Representative Coussan (Pending House Natural Resources) would have suspended from March 11, 2020, until September 30, 2020, certain provisions of law applicable to mineral leases maintained in production in paying quantities.

Senate Bill 123 by Senator Ward (Pending Senate Transportation, Highways, and Public Works) would have provided relative to electric bicycles.

Senate Bill 353 by Senator Hewitt (Act 61) provides relative to the Louisiana Geologic Sequestration of Carbon Dioxide Act, including certain storage operation, facilities, and utilities.

Senate Bill 386 by Senator Allain (Act 62) establishes the Advisory Commission for Louisiana's Energy, Environment, and Restoration.

Senate Bill 406 by Senator Mizell (Vetoed) would have provided for certain rural access to broadband high-speed internet service.

Senate Concurrent Resolution 19 by Senator Cortez (Sent to Secretary of State) commends the International Association of Drilling Contractors for 80 years of leadership in the oil and gas drilling industry.

2020 First Extraordinary Session

House Concurrent Resolution 11 by Representative Fontenot (Sent to Secretary of State) memorializes the U.S. Congress and the Louisiana congressional delegation to remove the revenue sharing cap on the Gulf of Mexico Energy Securities Act of 2006 for Gulf producing states and to take such actions as are necessary to rectify the federal revenue sharing inequities between energy producing states.

Senate Bill 10 by Senator Mizell (pending Governor) provides relative to certain rural broadband high-speed internet access.

Environment

by: Tyler McCloud
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2020 FIRST EXTRAORDINARY SESSION

No instruments were filed relative to environment.

2020 REGULAR SESSION

House Bill 869 Representative Carrier (Act 163) authorizes the secretary of the Department of Environmental Quality to only issue a permit for medical waste facilities in parishes with a population less than 50,000 according to the latest decennial census. The bill requires notification to legislators in the area of the facility prior to issuance of a permit and requires the department to promulgate rules and regulations.

Waste Tires

Senate Bill 372 Senator Lambert (Pending Senate Environmental Quality) would have authorized the Department of Environmental Quality to establish standards, requirements, and permitting procedures for tire dealers.

Senate Bill 392 Senator Lambert (Pending Senate Environmental Quality) would have created criminal penalties for willfully or knowingly disposing of waste tires illegally.

Senate Bill 393 Senator Lambert (Pending Senate Environmental Quality) would have required tire dealers obtain a generator number and only allow an authorized transporter with a manifest to haul the dealers' waste tires.

Ethics

by: *Matt DeVille*
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2020 Regular Session

House Bill 81 by Representative Turner (Act 9) creates an exception to R.S. 42:1119, the provision of the Code of Governmental Ethics that prevents an individual from being employed by a state agency in which an immediate family member serves as the agency head. This exception allows for such employment and affiliated normal promotional advancement opportunities of an immediate family member when the agency head is the coach of an athletic program at a public higher education institution.

Senate Bill 155 by Senator Luneau (Act 233) also creates an exception to the Code of Governmental Ethics, relative to the prohibition on public servants receiving any thing of economic value other than their salary and benefits for the performance of their duties and responsibilities. This exception allows members of the faculty, administration, or staff of the Jimmy D. Long, Sr. Louisiana School for Math, Science, and the Arts to receive supplementary compensation or benefits from funds or property accruing to the benefit of the school pursuant to the approval of its board of directors for use through a foundation organized to support the school in a philanthropic manner. The Act adds LSMSA to existing law that allows for the same benefits to be received by faculty, administration, or staff of the New Orleans Center for Creative Arts.

2020 First Extraordinary Session:

No legislation on this topic during the first extraordinary session.

Finance

by: Sherry Phillips
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Gaming

by: Dawn Watson
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SPORTS WAGERING

There were several bills in the Regular Session attempting to legalize sports wagering in Louisiana (or what is commonly known in a casino as a Sports Book.) These bills include: Senate Bill 66 by Senator Talbot, Senate Bill 130 by Senator Cameron Henry, Senate Bill 332 by Senator Peacock, and Senate Bill 378 by Senator Johns. The bill that made it through the process was **Senate Bill 130 by Senator Cameron Henry 2020 Regular Session (Act 215.)** The Act provides for a statewide proposition election to be held on sports wagering on November 3, 2020, and the result to be determined on a parish-by-parish basis. The Act defines "sports wagering" as the business of accepting wagers on any sports event or sports contest by any system or method of wagering. The Act further provides that the legalization of sport wagering in a parish is further contingent on state laws being enacted and becoming effective that provide for the licensing, regulation, and taxation of sports wagering activities and operations. Consequently, should any parish approve the sports wagering proposition at the November election, it can be anticipated that the licensing, regulation, and taxation of this activity will certainly be an issue for the legislature in future sessions,

FANTASY SPORTS

Act 322 of the 2018 Regular Session authorized fantasy sports contests and

provided for a statewide proposition election in the fall of 2018 to approve the measure. The Act defined "fantasy sports contests" as any fantasy or simulation sports game or contest played through the internet or mobile device with all of the following elements:

- (1) Participants create a simulation sports team based on the current membership of actual amateur or professional sports organizations.
- (2) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest, and the value of the prizes or awards is not determined by the number of participants or the amount of any fees paid by those participants.
- (3) All winning outcomes reflect the relative knowledge and skill of the participant and are predominantly determined by accumulated statistical results of the performance of the individuals, including athletes in the case of sporting events.
- (4) No winning outcome is based on either of the following:
 - (a) On the score, point-spread, or any performance or performances of any single real-world team or any

combination of such teams.

- (b) Solely on any single performance of an individual athlete in any single real-world sporting or other event.

At the election in the fall of 2018, forty-seven parishes approved the proposition, thereby authorizing fantasy sports contests to be conducted therein. However, that Act also provided that fantasy sports contests would not be authorized until the La. Gaming Control Board adopted rules regarding fantasy sports contests and the legislature enacted laws relative to the licensing, regulations, and taxation of revenue relative to fantasy sports contests.

To that end, Representative Magee brought **House Bill 357 by Representative Magee, et al of the 2020 Regular Session (Act 141)** providing for the licensing and regulation of fantasy sports contests.

The Act requires a fantasy sports contest operator to be licensed by the La. Gaming Control Board if the applicant meets all of the criteria provided in law and any criteria established by the board. It requires that a fantasy sports contest operator:

- (1) Be a: (a) Person domiciled in La.; or (b) Domestic business entity with a certificate of existence from the secretary of state and in good standing; or (c) Foreign corporation with a certificate of authority to transact business in the state from the secretary of state and in good standing.
- (2) Demonstrate to the La. Gaming Control Board that the operator is

suitable for licensing.

- (3) Provide the La. Gaming Board with financial statements indicating gross fantasy sports contest revenue for the previous three years.

The Act provides that the initial application fee shall be \$1,000 and shall be nonrefundable. It provides that if a license is awarded, it shall be for a three-year term; the license fee varies from \$5,000 to \$40,000, depending on the three-year average gross fantasy sports contest revenue of the licensee.

The Act provides that as a condition of licensure, a fantasy sports contest operator is required to submit evidence to the board that the operator has established and will implement certain commercially reasonable procedures for fantasy sports contests that:

- (1) Prevent employees of the fantasy sports contest operator, and relatives of an employee living in the same household as an employee of an operator, from competing in fantasy sports contests offered by an operator in which the operator offers a cash prize to the general public.
- (2) Prevent sharing of confidential information that could affect fantasy sports contests with third parties until the information is made publicly available.
- (3) Provide that no winning outcome is based on the score, point spread, or any performance of any single actual sports team or combination of such teams or solely on any single performance of an individual athlete

or participant in any single real-world sporting event.

- (4) Ensure that any athletes and individuals who participate in or officiate a game or competition that is the subject of a fantasy sports contest or any sports agent, team employee, referee, or league official associated with a sport or athletic event do not participate in fantasy sports contests.
- (5) Verify that a fantasy sports contest player is 21 years of age or older, and that at the time of any transactions, the player is geographically located in a parish that the voters approved the conducting of fantasy sports.
- (6) Provide fantasy sports contest players with access to information on responsible play.
- (7) Provide fantasy sports contest players with access to other fantasy sports contest players play history and designate highly experienced players.
- (8) Allow individuals to restrict themselves from entering a fantasy sports contest upon request and provide reasonable steps to prevent the person entering fantasy sports contests offered by an operator.
- (9) Segregate fantasy sports contest player entry fees from operational funds and maintain a reserve that exceeds the amount of player funds on deposit, which may not be used for operational activities. Provides that reserve funds may take the form of cash, cash equivalents, payment process reserves,

payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof, in the amount that must exceed the total balances of the fantasy sports contest players' accounts.

The Act prohibits fantasy sports contests operators from offering fantasy sports contests based on the performances of participants in high school or youth athletic events and provides for fines and penalties for violations of the law or requirements of the board. The Act requires the gaming division of state police to conduct investigations, hearings, and inquiries as it deems necessary to fulfill its responsibilities and authorizes the suspension of a license prior to a hearing if there is a written finding of danger to public health and welfare.

House Bill 64 by Representative Stefanski of First Extraordinary Session of 2020 (Sent to Governor) completed the "green light" on the legalization of fantasy sports by providing for the taxation of an operator's net revenue attributable to Louisiana players.

The bill defines "net revenue" as the amount equal to the total entry fees collected from all participants entering such fantasy sports contests minus the winnings paid to participants in the contests, multiplied by the location percentage for the state of Louisiana (i.e. entry fees collected from players located in the state of Louisiana.) The bill levies an 8% tax on such net revenue and provides that the tax is due and payable monthly. The bill dedicates avails received from the tax to the La. Early Childhood Education Fund.

RIVERBOATS, LAND-BASED CASINO, AND RACETRACK SLOTS

There were two bills and a resolution debated in an effort to assist riverboats, the land-based casino and racetrack slot machine operations recover from closure during the pandemic. Those instruments were: Senate Bill 516 by Senator Peacock of the 2020 Regular Session (Senate committee on Revenue and Fiscal Affairs); Senate Bill 5 by Senator Johns of the 2020 First Extraordinary Session (Sent to Governor); and Senate Concurrent Resolution 29 by Senator Johns of the 2020 First Extraordinary Session (Sent to House). All three instruments regarded the taxing of promotional play in these establishments. The bill that made it through the process was **Senate Bill 5 by Senator Johns of the First Extraordinary Session of 2020 (Sent to Governor)**. This bill removes from the amount of revenue assessed for taxes for riverboats, the land-based casino, and racetrack slot machine operations, of up to \$5,000,000 annually that is directly attributable to "promotional play wagers." "Promotional play wagers" are defined as wagers placed by patrons using noncashable vouchers, promotional chips, coupons, electronic credits, electronic promotions, scrips or any other cash equivalent provided to the patron by the licensee without the exchange of money.

There was extensive debate on the matter and industry argued that this change in policy will encourage establishments to invest more in promotional play and with proper strategic marketing may yield even more revenue to the state than is currently received with the taxation of promotional play. Following up on industry's assertion, **Senate Concurrent Resolution 29 by Senator Johns (pending**

House referral) urge and request the La. Gaming Control Board to report on the fiscal impact of the promotional play exception to revenue taxed. The resolution would request the board to use the data from the next three fiscal years and deliver their report to the legislature no later than January 1, 2024.

HORSE RACING

Current law requires the owner of a licensed live horse racing facility (i.e. Louisiana Downs, Delta Downs, Evangeline Downs and the Fair Grounds) to pay 20% of the net video draw poker device revenue generated at its facility to the Horsemen's Benevolent and Protective Association (HBPA) to be used to supplement purses for horsemen for races conducted at its facility. The law also requires that 20% of net video draw poker device revenues earned at a licensed racing facility's off track betting facilities (OTBs) to be used for purse supplements for races conducted at its facility. Current law provides that where OTBs are jointly owned, the monies earned for purse supplements are to be divided between the live racing facilities in direct proportion to ownership of the OTB. Current law also provides for the distribution of such purse supplements received by a licensed racing facility at times when the licensed racing facility is conducting live racing and at times the licensed facility is not conducting live racing. Specifically regarding off-season earned revenues, since its enactment in 2008, the state statute has provided that "monies earned for purse supplements from devices located at an eligible racing facility not currently conducting live racing shall be placed in an interest-bearing account until the first day of the next live race meeting conducted at that facility, at which time the accumulated monies derived from this

Paragraph and interest earned on such monies shall be added to all other monies currently provided for purses and purse supplements at that race meeting under other provisions of the law and shall be used at that race meeting."

In 2014, the quarter-horsemen filed a class action lawsuit against the Fair Grounds and others alleging that quarter-horsemen are the horsemen entitled to the payment of certain supplemental purses generated by the Fair Grounds' and its affiliated OTBs' video draw poker devices during the off-season pursuant to the plain terms of the statute. At the time the suit was filed, the Fair Grounds was withholding the off-season supplemental purse revenue until the next live thoroughbred horse meet even though the first live race meet following the off-season was a quarter-horse meet.

In 2020, a settlement agreement on the matter was filed with the Orleans Civil District Court that required the amendment of several state laws. To that end, three bills were filed in the 2020 Regular Session to authorize the terms of the settlement agreement: Senate Bill 451 by Senator Foil (Senate Committee on Judiciary B); House Bill 738 by Representative Dustin Miller, Speaker Schexnayder and Senator Foil (Act 342) and House Bill 812 by Representative Dustin Miller and Senator Foil (Act 326). In the end, the House bills made it through the process.

House Bill 738 by Representative Dustin Miller of 2020 Regular Session (Act 342) authorizes the La. State Racing Commission, upon agreement of the HBPA and the involved licensed racing facilities, to approve the transfer of a quarter-horse race meet from one licensed racing facility to another licensed racing facility and to approve the

corresponding transfer of slot machine and video draw poker device proceeds received for quarter-horse race purse supplements from one licensed racing facility to another licensed racing facility. The Act similarly allowed for the transfer of thoroughbred horse meets.

The Act further provides that, for the Fair Grounds, purse supplements generated from net video draw poker device revenue at its facility and its affiliated OTBs shall be disbursed and used as follows:

- (a) 12.5% of the revenue shall be used to supplement purses for quarter-horse races, up to a maximum amount of \$1,000,000 per state fiscal year (of which 25% for each state fiscal year shall be distributed to the HBPA to be used to satisfy the settlement amount of \$1,000,000, for the plaintiffs as provided in the class action settlement agreement.)
- (b) The remainder of the revenues shall be allocated to purse supplements for thoroughbred horse races.

For the other licensed racing facilities (i.e. Louisiana Downs, Delta Downs, and Evangeline Downs), purse supplements generated from net video draw poker device revenues at their facility and affiliated OTBs shall be disbursed and used as follows:

- (a) 30% shall be used to supplement purses for quarter horse races.
- (b) 70% shall be used to supplement purses for thoroughbred races.

The Act provides that it shall become effective only after the Orleans Civil District

Court approves the settlement agreement and it becomes final and non-appealable.

The settlement agreement also requires changes to state law regarding the minimum number of quarter-horse racing days at the Fair Grounds. **House Bill 812 by Representative Dustin Miller (Act 326)** requires the Fair Grounds to maintain not less than 15 days of quarter-horse racing during five consecutive weeks, which is an increase from current law's requirement of 10 days during three consecutive weeks. Again, the Act becomes effective only after the Orleans Civil District Court approves the settlement agreement of the class action lawsuit and it becomes final and non-appealable.

Regarding the La. State Racing Commission, **Senate Bill 120 by Senator Gary Smith of 2020 Regular Session (Act 214)** requires that three of the 13 members of the commission be owners of racehorses that participate in race meetings licensed by the commission. While this is an exception to the prior absolute prohibition, the Act retained the prohibitions that no member shall be an official, member of any board of directors, or person financially interested in any licensed racing facility or race meeting licensed by the commission.

Health & Hospitals

by: *Christine Arbo Peck*
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The Senate Health and Welfare Committee is uniquely positioned to invite the state's most vulnerable and medically fragile citizens to the Capitol whenever a hearing is held. Individuals who are sick, disabled, elderly, and often times desperate to tell their story as it relates to a bill appear before the committee. In addition, our state's health care professionals; doctors, nurses, and emergency medical services personnel to name a few, are vital in providing the committee with evidence-based data and practical implementation information on proposed legislation. Finally, the Louisiana Department of Health as the state regulatory body for healthcare facilities, public health, behavioral health, developmental disability services, services for the elderly, and the multibillion dollar Medicaid program are a mainstay in the committee.

Due to the COVID-19 pandemic, **the 2020 Regular Session** posed unprecedented challenges for the entire legislative process. However, those challenges were more profound for the health and welfare committee than any other because it hindered the ability of the vulnerable and medically fragile to let their voices be heard, it competed with the responsibilities of the healthcare professionals who were battling the front lines of the pandemic, and it redirected the energy of a department that was focused on managing our emergency response.

Upon returning to the Capitol to resume the session on May 4, 2020, the Senate Health and

Welfare Committee determined the more bills that appear on an agenda, the more opportunity you have for potential viral spread simply due to the fact that you are engaging with your colleagues, staff, and the public in close confines. A standard of review was used to determine if a bill was critical at this time to be responsive to COVID-19, if it could wait until a special session or the 2021 regular session, or if the intent of the bill could be addressed through current legal authority, rulemaking, or policy changes.

With this standard in mind, 18 Senators very graciously and selflessly deferred 38 Senate bills referred to the health and welfare committee. While the bills were very important to both the Senator and his or her constituents, in light of the volatile and easily transmittable nature of the COVID-19 virus they were not taken up by the committee.

These bills included **SB 81 and SB 362 by Senator Mizell** and **SB 371 by Senator Carter** relative to the opioid epidemic, **SB 168 by Senator F. Mills** and **SB 311 and SB 357 by Senator Peterson** relative to community water system accountability and sustainability, **SB 256 by Senator Carter** to promote access to healthy beverages in restaurant served children's meals, and **SB 170 and SB 391 by Senator F. Mills** and **SB 281 and SB 432 by Senator Luneau** relative to the administration of the Medicaid program.

The House Health and Welfare Committee did not implement the same level of scrutiny and

during the COVID-19 pandemic they considered 60 instruments, 37 of which were passed out of the House of Representatives and referred to the Senate Committee on Health and Welfare. While no House member was denied a hearing, each was asked to assess his or her bill or resolution based on the same standard of review applied by the Senators. After conducting their own assessment, 18 House members requested a hearing for 29 instruments. The Senate Health and Welfare Committee convened twice, on May 20 and May 27, and advanced 25 House instruments, comprised of 21 House Bills and 4 House Concurrent Resolutions.

The most substantive House instruments enacted during the **2020 Regular Session** include:

House Bill 91 by Representative Bagley (Act 11) which re-creates the Louisiana Department of Health.

House Bill 819 by Representative Bagley (Act 286) which expands the availability of medical marijuana to any patient for any condition determined by any physician licensed and in good standing with the Louisiana State Board of Medical Examiners.

House Bill 835 by Representative McMahan (Act 330) which establishes an intergovernmental transfer financing scheme to provide for the transfer of local dollar to the Louisiana Department of Health for use to match federal dollars to provide enhanced Medicaid reimbursement to certain hospitals.

Homeland Security

by: Curry Lann
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COVID-19 RESPONSE

The Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is closely monitoring the global outbreak of respiratory disease named "coronavirus disease 2019" ("COVID-19"). On February 3, 2020, GOHSEP created WebEOC Incident # 20-008 for COVID-19 and activated the Crisis Action Team on March 9, 2020.

On March 22nd, Governor Edwards issued a statewide Stay at Home Order that went into effect on March 23rd. On March 25th, the state's request for a Statewide Major Disaster Declaration was approved by President Trump. On April 2nd, the governor issued an updated proclamation, uniting several other proclamations he issued in March, extending them to April 30th.

On May 1st, the governor extended the Stay at Home order until May 15th as the state did not meet the White House criteria for entering Phase 1 of reopening. On May 15th, La. moved into Phase 1. The stay at home order was lifted which allowed additional businesses to open under strict social distancing guidelines.

On June 4th, the governor signed the order moving La. to Phase 2. In Phase 2, places of worship and many more businesses began to operate at 50% capacity with social distancing, masks for public-facing employees, and increased sanitation. On June 22nd, the governor announced that La. will

stay in Phase 2, as the number of COVID-19 cases and related hospitalizations have started to rise in several regions across the state. He extended the Phase 2 order for 28 days, keeping in place occupancy limits and other restrictions.

Governor Edwards has issued a number of other orders relative to COVID-19 in La. which include:

March 11: *Original declaration of Public Health Emergency, restrictions*

March 13: *Transportation, health care, administrative*

March 13: *Proclamation moving Louisiana's Elections*

March 14: *Restrictions on establishments, closures, legal deadlines*

March 19: *Education, health care, administrative*

As of June 26, 2020, the La. Dept. of Health is reporting the following data on their dashboard:

54,769 cases reported
3,077 deaths reported
700 patients reported in the hospital;
73 patients on ventilators
39,792 presumed recovered patients
33,319 tests performed by the state lab
644,687 commercial tests performed

2020 Regular Session

Senate Concurrent Resolution 62 by Senator Milligan (Sent to Secretary of State) requests the State Board of Elementary and Secondary Education, through the state Dept. of Education, to develop and implement a traumatic injury response program to ensure that each city, parish, or other local public school in the state is prepared to respond to a traumatic injury emergency.

CYBERSECURITY

Senate Bill 398 by Senator Foil (Act 355) sets qualifications for GOHSEP volunteers during cyber response and recovery support efforts including that individuals desiring to volunteer must be 18 years of age or older, a resident of Louisiana, have no criminal convictions or arrests, and have a background in information technology services.

Senate Concurrent Resolution 10 by Senator Foil (Sent to Secretary of State) establishes the La. Cyber Investigators Alliance. The resolution requires the alliance to conduct cybersecurity activities, including intelligence support and threat response.

House Bill 477 by Representative Ivey (Act 273) authorizes an agency to follow alternative procedures for procurement of software and the hardware if approved by the Jt. Legislative Committee on Technology and Cybersecurity and the Jt. Legislative Committee on the Budget. The bill also increases certain procurement thresholds and increases penalties for intentional violations of the La. Procurement Code.

House Bill 633 by Representative Freiberg (Act 155) requires the Dept. of State Civil

Service to create and implement cybersecurity awareness training for state and local agency officials and employees and contractors who have access to their agency's information technology assets. The bill additionally requires each new state and local agency official or employee with such access to complete cybersecurity awareness training.

House Bill 636 by Representative Ivey (Act 301) creates and provides for the powers, functions, and duties of the Joint Legislative Committee on Technology and Cybersecurity to assist the legislature in the oversight of matters regarding information technology. The committee is required to assess cybersecurity risks facing public entities in La. and make recommendations to the legislature.

EXECUTIVE ORDERS

Senate Resolution 70 by Senator Troy Carter (Sent to Secretary of State) requests the governor to issue an executive order requiring certain persons to wear a face covering in public under certain conditions and authorizing businesses to deny admittance to persons without face coverings.

House Bill 763 by Representative McFarland (Act 323) authorizes a gubernatorial declaration of an abnormal economic disruption to prohibit excessive price increases for certain goods and services. The bill defines "abnormal economic disruption" and specifies that a price increase is not grossly excessive if the increase was attributable to certain factors including price fluctuations, pricing set forth in preexisting agreements, and certain additional costs.

House Resolution 45 by Representative DeVillier (Sent to Secretary of State) directs

all agencies and licensing boards to suspend sanctions imposed on any licensee engaged in business with the public for any violation of a stay at home order, social distancing policy, or business closure mandated by an emergency disaster declaration in an effort to help businesses reopen and recover from COVID-19 until final adjournment of the 2021 Regular Session.

FUNDS/FUNDING

Senate Bill 189 by Senator White (Act 311) creates the Coronavirus Local Recovery Allocation Program and Coronavirus Local Recovery Allocation Fund for economic relief for local entities due to COVID-19, as established in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The bill provides for deposit and disbursement of monies to be administered by the commissioner of administration with the assistance of GOHSEP and the Office of Community Development. The bill creates the La. Main Street Recovery Program and the La. Main Street Recovery Fund to be administered by the state treasurer to provide economic support to eligible businesses for costs incurred in connection with COVID-19. The bill also creates the State Coronavirus Relief Fund and provides for deposit and disbursement of monies from the fund to be used for the purposes of providing monies to local government units, eligible businesses, or the state.

House Bill 412 by Representative Zeringue (Act 144) expands the authorized uses of funds in the State Emergency Response Fund for cybersecurity and for recovery from an emergency or declared disaster.

2020 1st Extraordinary Session

House Bill 2 by Representative Bishop (Sent to governor) includes funding for the LifeShare Blood Center in Shreveport to eliminate an irradiator machine which was deemed a high security risk by the U.S. Dept. of Energy due to its use of the radioactive material Cesium. The funding, coupled with a federal match program through the National Nuclear Security Administration, will update and replace the current equipment.

Information Technology

by: *Morgan Robertson*
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EXPANDING BROADBAND ACCESS

Senate Bill 10 of the 2020 First Extraordinary Session by Senator Mizell (pending Governor) requires member only electric cooperatives to grant permission to broadband companies for the purpose of allowing broadband companies to use the co-op's electricity infrastructure to own, lease, construct, maintain, or operate a broadband system to provide high-speed internet services to the public in areas where broadband is not already available, with the exception of property owned by a railroad company. This measure requires electric cooperatives to provide non-discriminatory rates and equal land access to broadband companies. To attach to a cooperative's electric delivery system, the broadband service providers, affiliates, or operators must submit written notice to the cooperative. The cooperative must respond to the notice in accordance with the Public Service Commission's General Order dated September 4, 2014. This measure also outlines fee structures, investments, bonds, and any loan transactions the electric cooperative may make, certain landowner rights, all limitations on liability, and covers prohibited acts of an electric cooperative.

Senate Concurrent Resolution 35 of the 2020 Regular Session by Senator Mizell (sent to Sec of State) requests DOTD to determine which of its assets are available for broadband Internet lines and to implement a "Dig Once" policy that allows broadband Internet providers to install cable in the

ground during ongoing DOTD projects.

House Bill 69 of the 2020 First Extraordinary Session by Representative Deshotel (pending House concurrence) authorizes a rebate on 50% of state and local sales and use tax paid on fiber-optic cable equipment. This includes telecommunications fiber, wires, poles, conduit, etc., if paid by a census block winner of a Federal Communications Commission Rural Digital Opportunity Fund Auction for distributing broadband networks to unserved areas.

CYBER SECURITY

House Bill 633 of the 2020 Regular Legislative Session by Representative Freiberg (Act 155) directs State Civil Service to create and implement a cybersecurity awareness training for state and local agency employees, officials, and contractors who have access to their agency's information technology assets. Those individuals are required to complete such training and will be periodically reviewed to ensure compliance.

House Bill 6 of the 2020 First Extraordinary Session by Representative Ivey (pending conference committee) would create the State Cybersecurity and Information Technology Fund as a special fund in the state treasury. To the extent appropriated, money in the fund will be used for support of projects to enhance or upgrade the state's information technology infrastructure and cybersecurity needs. Note, however, that the measure does

not identify, provide, or appropriate a source of revenue.

Senate Bill 79 by Senator Abraham (Act 57) of the 2020 Regular Session creates the Louisiana Cybersecurity Initiative Fund to pay for the expansion of degree and certificate programs in the field of cybersecurity. The Board of Regents will distribute the funds to public postsecondary education institutions and is required to submit an annual report to the legislature. Public postsecondary education management boards are required to certify at least a 25% match guarantee by a private entity. Monies in the fund will not be included in the public postsecondary funding formula calculation and will not affect any state general fund allocations to institutions. This measure also creates the Cybersecurity Education Management Council to annually review and approve the degree and certificate programs receiving money from the fund, as well as advise the Board of Regents on fund money distribution.

House Bill 636 by Representative Ivey (Act 301) of the 2020 Regular Session creates the Joint Legislative Committee on Technology and Cybersecurity to assist the legislature in the study and oversight of information technology matters of the state.

House Bill 412 by Representative Zeringue (Act 144) of the 2020 Regular Session authorizes money in the State Emergency Response Fund (SERF) to be used to for specified cybersecurity related activities and cyber incidents, including training, response, purchase of updated equipment, and more.

Senate Bill 140 by Senator Reese (Act 217) of the 2020 Regular Session requires clerks of courts, registrars and other filing offices to report cyber incidents to the secretary of state within 24 hours of discovery. A cyber incident is one that jeopardizes the confidentiality, integrity, or availability of digital information or information systems.

Insurance

by: Cheryl Cooper
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Senate Bill 7 by Senator Talbot (Pending Senate Finance) from the 2020 1st Extraordinary Session would have addressed the long standing issue of "surprise" or "balance" billing. The bill would establish a dispute resolution process by which a dispute for a bill for emergency services or a surprise bill may be resolved. The Department of Insurance shall have the power to grant certifications of independent dispute resolution entities to conduct the dispute resolution process.

Health care services, including emergency services, where physician fees are subject to schedules or other monetary limitations under any other law, including, but not limited to, workers' compensation, Medicaid, Medicare, or to health insurance plans that are subject to the Employee Retirement Income Security Act of 1974 are excluded from the provisions of the proposed law.

House Bill 152 by Representative Brown (Act 250) requires any health coverage plan in the large market group, delivered or issued for delivery in this state, to provide coverage for acupuncture performed by an individual licensed by law, when the service is medically necessary and not otherwise excluded from coverage. Required coverage may be subject to annual deductibles, coinsurance, and copayment provisions as are consistent with those established under the health coverage plan. Coverage for acupuncture treatment may be limited to 12 annual visits per policy or contract.

Senate Bill 16 by Senator Luneau (Act 49) authorizes every motor vehicle insurer authorized to transact business in this state to provide a 25% premium discount on automobile liability insurance purchased in this state to active military personnel based in the state. The legislation provides that except for administering military personnel premium discounts, the fact that an insured is deployed in the military for a period in excess of six months shall not be used by the insurer for the classification of risk.

Senate Bill 71 by Senator Gary Smith (Act 53) requires the commissioner of insurance, after consulting with insurers authorized to issue motor vehicle insurance, to approve a reasonable plan, known as the Louisiana Automobile Insurance Plan (Plan), which is to function exclusively as a residual market mechanism, for those good-faith applicants unable to procure coverage through ordinary means in order to insure private passenger motor vehicles, commercial motor vehicles including garage liability insurance, and other motor vehicles.

Senate Bill 204 by Senator Talbot (Act 222) extends coverage to a treatment provided or study conducted in a Phase I clinical trial for cancer. The law does not require a health insurance issuer to provide coverage for the following:

- (1) Non-healthcare services provided as part of the clinical trial.
- (2) Costs for managing research data associated with the clinical trial.
- (3) Investigational drugs, devices, items, or services associated with the clinical trial.

The legislation prohibits a health coverage plan delivered or issued for delivery in this state from denying coverage for the treatment of metastatic or unresectable tumors with a medically necessary drug prescribed by a physician on the sole basis that the drug is not indicated for the location in the body of the patient's cancer, if the drug is approved by the United States Food and Drug Administration (FDA) for the treatment of the specific mutation of the patient's cancer.

Senate Bill 299 by Senator Jackson (Pending Senate Final Passage) Present law prohibits rates from being inadequate or unfairly discriminatory in a competitive market. Present law further prohibits rates from being excessive, inadequate, or unfairly discriminatory in a noncompetitive market. Present law provides that no risk shall be classified on the basis of race, color, creed, or national origin. While retaining these provisions, Senate Bill 299 would have prohibited risks from being classified on the basis of employment type or job classification.

Senate Bill 494 by Senator Carter (Act 304) Current law requires health insurance coverage for reconstructive surgery following mastectomies. Act 304 retains present law and includes the requirement of health insurance coverage for contralateral prophylactic mastectomies. This legislation shall apply to any new policy, contract, program, or health

coverage plan issued on or after January 1, 2021. Any policy, contract, or health coverage plan in effect prior to January 1, 2021, shall convert to conform to the provisions of this law on or before the renewal date, but no later than January 1, 2021.

Judiciary

by: Mike Bell
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2020 First Extraordinary Session

APPROPRIATION

House Bill 7 by Representative Zeringue (Pending House concurrence) appropriates funds for Fiscal Year 2020-2021 for the ordinary operating expenses of the judicial branch of government with total funding of \$188,721,817 from the following sources: \$169,088,042 out of the State General Fund (Direct); \$9,392,850 out of Interagency Transfers; and \$10,240,925 from statutory dedications out of the Judges' Supplemental Compensation Fund and the Trial Court Case Management Fund. The breakdown is set forth below:

Louisiana Supreme Court	\$	71,580,762
Courts of Appeal		47,300,362
District Courts		39,353,270
Criminal Court, Parish of Orleans		6,353,696
Juvenile and Family Courts		2,588,425
Other Courts (<i>Required by Statute</i>)		3,242,164
Other Courts (<i>Not Required by Statute</i>)		675,187
<u>TOTAL</u>	\$	<u>171,093,866</u>

Furthermore, the bill provides for appropriations from the State General Fund (Direct) to be reduced by \$17,031,070 and Interagency Transfers to be increased by

\$4,000,000 from the Governor's Office of Homeland Security and Emergency Preparedness for expenditures related to COVID-19 response efforts pursuant to a plan adopted by the Judicial Budgetary Control Board or as approved by the La. Supreme Court.

COURTS

Senate Concurrent Resolution 12 by Senator Ward (Sent to Secretary of State) creates the Drug Specialty Courts Commission to study and evaluate the utilization of opioid settlement funds for the expansion and optimization of drug and specialty courts which shall be composed of 13 members who must prepare and submit a report of its findings and policies and legislative recommendations to the speaker of the House of Representatives and the president of the Senate no later than February 1, 2021, and any further reports or recommendations thereafter as requested by the legislature or as advised by the commission.

2020 Regular Session

COURTS

Senate Bill 186 by Senator Harris (Act 37) provides relative to the Municipal and Traffic Court of New Orleans wherein the court shall consist of eight judgeships through December 31, 2020, consisting of judges in Divisions A through H. Thereafter the court shall consist of seven judgeships. Division H and the

judgeship for Division H shall be abolished December 31, 2020, effective at midnight. Furthermore, it provides that the salary for specific judges shall not be more than the salary paid to the other district court judges from all sources, in and for the parish of Orleans.

Juvenile Justice

by: Alan Miller
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2021 First Extraordinary Session

No legislation on this topic during the First Extraordinary Session.

2020 Regular Session

House Bill 173 by Representative James (Act 99). Act 99 provides for parole eligibility for any person serving a term or terms of imprisonment that result in a period of incarceration of 25 years or more and who was under the age of 18 years at the time of the commission of the crime if certain conditions are met including but not limited to the following:

- (1) The offender has not committed any major disciplinary offenses in the 12 consecutive months prior to the parole hearing date.
- (2) The offender has completed the mandatory minimum of 100 hours of prerelease programming.
- (3) The offender has completed substance abuse treatment as applicable.
- (4) The offender has obtained a GED certification or has completed certain other educational or job skills programs.
- (5) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument.

- (6) The offender has completed a reentry program.

Act 99 provides that for each offender eligible for parole consideration the committee on parole is required to meet in a three-member panel, and consider the impact that the lack of brain development in adolescence has on culpability and behavior, a juvenile offender's unique ability to mature and grow, and any other relevant evidence or testimony pertaining to the offender. Act 99 also requires the three-member panel to render specific findings of fact in support of its decision.

House Concurrent Resolution 47 by Representative Jones (Sent to Secretary of State) requests the office of juvenile justice of the Department of Public Safety and Corrections to study the impact of COVID-19 on its operations, specifically as it pertains to the safety and security of juveniles and staff at its facilities, as well as the feasibility of releasing low-risk, nonviolent juvenile detainees and its impact on mitigating the spread of COVID-19, and to report the number of juveniles and staff that have died as a result of COVID-19. HCR 47 requires the office of juvenile justice to report its findings to the legislature no later than Jan. 1, 2021.

Labor/Employment

by: *Yoursheka D. George*
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2020 First Extraordinary Session

Senate Concurrent Resolution 13 by Senator Carter (pending House final passage) would request the Louisiana Workforce Commission (commission) to distribute information regarding the provisions of the Families First Coronavirus Response Act that provides paid sick time to employees who are unable to work due to the effects of COVID-19. **Senate Concurrent Resolution 13** seeks to address the need to slow the spread of the novel coronavirus. This resolution seeks to achieve this by requesting the commission to provide notice to employers and employees who test positive for the novel coronavirus about the emergency paid sick leave available through the Families First Coronavirus Response Act with hopes to provide an incentive to stay home and slow the spread of the novel coronavirus.

Senate Concurrent Resolution 11 by Senator Reese (Pending House final passage) would request certain state agencies and private businesses in Louisiana to recognize the value that justice-involved persons can bring to the workforce and society. **Senate Concurrent Resolution 11** also would encourage state agencies and private businesses in Louisiana to act with intention to empower, train, and employ such individuals.

House Concurrent Resolution 12 by Representative Garofalo (pending House concurrence) directs the Louisiana

Workforce Investment Council to study and report on resources available and innovative ways to coordinate and rapidly deploy opportunities for retraining and developing new skills for Louisiana workers who are unemployed because of the COVID-19 crisis.

2020 Regular Session

Senate Bill 461 by Senator Reese (Act 243) provides that during calendar year 2020, each employer's second and third quarter wage and tax reports, along with any contributions pertaining thereto, shall be due on September fifteenth after their regular quarterly due dates. Further, fourth quarter wage and tax reports, along with any contributions pertaining thereto, shall remain due and payable by their regular quarterly due date.

Senate Bill 517 by Senator Fields (Act 364) provides lifetime workers' compensation benefits to the surviving spouse of a law enforcement officer who was killed in the line of duty.

Legislative Affairs

by: *Laura Gail Sullivan*
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LEGISLATIVE COMMITTEES

House Bill 636 by Representative Ivey (Act 301) of the 2020 Regular Session created the Joint Legislative Committee on Technology and Cybersecurity to assist the legislature in the evaluation and oversight of matters regarding information technology for the state and its political subdivisions.

The ten-member committee is composed of five members of each house, with technological knowledge and experience to the extent possible, appointed by the presiding officers. The committee may take action only with a quorum and a favorable vote of a majority of the members from each house present and voting, each house voting separately. Initial appointments must be made by August 31, 2020, and an organizational meeting must be held no later than September 15, 2020.

The committee is charged with assessing cybersecurity risks facing public entities in La. and working with interested parties to develop recommendations and strategies to mitigate the damage to the public that may result from those cybersecurity risks.

Senate Bill 27 by Senator White (Pending House Final Passage) of the 2020 First Extraordinary Session would create the Streamlining Government Commission, similar to the Commission on Streamlining Government that functioned from 2009 to 2012.

The commission would be made up of the presiding officers of the legislature, the chairs of the House Committee on Appropriations and the Senate Committee on Finance, the state treasurer, four individuals engaged in private enterprise, a representative of the Public Affairs Research Council and a representative of the Council for a Better Louisiana.

The commission would be tasked with making recommendations to the legislature for eliminating, privatizing, and outsourcing agency programs and services and identifying alternative resources that might be used to fund the agency activities retained. The commission's initial recommendations in the form of a reorganization plan must be submitted to the governmental affairs committees by January 4, 2021, and those committees shall meet as a joint committee to review the plan by February 1, 2021. In 2022 and 2023, the commission will update the legislature on the status and implementation of the reorganization plan by January first. The commission would terminate January 12, 2023.

LEGISLATIVE CONTINUITY

Senate Bill 466 by Senator Hewitt (Act 302) of the 2020 Regular Session allows the legislature to meet remotely through electronic means during a gubernatorially declared state of emergency or gubernatorially declared state of public health emergency. The Act provides quorum requirements for the Senate and

House of Representatives and specifies how the members participate in debate and vote. The authority to utilize the protocol for emergency voting via telephone, teleconferencing, or other electronic means will be invoked only at the discretion of the presiding officer and automatically expires upon the termination of the declared state of emergency.

Each member voting by electronic means must provide written certification of votes cast to the secretary of the Senate or clerk of the House of Representatives. Amendments to be considered in a meeting under the provisions of the Act must be submitted at least 24 hours in advance of consideration.

Local Government

*by: James Benton
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Local Government is an intricate part of the legislative process. It's the area of law that affects everyone in the state. The Local and Municipal committee gives Senators an opportunity to advocate on behalf of their constituents in a manner that is both meaningful and practical. In the Regular Session and First Extraordinary Session of the Legislature, several bills were introduced that will help move this great state forward.

2020 Regular Session

Fire Service Employees

Senate Bill 254 by Senator Carter (Act 224) provides that if a nonprofit corporation under contract with a fire protection district, municipality, or other political subdivision operates, administers, or maintains a fire department, the provisions of present law will apply. Additionally, firemen employed by such nonprofit corporation will be considered a firefighter covered by and benefitting from the occupational disease presumptions and other provisions of present law.

Sewerage and Water Board of New Orleans

Senate Bill 313 by Senator Peterson (Act 120) current laws provide that the Sewerage and Water Board of New Orleans will fix the rates to be charged consumers of water, including the power to exceed the total rates in force on November 1, 1913, and will collect the same from all persons who use water from the public water supply except that the Orleans Parish School Board will be exempt

as follows:

(1) Those Orleans Parish School Board accounts which are presently exempt will be exempt from said charges through June 30, 1992.

(2) Effective July 1, 1992 through June 30, 1993, each school campus and each nonschool facility of the Orleans Parish School Board will be exempt for all water consumed which does not exceed six gallons per day, for the 365 days of that year, for each student enrolled and any other person regularly assigned to that campus or facility within 30 school days of the commencement of the school year. Effective July 1, 1993, and thereafter, each school campus and each nonschool facility of the Orleans Parish School Board will be exempt from said charges for all water consumed which does not exceed four gallons per day, per 365 days a year for each student enrolled and any other person regularly assigned to that campus or facility within 30 school days of the commencement of the school year. Effective July 1, 1993, and thereafter, the Orleans Parish School Board also will be exempt from all water service charges.

(3) The above exemption is determined by the student/employee census report or equivalent as submitted to the state Department of Education. If said report is discontinued, a similar report will substitute.

The Act retains present law but adds an additional exemption which provides that the exemption outlined in existing law may be superceded by a mutually agreed upon and executed cooperative endeavor agreement between the Sewerage and Water Board of New Orleans and the Orleans Parish School Board, wherein the terms of the cooperative endeavor agreement will govern the rate and means by which public schools in Orleans Parish are charged for water and sewer services.

Economic Development Districts

Senate Bill 410 by Senator Barrow(Act 356) changes the name from Bethany Convention Center Development District to Baker Economic Development District and Convention Center. Provides for a seven member board of commissioner as follows:

- (1) The mayor of the city of Baker, or his designee.
- (2) The mayor of the city of Baker will appoint one member.
- (3) The Baker City Council will appoint one member who's elected to the city council.
- (4) The member of the Louisiana State Senate who represents District 15 will appoint one member.
- (5) The member of the Louisiana House of Representatives who represents District 63 will appoint one member.
- (6) The board of directors of the Baker Chamber of Commerce will appoint one member who is serving or has served as president of the chamber's board.

(7) The Baker City School Board will appoint one member from a list of nominees submitted to the School Board.

The Act further provides for the board of commissioners to serve a three-year term and at the expiration of the term of office, the successors are to be appointed in the same manner as the predecessor appointees were selected. The Act further requires the board to elect a president, vice president, secretary, treasurer, and a parliamentarian. The Act requires that the domicile of the board is to be at a location within the district.

Economic Development Districts

Senate Bill 459 by Senator Reese(Act 350) creates the Vernon Parish Development District (district) as a body politic and political subdivision of the state of Louisiana. Provides that the district, acting through its board of commissioners, the governing authority of the district, is granted all of the rights, powers, privileges, and immunities granted to political subdivisions for economic and industrial development purposes, including but not limited to the power of taxation, the power to incur debt and issue revenue and general obligation bonds. The Act provides that the district is established for the primary object and purpose of promoting and encouraging the development of economic and industrial opportunities, stimulating the economy through renewed commerce and industry, and for the utilization and development of natural and human resources of the area by providing job opportunities.

2020 First Extraordinary SessionCooperative Endeavor Agreements

Senate Bill 16 by Senator Abraham (Sent to Governor) current law provides the method of approval applicable to each type of taxing authority that agrees to participate in a cooperative endeavor agreement. The bill clarifies that only participating taxing authorities must approve the cooperative endeavor agreement and provides for the method of approval.

Military/Veterans Affairs

by: James Benton
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2020 Regular Session

Due to the Covid-19 epidemic and the stay at home order, there were a lot of bills that did not get a chance to see the light of day. Some of these bills were dedicated to the Veterans and Servicemen of our great state. However, the fight will continue in upcoming sessions of the Legislature of Louisiana. Below for your review, or some of the measures that the Legislature was able to pass to assist service members.

Insurance Risk for Service Members

Senate Bill 16 by Senator Luneau (Act 49) provides that except for administering military personnel premium discounts, the fact that an insured is deployed in the military for a period in excess of six months will not be used by the insurer for the classification of risk. Provides that except for administering military personnel premium discounts, the fact that an insured is deployed in the military for a period in excess of six months will not be used by the insurer for the classification of risk.

Tops eligibility requirements for Service Members

Senate Bill 318 by Senator Cathey (Act 225) provides for alternative initial eligibility requirements for veterans who were honorably discharged from the United States Armed Forces from a military installation in Louisiana as follows:

- (1) Had at least three years of military service prior to discharge.
- (2) Is a citizen of the United States.
- (3) Established Louisiana domicile within one year after discharge from military service, provided residency is established on or after January 1, 2020.
- (4) Earned a 17 or higher score on the ACT or an equivalent concordant value on the SAT, or attained a silver level score or higher on the ACT WorkKeys system of assessments.
- (5) Enrolls in an eligible college or university within one year after notification of eligibility for the award.

La. Military Hall of Fame and Museum

House Bill 213 by Representative Miguez (Act 75) current law establishes the La. Military Hall of Fame and Museum in Abbeville within the Dept. of State (department). Further creates and provides for a board of directors of the museum comprised of 13 voting members, seven of whom are appointed by the secretary of state and six of whom are elected by members of the Friends of the La. Hall of Fame and Museum. The Act repeals provisions that establish the La. Military Hall of Fame and Museum within the Dept. of State.

Occupational Licensing Board requirements for Service Members

House Bill 613 by Charles Owen (Act 200) requires the occupational licensing board to issue a license to a military member, including United States Department of Defense civilian employees who have been assigned to duty in Louisiana, or an applicant who is married to or is a dependent of a member of the military or a United States Department of Defense civilian employee, if the member receives military orders for a change of station to a military installation or assignment located in this state or if the member has established this state as his state of legal residence as reflected in the member's military record, if they meet certain requirements. Proposed law deletes the conditions contained in present law, and requires the applicant to meet the following:

- (1) He has a current and valid occupational license in another state in an occupation with a similar scope of practice, as determined by the board.
- (2) He has held the occupational license in the other state for at least one year.
- (3) The board in the other state required the person to pass an examination, or to meet certain other standards.
- (4) The board in the other state holds the person in good standing.
- (5) He does not have a disqualifying criminal record as determined by the board in this state.
- (6) He has not had an occupational license revoked because of negligence or intentional misconduct related to the applicant's work in the occupation.

(7) He has not surrendered an occupational license because of negligence or intentional misconduct related to the person's work in the occupation.

(8) He does not have a complaint, allegation, or investigation pending before a board in another state which relates to unprofessional conduct or an alleged crime. If the applicant has a complaint, allegation or investigation pending, the board in this state will not issue or deny an occupational license to the applicant until the complaint, allegation, or investigation is resolved, or the applicant otherwise satisfies the criteria for licensure in this state.

(9) He pays all applicable fees.

(10) He simultaneously applies for a permanent license; if the applicant fails to qualify for a permanent license as determined by the occupational or licensing board once the permanent application is vetted, the permit automatically terminates.

There was no legislation on this topic during the first extraordinary session.

Natural Resources

by: *Tyler McCloud*
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2020 Regular Session

Senate Bill 353 Senator Hewitt (Act 61) makes several changes the Louisiana Geologic Sequestration of Carbon Dioxide Act to encourage the sequestration of carbon dioxide (CO₂) either for storage or for enhanced recovery of oil and gas. The bill authorizes the commissioner of conservation to approve the conversion of hydrocarbon-bearing formations to CO₂ storage facilities. The bill also allows the per ton storage fee to be paid over a longer time period; from 120 months to 144 months. Who may request a public hearing is also limited to interested persons that own an interest in the area affected by the CO₂ storage facility.

Coastal Lawsuits

Senate Bill 359 Senator Hensgens (Senate final passage) would have limited the enforcement of coastal use permits issued for uses of state concern, or such uses that should have been permitted to the secretary of the Department of Natural Resources or the attorney general. Uses of local concern could have been enforced by the secretary and the attorney general, as well as the local district attorney or the local governing authority with an approved coastal management program.

Senate Bill 440 Senator Fesi (Pending House Appropriations) would have provided for any funds recovered from coastal lawsuits by requiring 75% of monies collected from uses of state concern be deposited into the Coastal Protection and Restoration Fund, with 25% of that used for match on local projects, and the remaining 25% be deposited to a local fund for coastal projects selected by the local governing authority. For suits on uses of local concern, 100% of the monies collected would have been deposited into a local fund for projects selected by the local governing authority. House committee amendments added the substance of Senate Bill 359 discussed above.

Senate Concurrent Resolution 7 Senator Hewitt (Sent to the Secretary of State) requests the local officials in Cameron Parish, Jefferson Parish, Plaquemines Parish, St. Bernard Parish, St. John the Baptist Parish, Vermilion Parish, and the city of New Orleans to voluntarily dismiss the coastal zone lawsuits.

Property

by: *Carla Roberts*
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2020 Regular Session

Senate Bill 506 by Senator Barrow (failed in House Committee on Insurance) would have authorized an insurance company to offer coverage for the cost of disinfecting fumigation of a building if a person who works or resides in the building has a positive diagnosis for COVID-19 based upon ten cents per square foot of the area fumigated.

Senate Bills 176 and 177 by Senator Allain (assigned to Senate Natural Resources). Senate Bill 176 was a proposed constitutional amendment and companion bill that would have authorized the commissioner of administration may enter into agreements with riparian landowners (i.e., and situated on the banks of a river or body of water) to establish a permanent, fixed boundary between state owned and privately owned waterbottoms, regardless of the navigability of the water body. **Senate Bill 176** would have further authorized the state in such agreements to accept a donation of any riparian land owned or claimed lands or water bottoms, subject to a perpetual reservation of minerals, regardless of any subsequent erosion or loss of the land donated, or of the present or future navigability of the water bottom donated. **Senate Bill 176** would have also required all agreements and donations to provide that the public enjoy a permanent right of reasonable, regulated public access over all present water bottoms allocated to the riparian landowner and all future water bottoms created from the

riparian land as a result of natural erosion, subsidence or rising sea levels.

Senate Bill 125 by Senator Hewitt (referred to Senate Committee on Commerce, Consumer Protection and International Affairs) Current law provides relative to the regulation of engineers and land surveyors. **Senate Bill 125** would have provided a "dual licensee" and defined it to mean any person practicing or seeking to practice both engineering and land surveying in the state who has received both licenses from the board and is otherwise in good standing with the board.

House Bill 159 by Rep. McFarland (Act 175) allows nighttime hunting of outlaw quadrupeds, nutria, and beaver on private property at any time of the year. **Act 175** allows nighttime taking of outlaw quadrupeds, nutria, and beaver on private property year round. **House Act 175** retains requirements in prior law for written permission by the land owner and notification to the local sheriff at least 24 hours prior to such hunting. **Act 175** adds an option to notify the local sheriff immediately after taking an animal at night. The Act prohibits any person convicted of a class three or greater wildlife violation within the previous five years or any person having any other prohibition which would prevent the legal use of a firearm or participation in a hunting activity from participating or being present during nighttime hunting activities.

House Bill 184 by Rep. Villo (Act 72) authorizes the transfer or lease of certain state property in the city of Kenner, in Jefferson Parish, from the division of administration. **Act 72** provides for the reservation of mineral rights to the state. **Act 72** provides that the immovable property being transferred is a parcel of state owned water bottom located on the south shore of Lake Pontchartrain located north of the city of Kenner being the area known as Laketown, containing approximately 40 acres, less area being leased to Treasure Chest Casino.

House Bill 342 by Rep. Freeman (failed in House Committee on Civil Law and Procedure) would have provided for victims of sexual assault to receive early termination of their residential leases. **House Bill 342** would have provided that, in order to receive an early termination, the lessee would have had to do all of the following: (1) assert in writing to the lessor that the lessee is a victim of sexual assault and requests an early termination, (2) provide reasonable documentation of a sexual assault within the prior six months, and (3) fulfill all requirements of a lessee under the lease agreement. **House Bill 342** would have required the lessor to terminate the lease agreement on a mutually agreed-upon date within 15 days of written request for early termination. Lessee would have been liable for rent through the early termination date of the lease and outstanding obligations to the lessor. **House Bill 342** would have required for a Certification of Sexual Assault form to be completed by the lessee and a qualified third party.

House Bill 372 by Rep. James (Act 260) creates the Forest Oak Windsor Place Crime Prevention, Improvement, and

Beautification District in East Baton Rouge Parish that provides for the district's boundaries, purpose, governance, and funding, including the authority to impose a parcel fee on each home or business property located within the crime prevention district. **Act 260** authorizes the crime district board, subject to voter approval, to impose and collect a parcel fee on each improved and unimproved parcel of land within the district. **Act 260** provides that the amount of the fee will be in a duly adopted resolution of the board and will not exceed \$175 per year for residential parcels and \$500 per year for commercial parcels. The Act further provides that parcels qualifying for the special assessment (known as the "senior freeze" which limits property tax assessment to the value of the home when the homeowner became 65 years of age) is to be limited to a fee of 50% of what would otherwise be imposed on such a parcel. **Act 260** provides that the term of the fee expires at the time provided in the proposition authorizing the fee, not to exceed 10 years, but authorizes renewal of the fee for a term not to exceed 10 years, also subject to voter approval. **Act 260** defines "parcel" as a lot, a subdivided portion of ground, an individual tract, or a "condominium parcel."

House Bill 443 by Rep. Hilferty (Act 150) provides relative to the membership of the governing board of the Lakeshore Crime Prevention District. The Lakeshore Crime Prevention District in Orleans Parish is a political subdivision that was created by the legislature in 2004 for the purpose of aiding in crime prevention and adding to the security of district residents by providing for an increase in the presence of law enforcement personnel in the district. The district is governed by a nine-member board of commissioners. **Act 150** removes the authority of the assessor for

the second municipal district in Orleans Parish to appoint a member to the board and, instead, provides that the board of the Lakeshore Property Owners Association will appoint one member to the board of commissioners.

2021 First Extraordinary Session

House Bill 28 by Rep. Dwight (pending Senate Committee on Revenue and Fiscal Affairs) was a companion bill to a proposed Constitutional Amendment in **House Bill 23 (returned to the calendar on the House Floor)** which would have authorized political subdivisions to enter into agreements for strategic investments to maximize parish and local economies that permit taxpayers to make payments in lieu of ad valorem (i.e., property) taxes that may allow for property tax exemptions or future tax credits, or both. **House Bill 28** would have authorized a taxpayer and any governing authority of a political subdivision to enter into an agreement for strategic investments to maximize parish and local economies authorizing payments in lieu of taxes. **House Bill 28** would have authorized political subdivisions within the parish to grant future tax credits for up to nine years in exchange for up to two years of ad valorem payments within an agreement authorizing payment in lieu of taxes. **House Bill 28** defines a "cooperative endeavor agreement" as a form of economic development assistance between the state and local governments and other entities.

House Bill 54 by Rep. Ivey (pending Senate Committee on Revenue and Fiscal Affairs) would have established the La. Capital Investment Program which would have provided for the consideration and approval of standard, local, and executive

capital investment project ad valorem tax exemptions. **House Bill 54** would have required the Department of Economic Development (hereinafter "dept.") to adopt and promulgate rules to administer the program in compliance with present law. **House Bill 54** would have established a notification process that requires the dept. to notify parish authorities within 10 days of the creation or modification of a capital investment program. **House Bill 54** would have further provided that the notification will include program details, deadlines, language for resolutions, and specific forms. **House Bill 54** would have established an enrollment process for the program and a parish would have been able to enroll in a program upon the approval of all parish authorities evidenced by a resolution submitted to the dept. **House Bill 54** would have provided that, if a parish disapproves participation in a program, it will submit a resolution to the dept. stating such. **House Bill 54** would further would have provided that if no parish authority notifies the dept. that it disapproves participation within 60 days of the program's effective date, otherwise, the parish would have automatically been enrolled. **House Bill 54** would have authorized a parish to change disapproval to approval by rescinding the disapproval resolution. **House Bill 54** would have authorized a parish to withdraw from a program within five years following enrollment. **House Bill 54** would have provided that, if the legislature were to pass a law that substantively changes a capital investment program, a parish could have withdrawn from the program by resolution stating such.

Public Safety/Law Enforcement

by: *Nancy Vicknair*
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REGULAR SESSION

CHILDREN/MISSING

House Bill 29 by Representataive Bacala (Act 96) provides that any state or local law enforcement agency receiving a report of a missing child or the recovery of a missing child and having reasonable grounds to believe the report is accurate shall do all of the following immediately, instead of within 48 hours (as required in existing law), after receiving the report:

- (1) Enter the name of the child into the NCIC database.
- (2) Notify each of the following of the facts and contents of the report:
 - (a) The Dept. of Children and Family Services, to the extent that the reporting is required pursuant to present law provisions relative to mandatory reporters of child abuse and neglect.
 - (b) The office of state police, if it did not originally receive the report.
 - (c) The office of the sheriff for the parish in which the report was received, if it did not originally receive the report.

- (d) Any other local, state, or federal law enforcement agency that the law enforcement agency receiving the report deems necessary and appropriate depending upon the facts of each case.

House Bill 67 by Representative Fontenot (Act 64) increases the penalties imposed for a second or subsequent offense of battery of a police officer and for a second or subsequent offense that produces an injury requiring medical attention to the following:

- (1) For a second or subsequent offense, the offender shall be fined not more than \$1,000 and be imprisoned with or without hard labor for not less than one nor more than three years. At least 15 days shall be served without benefit of parole, probation, or suspension of sentence.
- (2) If the battery produces an injury that requires medical attention and the offense is a second or subsequent offense, the offender shall be fined not more than \$2,000 and shall be imprisoned with or without hard labor for not less than two years nor more than five years. At least 60 days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

CRIME/BATTERY

House Bill 136 by Representative Miincey (Act 171) creates the crime of adulterating a food product and defines the offense as the intentional contamination of a food product by adding to the product, or mingling with the product, any feces, urine, blood, saliva, semen, any form of human or animal waste, or other bodily substance with the intent that the product be provided to or consumed by another person who has no knowledge of nor consents to the contamination. Provides that whoever commits the proposed law crime shall be fined not more than \$2,000, imprisoned with or without hard labor for not more than five years, or both.

House Bill 150 by Representative Bacala (Act 174) expands the crime of battery of a police officer to include the throwing of water or other liquids and removes the requirement that the offender be incarcerated or detained at the time of the throwing for the offense to apply.

DWI

Senate Bill 352 by Senator Cameron Henry (Act 41) authorizes a court, on a second or subsequent conviction for operating a vehicle while intoxicated, to order the offender, at his sole expense, to undergo an assessment that uses a standardized evidence-based instrument performed by a physician to determine whether the offender has a diagnosis for alcohol or drug dependence and would likely benefit from a court-approved medication-assisted treatment indicated and approved for the treatment of alcohol or drug dependence by the U.S. Food and Drug Administration, as specified in the

most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

Further authorizes a court, upon considering the results of the assessment, to refer the offender to a rehabilitative program that offers one or more forms of court-approved medications that are approved for the treatment of alcohol or drug dependence by the U.S. Food and Drug Administration.

EMERGENCY PREPAREDNESS

House Bill 73 by Representative Schamerhorn (Subject to Call - House Final Passage) would add "electrical lineman" to the definition of "first responder" and define "electrical lineman" as a person employed to install, maintain, or repair electrical transmission and power distribution systems.

LAW ENFORCEMENT

House Bill 333 by Representative Edmonds (Pending House Judiciary) would authorize the Dept. of Public Safety and Corrections to receive funds, grants, donations, or otherwise, any sum of money, aid, or assistance from any person, firm, or corporation from the U.S., its agencies, the state of La., or any political subdivision of the state for the purchase of bulletproof vests. Would provide that beginning July 1, 2020, the state treasurer is directed to deposit into the fund at the beginning of each fiscal year \$8,500,000 dollars, and authorizes the legislature to appropriate additional monies to the fund notwithstanding the balance in the fund. Would require the La. Commission on Law Enforcement to promulgate rules and regulations that are necessary to provide for

the standards of bulletproof vests and other rules and regulations necessary for administration and enforcement.

House Bill 420 by Senator Bacala (Act 104) provides that all peace officers must successfully complete a minimum of 20 hours of in-service training requirements on an annual basis. Further provides that all initial training requirements must be completed within the first calendar year after receiving P.O.S.T. certification and annually thereafter.

Provides that under certain circumstances, the council may modify, extend, or waive an in-service training requirement on a case-by-case basis and that such request must be in writing from the agency head directly to the council.

Provides that waivers may also be considered for extended continuous medical leave or any other emergency event deemed as such by the council, and provides that peace officers called to active military duty are not required to complete in-service training requirements missed during the performance of active duty service. Also authorizes the council to promulgate rules and regulations necessary for implementation.

WEAPONS/FIREARMS

House Bill 746 by Representative Garofalo (Act 322) provides an exception to the crime of illegal carrying of weapons for persons who may lawfully possess a firearm and who carry a concealed firearm during a mandatory evacuation in a declared state of emergency or disaster.

WEAPONS/HANDGUNS

House Bill 334 by Representative Fontenot (Act 186) prohibits the carrying of a concealed handgun in a church, synagogue, mosque, or other similar place of worship unless authorized by the person who has authority over the administration of the church, synagogue, mosque, or other similar place of worship. Removes the requirement in existing law that the congregation be informed that the church, synagogue, mosque, or other similar place of worship has authorized the carrying of concealed handguns by a concealed handgun permit holder. Removes the provision in existing law which requires permit holders carrying a concealed handgun in a place of worship to annually complete eight hours of tactical training, in addition to other present law training requirements for all permit holders, if such training is required by the entity which has authority over the religious organization or by the owner of the building's liability insurance policy.

FIRST EXTRAORDINARY SESSION

EMPLOYMENT

Senate Concurrent Resolution 11 by Senator Reese (Pending House final passage) and House Concurrent Resolution 17 by Representative Carpenter (Pending House concurrence) request certain state agencies and private businesses in La. to recognize the value that justice-involved persons can bring to the workforce and society and to act with intention to empower, train, and employ such individuals. Would request the division of administration to prioritize and seek to fund reentry initiatives with any future allotments of federal funding related to the COVID-19 pandemic.

LEGIS POWERS/FUNCTIONS

Senate Concurrent Resolution 7 by Senator Fields (Sent to Secretary of State) establishes the Police Training, Screening, and De-escalation Task Force to study and make recommendations to the legislature on the topics of, among others, training, screening, de-escalation, racial bias training, misconduct, duty to report misconduct, penalties, use of force, identifying and eliminating bad actors, and any other recommendations the task force deems necessary to restore the public's trust that the law enforcement community is serving and protecting all the citizens of Louisiana in a fair and unbiased manner.

MTR VEHICLE/SEAT BELTS

House Bill 55 by Representative Mike Johnson (Pending House concurrence) would provide for the introduction of evidence of failure to wear a safety belt in order to establish comparative negligence, causation, and the mitigation of damage, and also provides that the evidence for failure to wear a safety belt may be used as an affirmative defense.

House Bill 56 by Representative Robby Carter (Pending House Civil Law & Procedure) would provide for the introduction of evidence of failure to wear a safety belt in order to establish comparative negligence or to mitigate damages and provides that the burden of proof for introducing evidence of failure to wear a safety belt shall be clear and convincing evidence.

Retirement

by: *Angela Lockett*
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2020 Regular Session

House Bill 4 by Representative Bacala (Act 247) provides for the plan experience study for the Parochial Employees' Retirement System of Louisiana (PERS) to occur every five years rather than every three years. Present law requires that the actuary for PERS to conduct an experience study of the members as to mortality, disability, retirement, separation, marital status of employees, marriage of surviving spouses, interest, and employee earning rates and requires that the experience study be conducted every three years. **Act 247** changes this requirement to every five years.

House Bill 8 by Representative Bourriaque (Act 337) provides for the reemployment eligibility of retired members of Teachers' Retirement System of Louisiana (TRSL) for all retirees who have returned to active service with an employer covered by TRSL on or before June 30, 2020, and for those members who were retired on or before June 30, 2010. Present law authorizes a retiree to return to work in certain positions and to continue to receive his benefit; however, the allowable employment earnings of such retiree are capped at 25% of his benefit amount; requires a reduction in the retirement benefit if the cap is exceeded. **Act 337** provides that any retiree who returns to active service with an employer covered by TRSL on or after July 1, 2020, shall choose one of the following Options:

- (1) Return to work with an allowable employment earnings cap of 25% of his final average compensation with a reduction in the retirement benefit if the cap is exceeded.
- (2) Suspend his benefit, return to work with no employment earnings cap, and begin to accrue a supplemental benefit for the duration of service after reemployment.

Act 337 also provides for a conversion from Option 1 to Option 2 once the allowable employment earnings cap of (25%) has been met.

Representative Carpenter brought several bills on behalf of the Firefighters' Retirement System (FRS). **House Bill 11 (Act 2)** provides that if a member of the Firefighters' Retirement System (FRS) dies before retirement, his benefit payments are payable to the surviving spouse rather than the designated beneficiary. If a member of FRS completes the required number of years of creditable service to qualify for retirement but leaves covered employment, fails to elect a retirement payment option, and dies before reaching retirement age, present law provides that the system will assume Option 2 benefits would have been selected, and the member's designated beneficiary shall receive the

benefits payable at the time the member would have otherwise begun to receive benefits. If an active contributing member who is eligible for retirement dies before retiring, present law provides that the member's designated beneficiary shall receive Option 2 benefits. In these two instances, **Act 2** changes the automatic benefit recipient from the designated beneficiary to the member's surviving eligible spouse.

Act 2 further provides that if the member has no surviving eligible spouse, the designated beneficiary shall be the beneficiary of the option. "Surviving eligible spouse" is defined as the spouse who was married to and living with the member at the time of his death. Present law as well as **Act 2** provides that Option 2 is an actuarially reduced benefit allowance that is payable to the member throughout his life and, upon his death, payable to a beneficiary throughout the life of the beneficiary.

House Bill 12 (Act 164) by Representative Carpenter provides that if a retiree from FRS returns to work in a full-time position covered by the system, payment of his retirement benefits ceases. The Act removes the requirement for cessation of benefits applicable to an FRS retiree who returns to work in a part-time position for a fire department covered by the system. The employee and employer contribute to the system during full-time reemployment and that the retirement option that was selected at the first retirement cannot be changed. **Act 164** further requires that the employee and employer contribute to the system during any part-time employment, but exclude part-time retirees from accruing credible service during his reemployment.

Representative Carpenter's House Bill 14 (Act 4) provides relative to the processing period of refunds of employee contributions to the FRS. Presently a member of FRS who ceases to be an employee, except by death or retirement, may receive a refund of his employee contributions. All employee contributions of a member to be received by the system before a member is eligible to receive a refund of his employee contributions. Refunds are not payable until at least ninety days after termination or resignation. **Act 4** provides that refunds are not payable until the board of trustees approves the refund at a board meeting occurring at least 30 days after termination or resignation. The board may authorize an accelerated refund if the refund is based on a bona fide emergency circumstance.

House 13 (Act 3) by Representative Carpenter relative to municipal, parish, and fire protection district employees who are covered by Social Security and have the option of not joining the FRS or the Municipal Police Employees' Retirement System (MPERS) as applicable, requires enrollment in the applicable system until the employee files the affidavit required by law. Anyone who is employed by a parish, municipality, or fire protection district whose employees are also covered under the federal Social Security program to choose not to become a member of MPERS or FRS as applicable. An employee who elects not to become a member of the applicable retirement system to execute and file with the retirement system an affidavit stating that his election not to be a member is of his own free will and is his own voluntary act and deed. **Act 3** requires enrollment of the employee in the applicable retirement system until he files the affidavit.

Present law relative to Municipal Police Employees' Retirement System (MERS), provides that employees of participating incorporated cities, towns, or villages in La. shall be members of MERS. Present law relative to Parochial Employees Retirement System (PERS), provides that any permanent employee of a parish shall be a member of PERS. Both MERS and PERS, provides that if the governing authorities of a municipality and a parish consolidate into one government, those members who were members of MERS at the time of consolidation shall remain members of MERS. Those people employed after such consolidation shall become members of PERS. Any employee of the Lafayette Consolidated Government (LCG) first employed on or after Nov. 1, 2010, who is in a department created by the LCG Home Rule Charter, except for police and firefighters, shall become a member of PERS and also includes certain employees of the city court.

House Bill 15 (Act 298) by Representative Coussan, applicable to the same groups of Lafayette employees, provides that those hired on or after Nov. 1, 2020, shall become members of PERS instead of MERS. If an employer terminates its agreement with MERS for coverage of its employees or eliminates an employee position or class of positions covered by MERS by contracting with a private entity for the work formerly done by employees in eliminated positions, the employer shall remit that portion of the unfunded accrued liability (UAL) which is attributable to the employer's participation or the employee's or class of employees' participation in the system. **Act 298** requires an employer that eliminates any position from system coverage remit UAL payments calculated and remitted as provided in present

law. Specifies that eliminating a vacant position or a position held by a person who is laid off does not require the remittance of UAL payments. MERS is required to notify all other state and statewide systems if an employer terminates its agreement with MERS. Additionally, if that employer later enrolls employees in one of those other systems, that system shall notify MERS pursuant to **Act 298**.

House Bill 17 by Representative Bacala (Act 5) provides that any permanent employee of parish shall be a member of the Parochial Retirement System of Louisiana (PERS). PERS defines "employer" as any parish, except Orleans and East Baton Rouge, the governing body of a parish employs and pays persons serving the parish, the Police Jury Association of Louisiana, the Louisiana School Board Association, and PERS. **Act 5** authorizes certain taxing districts and other entities requesting PERS to approve their inclusion as employers.

Present law provides for the reporting of contributions within the Municipal Police Employees' Retirement System (MPERS), for suspension of benefit payments and extension of participation in the Deferred Retirement Option Plan (DROP), establishes interest and penalties for delinquent contributions, and gives the board of directors the authority to promulgate rules. The duration of participation in the DROP shall not exceed three years. **House Bill 18 (Act 124) by Representative Bacala** provides that if employer contributions are suspended during the participation period as a result of interruption of employment, the member's participation period shall be extended by the number of months his benefit payments were suspended.

Present law further provides that upon the effective date of commencement of participation in DROP, neither employee nor employer contributions are payable. **Act 124** provides that employee contributions for employees who commence participation in the plan on or after July 1, 2021, shall cease but employer contributions shall continue to be payable. Present law provides for the payment of unfunded accrued liability by employers participating in the system that fully dissolves its police department and contracts for police services with another entity. Payments are payable beginning July first of the fiscal year following the withdrawal from the system by the participating employer. **Act 124** provides that payments are payable following the determination by the system actuary of the amount owed.

Delinquent payments of employee or employer contributions by an MPERS employer are subject to the following:

- (1) Interest charged at the legal rate from the date the payment became delinquent.
- (2) Payments delinquent in excess of 90 days are subject to a penalty of 25% of the aggregate contributions due.
- (3) Payments delinquent in excess of 180 days are subject to payment of the greater of (1) or (2) above and an amount equal to the actuarial cost of a purchase of the service credit for which contributions were not timely paid.
- (4) Reimbursement of the system for any legal and actuarial fees paid by the system in the collection of amounts under **Act 124**.

Lastly, present law provides that a member who is receiving worker's compensation and who does not pay the full amount that would be his employee contribution if he were not receiving worker's compensation may receive service credit for purposes of eligibility determination but not for computation of benefits purposes. **Act 124** provides that such a member shall not receive service credit for any purpose and authorizes the MPERS board of trustees to make, amend, and promulgate rules and to provide for the establishment and maintenance of the system.

House Bill 21 (Act 249) by Representative Bacala makes various changes to provisions applicable to the Municipal Police Employees' Retirement System (MPERS). **Act 249** increases the salary threshold for elected police chief membership to \$1,000 per month. Under present law, an elected police chief is a member of the system if his salary is at least \$100 per month. **Act 249** also provides that a person who retires from MPERS after June 30, 2021, and then becomes a full-time employee of a police department is a member of the system. An employer is defined as a municipality that employs a full-time police officer at a salary of at least \$100 per month. **Act 249** increases the salary threshold for this definition to \$1,000 per month and removes the age restriction for membership in the system for persons hired on or after July 1, 2021 which was 50 years old or older under present law.

Regarding the physical examination requirement, present law requires an employee to receive a physical examination before he becomes a member, and requires submission of the examination and waivers of preexisting conditions to the retirement system within six months after employment. A member who

does not timely submit these documents is a member for purposes of receiving regular benefits but is not eligible for disability benefits until the documents are submitted.

Act 249 provides that a person hired after June 30, 2021, who has not timely submitted the documents is a member eligible to begin vesting for regular benefits but is not eligible to begin vesting for disability benefits for an injury not incurred in the line of duty. **Act 249** also requires completion of a new physical examination if the employee has a break in service longer than one year. If a physical examination is not completed because the employer refused to pay for the physical examination, the employer is liable for any disability benefit to which the member would be entitled.

A person ceases to be a member of MPERS if he is absent from service for more than five years and is not entitled to a deferred annuity as provided for by present law. **Act 249** limits the applicability of this provision to persons whose five-year absence is complete prior to July 1, 2021.

Present law provides for payment of retirement benefits to a surviving spouse and provides that such benefits cease if the spouse remarries before age 60. **Act 249** reduces that age to 55 and requires a surviving spouse under the age of 55 to annually document his marital status.

Act 249 provides for a suspension of retirement benefits of certain persons who retire after July 1, 2021, and return to work covered by MPERS. **Act 249** requires the board of trustees to use all reasonable means to collect benefits paid by the system to an individual who was not due the benefit, provides for prescriptive periods on such

collections and authorizes withholdings from future benefits to collect such overpayments. **Act 249** also authorizes a member who transfers service credit from another plan to pay to upgrade such service credit.

Relative to disability retirements from MPERS **Act 249** requires that claims for disability benefits be filed within one year from the date of disability. The system is required to pay for any medical examination that it requires to determine continued eligibility for a disability retirement benefit.

Lastly, present law provides for survivor benefits for a member who has at least 10 years of service credit. **Act 249** changes provides if the member is killed in the line of duty, the 10 years of service requirement is not applicable.

Senate Bill 3 (Act 29) by Senator Allain adds employees of the Berwick Housing Authority (BHA) and the Morgan City Housing Authority (MCHA) to the membership of Louisiana State Employees' Retirement System (LASERS). Present law provides for membership in LASERS to certain employees. Present law specifies that for purposes of determining eligibility for membership in LASERS, the legislature shall provide by law whether or not the types of agency service performed by employees, elected officials, and appointed officials of new agencies are within the scope of provisions of present law. **Act 29** provides that on or before September 30, 2020, the boards of the BHA and MCHA may adopt resolutions declaring the authorities to be participating employers in LASERS. Contributions to the system and accrual of benefits to begin with the first pay period following LASERS' receipt of the resolutions

and further provides that if BHA or MCHA does not adopt a resolution on or before September 30, 2020, the provisions of **Act 29** shall be null and void for the authority failing to adopt.

The (MERS) board of trustees has certain responsibilities, powers, and duties, including each board member's sole fiduciary duty to the system's members and beneficiaries. **Senate Bill 5 (Act 30) by Senator Price** provides the Municipal Employees' Retirement System MERS board with the power to deduct monthly life and health insurance premiums from the benefits payable to any retiree or other beneficiary and to transmit them to the agency to which the premiums are due. **Act 30** further provides that the board shall have full authority to formulate and promulgate any and all necessary rules and regulations to facilitate these deductions, including but not limited to requirements for written documentation for deductions.

Present law provides for certain restrictions relative to the refund of accumulated contributions to a member of the Municipal Employees' Retirement System (MERS) who did not attain retirement eligibility. Refunds of accumulated contributions shall not be required to be made to the member or to his estate until and unless the member has been out of service with a participating municipality for thirty days and until all contributions for said member have been submitted by the member's employer. **Senate Bill 6 (Act 31) by Senator Price** changes "out of service" to "terminated from" for clarification purposes.

House Concurrent Resolution 9 by Representative Mike Johnson (Sent to the Secretary of State) memorializes Congress to

support the Social Security Fairness Act that addresses the elimination of federal law (S.521 of the 116th Congress) that reduces Social Security benefits for persons receiving pensions from federal, state, or local government retirement systems. This is a significant issue for those seeking the reduction or elimination of federal offsets - the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO). Retirees receiving pensions and who also had private earnings in which the Social Security tax was paid, are subject to a reduction in Social Security benefits. The reduction caused by WEP can be as much as two-thirds in Social Security benefits. The GPO can completely eliminate Social Security benefits for retirees whose deceased spouse worked in the private sector. Both instances can cause extreme financial hardship.

Senate Concurrent Resolution 34 by Senator Mizell (Sent to the Secretary of State) memorializes Congress to consider taking necessary action to consider eliminating the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) Social Security benefit reductions. The WEP and GPO can be applied to a qualifying survivor's benefit, each independently reducing the available benefit and, in combination, eliminating a large portion of the total Social Security benefit available to the survivor. Given WEP and GPO calculation characteristics, a disproportionate negative effect occurs to those employees working in lower-wage government jobs, like teachers, school workers, and state employees. The estimated number of those adverse affected is nearly ten thousand per day that reach retirement age, and who may have no choice but to return to work after retirement in order to make ends

meet. Earnings accumulated during reemployment in the public sector may further reduce Social Security Benefits the individual is entitled.

Senate Resolution 15 by Senator Price (Sent to the Secretary of State) urges and requests the four state retirement systems (Louisiana State Employees' Retirement System, Teachers' Retirement System of Louisiana, Louisiana School Employees' Retirement System, and Louisiana State Police Retirement System) to work together as appropriate to study alternative mechanisms in providing meaningful benefit increases on a regular scheduled basis, and is designed to preserve the purchasing power of system recipients.

Senate Resolution 57 by Senator Price (Sent to the Secretary of State) gives notice to the four state retirement systems (Louisiana State Employees' Retirement System, Teachers' Retirement System of Louisiana, Louisiana School Employees' Retirement System, and Louisiana State Police Retirement System) to continue submitting all statutorily mandated reports, to the Senate Committee on Retirement for an additional five years.

Revenue & Taxation

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2020 Regular Session

TAX ADMINISTRATION

Improving Louisiana's Rank on the COST State Tax Administration Cost Scorecard

During the 2020 Regular Session, the legislature passed several bills by Senator Allain that make significant reforms to state and local tax administration. The Council on State Taxation (COST) has indicated that the enactment of this package of bills will improve Louisiana's score on their tax administration scorecard (The Best and Worst of State Tax Administration Cost Scorecard on Tax Appeals & Procedural Requirements) from a "D" to a "B-".

Senate Bill 164 by Senator Allain (Act 309) applies substantially similar limitations for the use of summary proceedings to collect local sales tax as those that apply to the Department of Revenue. In other words, there must be some risk that the taxpayer will not be able to pay in order for the local tax collector to use the summary process.

Act 309 also authorizes taxpayers that have failed to file a local sales tax return to appeal a local tax assessment to the Board of Tax Appeals without prepayment if the taxpayer has never filed a return with that local collector, has never been the subject of any collection action by that local collector, and

has no physical presence in the state.

In addition, **Act 309** provides local sales tax collectors 60 days from the submission of a refund claim before interest begins to accrue. This will give local sales tax collectors sufficient time to review a taxpayer's documentation before issuing a refund.

Senate Bill 205 by Senator Allain (Act 234) defines the term "final determination" to provide certainty for when taxpayers are required to report federal income tax changes to the Department of Revenue. The term "final determination" is currently defined in rules promulgated by the Secretary of Revenue, but was not defined in statute. **Act 234** codifies the circumstances and timing for reporting federal income tax changes to the Department of Revenue.

Senate Bill 283 by Senator Allain (Act 118) brings the time periods to respond to local sales tax notices and to protest the local tax collectors' tax determinations in line with those periods in statute applicable to the Department of Revenue. Currently, when a local sales tax collector issues a determination of tax to a business that has failed to file a return, the taxpayer has only 15 days to respond. **Act 118** extends this time to 30 days. The 15 day period can cause significant hardship for out of state businesses that may not have known that they had a filing obligation in a particular parish. Extending the time to 30 days gives these businesses

sufficient time to respond.

The Act also provides taxpayers 60 days to act after a local sales tax collector issues a proposed assessment instead of the current 30 days.

The final piece in the 2020 tax administration reform package is **Senate Bill 335 by Senator Allain (Act 348)** that changes the funding source for the Department of Revenue from penalties to one percent of the sales, corporate income and franchise, and individual income taxes collected by the department and requires that penalties collected by the department be deposited into the general fund.

The department is currently funded primarily by keeping the penalties it charges taxpayers. Funding a revenue department using tax penalties is widely criticized by taxpayer groups and state and local policy think tanks because it sets the department up with a perceived conflict of interest to make penalties as high as possible. This Act will eliminate that perception.

The one percent of taxes collected will be designated as self-generated revenue of the department to be used for the administration and collection of taxes and will continue to be subject to appropriation by the legislature. Taxes that contain a dedication provision such as cigarette and severance taxes were not included in the funding swap. The department will also retain compensatory fees that are fees for services provided, such as lien cancellation fees.

Act 348 also equalizes the interest rates on refunds and unpaid taxes by increasing the interest rate on refunds to three percent above the judicial interest rate beginning January 1,

2022.

Finally, **Act 348** changes several penalty rates to align state tax penalties with IRS penalties to make the state tax penalty system easier to understand.

Still More Tax Administration

Senate Bill 498 by Senator Allain (Act 47) expands the Secretary of Revenue's authority to allow extensions up to three month for filing and paying taxes in the event of a gubernatorially or presidentially declared disaster or emergency. The Secretary of the Department of Revenue had limited authority to grant tax filing and payment extensions for sales, severance, and excise taxes. This limitation was highlighted during the early days of the COVID-19 pandemic.

House Bill 561 by Representative Dwight (Act 278) was introduced as a cleanup bill to change current law to align it with a recently approved constitutional amendment expanding the jurisdiction of the Board of Tax Appeals and putting it under the judiciary article. During its pathway to enactment, it picked up some additional provisions that give local tax collectors more authority to extend their deadlines to help people with sales tax filing and payment deadlines in a declared emergency.

Act 278 also made changes to the definition of dealer for sales tax purposes to address the peer to peer car rental issue. This change does not add any tax, like Airbnb this is a tax that is already owed, and will ensure that there is a means to collect the sales tax that the state is owed.

SALES TAX COLLECTION BY MARKETPLACE FACILITATORS

Marketplace facilitators operate online marketplaces for sellers (marketplace sellers) to sell goods to buyers. This allows smaller sellers to reach a large audience of purchasers using the marketplace platform. Marketplace facilitators sometimes sell their own goods (direct sales) and facilitate the sales of marketplace sellers (third party sellers).

Following the United States Supreme Court's decision in *Wayfair* in 2018, Louisiana was in a position to require marketplace facilitators to collect state and local sales and use tax. However, the Louisiana Supreme Court determined that legislation was necessary for the state's taxing authorities to require this collection. In the Louisiana Supreme Court's Walmart decision, the court discussed the sales tax collection obligation of auctioneers, who are third party facilitators similar to marketplace facilitators. The court referred to legislation that had been enacted to require auctioneers to collect sales and use taxes on behalf of the sellers of the items being auctioned. In what could be viewed as an invitation to the legislature to provide a legislative solution, the court stated that, "Absent similar legislation for an online marketplace, double taxation could result if both online marketplaces and third party retailers are obligated to collect sales tax on the same transaction."

Senate Bill 138 by Senator Allain (Act 216) requires marketplaces such as Amazon, Etsy, Ebay, and Walmart to collect sales tax on sales for delivery into Louisiana that are made over the marketplace, both for direct sales and third party sales. Sales tax must apply the

correct local tax base and be collected at the state and local sales tax rates.

Only marketplaces with \$100,000 in Louisiana sales or 200 transactions into Louisiana will be required to collect and remit. However, a smaller marketplace can voluntarily collect if it chooses. Marketplace will send the sales tax to the Remote Sellers Commission. The Commission will timely distribute the taxes to state and local governments.

Under **Act 216**, a marketplace facilitator "steps into the shoes" of the retailer and assumes the retailer's rights and obligations. However, if the marketplace facilitator fails to collect the tax and the failure to collect was due to the marketplace seller providing erroneous information to the facilitator, then the audit risk and liability can shift to the marketplace seller.

Act 216 was vetted by the Department of Revenue, the marketplaces, local government, and others. The Louisiana Sales and Use Tax Commission for Remote Sellers voted unanimously to support the bill and amendments. The Act conforms Louisiana's marketplace statute with the National Conference of State Legislatures model legislation and the recommendations of the Multi-state Tax Commission. This will provide much needed uniformity across state lines.

Finally, **Act 216** made technical corrections to existing remote seller law by providing a due date for the tax return and providing that penalties, interest, and vendor's compensation is based on the individual taxing jurisdiction's rules.

CORPORATION FRANCHISE TAX SUSPENSION

House Concurrent Resolution 66 by Representative Bishop (Sent to Secretary of State) began as an instrument to suspend the entire corporation franchise tax until 60 days after the next regular session. As adopted, the resolution suspended the first tier of the tax for corporations that have taxable capital of \$500,000 or less. There was concern expressed that because the resolution was not a bill, that it was not an appropriate use of the Legislature's suspension authority.

AD VALOREM TAX

House Bill 360 by Representative Huval (Act 368) a proposed constitutional amendment, if approved by the voters in November, will allow for the inclusion of the presence and production of oil and gas when determining the fair market value of an oil or gas well for ad valorem taxes. This legislation was the result of many years of negotiations between the oil and gas industry, the tax assessors, and local taxing authorities.

If the voters approve the constitutional amendment, then **Senate Bill 272 by Senator Abraham (Act 370)** and **Senate Bill 396 by Senator Abraham (Act 240)** will authorize a local governmental subdivision or other local ad valorem taxing authority to enter into a cooperative endeavor agreement that provides for payments in lieu of ad valorem taxes imposed by that taxing authority. Before a local taxing authority can enter into a cooperative endeavor agreement for payments in lieu of tax, a public hearing must be held. Property eligible for this exemption must be either a new manufacturing establishment or an addition to an existing manufacturing

establishment. The cooperative endeavor agreement cannot be for a term longer than 25 years.

Proposed constitutional amendment, **House Bill 525 by Representative Hilferty (Act 369)**, increases the income threshold for qualifying for the special assessment level for residential property receiving the homestead exemption from \$50,000 adjusted annually based on the Consumer Price Index to \$100,000 with this amount being adjusted annually based on the Consumer Price Index beginning in tax year 2026.

LOUISIANA TAX INSTITUTE

House Bill 202 by Representative Hodges (Act 300) moves the Louisiana Tax Institute from the Department of Revenue to the legislature and changes the membership of the governing board of the Institute from eight members to eleven members by removing from the board the member representing the Taxation Section of the Louisiana State Bar Association and adding a member appointed by the secretary of state, a member appointed by the president of the Senate, a member appointed by the speaker of the House of Representatives, and the executive director of the Local Uniform Sales Tax Board.

2020 First Extraordinary Session

During the 2020 First Extraordinary Session, many instruments were introduced that were based, at least in part, on recommendations contained in the Louisiana Legislative Advisory Task Force on Economic Recovery Phase I and Phase II Reports.

CORPORATION FRANCHISE TAX

Senate Bill 6 by Senator Allain (Sent to Governor) suspends the corporation franchise tax on the first \$300,000 of taxable capital for small business corporations that have taxable capital of \$1,000,000 or less. The suspension applies only to taxable periods beginning between July 1, 2020, and June 30, 2021. **Senate Bill 6** supercedes and controls to the extent of any conflict between proposed law and the provisions of **House Concurrent Resolution 66 of the 2020 Regular Session**, a suspension resolution that suspended the tax for corporations with \$500,000 or less of taxable capital.

TAX CREDITS AND REBATES

Several tax credit programs are scheduled to sunset in 2021 and although these programs could be extended during the 2021 Regular Session, which is a fiscal session, proponents of these programs argued that extending the sunset dates in 2020 provided more certainty for the users of the programs.

Senate Bill 4 by Senator Foil (Sent to Governor) extends the sunset of the Research and Development income and corporation franchise tax credit for increasing research activities from December 31, 2021 to December 31, 2025.

Senate Bill 13 by Senator Ward (Sent to Governor) allocates \$75 million of capital to the New Markets Jobs Act Tax Credit program, generating total transferable insurance premium tax credits of \$41.25 million (55% of \$75 million of capital allowed into the program) over the next seven years. Associated tax credits can be claimed over four years, beginning in the fourth year after

the capital allocation. The first credit claims will occur in fiscal year 2023-2024 and last through fiscal year 2026-2027. In order to qualify for the credit, 50% of the capital must be invested in "impact businesses" that are qualified active low-income community businesses either located in a rural parish (population of less than 100,000) or more than 50% owned by women, minorities, or military veterans.

There are two Senate instruments that address the Angel Investor Tax Credit Program. **Senate Bill 17 by Senator Hewitt (Sent to Governor)** extends the sunset of the Angel Investor Tax Credit Program from July 1, 2021 to July 1, 2023. **Senate Bill 24 by Senator Harris (Pending House final passage)** would extend the sunset of the program from July 1, 2021, to July 1, 2025 and authorize an enhanced tax credit equal to 35% of the amount of the investment made in Louisiana entrepreneurial businesses located in federally established opportunity zones.

House Bill 4 by Representative Magee (Pending in Conference Committee) would extend the sunset of the Historic Rehabilitation credit to 2025 and place a \$120 million per fiscal year front end cap on the program. The annual cap was initially set by the Revenue and Fiscal Affairs committee at \$75 million, but was increased to \$120 million on the Senate floor.

House Bill 13 by Representative Wright (Pending House concurrence) would expand eligibility for participation in the Enterprise Zone program to businesses assigned a North American Industry Classification Code of 44, 45, 721, or 722 for retailers, hotels, and restaurants with 50 or fewer employees. Would further require those businesses to file

or enter into an advance notification on or after July 1, 2020, and on or before December 31, 2021, in order to be eligible to participate in the program. This bill was based on a recommendation from the Louisiana Economic Recovery Task Force, Phase I and Phase II Reports.

House Bill 19 by Presley (Pending Senate final passage) would expand eligibility for participation in the Quality Jobs program to businesses assigned a North American Industry Classification Code of 44, 45, 721, or 722 for retailers, hotels, and restaurants with 50 or fewer employees. Would further require those businesses to file or enter into an advance notification on or after July 1, 2020, and on or before Dec. 31, 2021, in order to be eligible to participate in the program. This bill was based on a recommendation from the Louisiana Economic Recovery Task Force, Phase I and Phase II Reports.

House Bill 70 by Representative Jenkins (Pending House concurrence) would establish a one-time hazard pay rebate of \$250 for essential critical infrastructure workers whose adjusted gross income is \$50,000 or less as reported on the worker's 2019 Louisiana individual income tax return. The bill would define which workers are considered critical infrastructure workers for purposes of the rebate. Testimony in Senate Revenue and Fiscal Affairs indicated that if a married worker's joint adjusted gross income is more than \$50,000, that the critical infrastructure worker will still qualify for the rebate because the Department of Revenue will look through the tax return to determine the income that is attributable to that worker.

SALES TAX

House Bill 69 by Representative Deshotel (Pending House concurrence) would create a rebate of 50% of the state and local sales tax paid by a winning bidder that is awarded a census block in the Rural Digital Opportunity Fund Auction to claim a rebate of state and local sales and use taxes paid by the winning bidder on fiber-optic cable equipment used for broadband networks in unserved areas in the state.

Centralized Sales Tax Collection and Administration

Implementation of a centralized state and local sales tax collection and audit system, which has been discussed in the state for decades, was identified by the Louisiana Economic Recovery Task Force in their Phase I and Phase II Reports as something that would provide relief for business of a burdensome process and would create a more competitive and function tax system.

House Bill 14 by Speaker Schexnayder (Subject to call - House final passage) proposed a constitutional amendment to authorize centralized collection of state and local sales tax.

House Resolution 31 by Speaker Schexnayder (Sent to Secretary of State) creates a study group comprised of members with sales and use tax expertise to make recommendations to the legislature related to the creation of a centralized sales and use tax collection system and to submit their report by November 1, 2020.

Senate Concurrent Resolution 19 by Senator Cathey (Pending House final passage) would create the Louisiana Sales Tax Simplification Task Force to make recommendations for changes to the state's state and local sales tax laws in an effort to modernize and simplify the sales tax code and enhance the efficiency of the state's sales tax policies for taxing authorities, tax collectors, and businesses, and to submit its final report to the legislature by February 1, 2022.

TAX ADMINISTRATION

House Bill 37 by Representative Harris (Signed by the President) establishes a limited period in which the secretary of the Department of Revenue is required to waive all penalties and interest for the late filing of any tax return or the late payment of any tax due in or for 2019 and 2020, for taxpayers diagnosed with COVID-19 or taxpayers who relied on a tax preparer diagnosed with COVID-19 on or after March 11, 2020 or before July 15, 2020 and if the original due date for the tax or the tax return was between March 11, 2020, and July 15, 2020. The waiver will not apply to any tax return filed or any tax payment submitted after November 15, 2020.

Social Services

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2020 First Extraordinary Session

REHABILITATION

House Bill 4 by Representative Magee (pending conference committee) would extend an income and corporation franchise tax credit of 20% for the costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development district or a cultural district *from* Jan. 1, 2022 *to* Jan. 1, 2028. No taxpayer shall claim more than \$5 million of credit annually for any number of structures rehabilitated. Also would extend the effectiveness of the program *from* taxable years ending prior to Jan. 1, 2022, *to* taxable years ending prior to Jan. 1, 2028.

House Bill 16 by Representatives Echols (Senate Revenue & Fiscal Affairs) would establish an additional income and franchise tax credit of 30% for eligible costs and expenses incurred during the rehabilitation of a historic structure included on the National Register of Historic Places. Further, would limit eligible rehabilitation expenses from exceeding \$2M and caps the annual amount of credit a taxpayer may claim at \$600,000.

2020 Regular Session

CHILD ABUSE

Senate Bill 433 by Senator Mizell (Act 122) adds for purposes of "mandatory reporter"

requirements, the pregnancy of a child under the age of 13 years constitutes cause to consider whether the child has been abused.

House Bill 474 by Representative Freeman (Act 272) provides that teaching or child care providers are required to complete an online training course provided by the Dept. of Children and Family Services between June 1st and Aug. 31st annually. Further requires a record of completion of the course by the teaching or child care provider to be provided to and retained by each entity at which the teaching or child care provider is employed, and requires the entity to retain a list of those teaching or child care providers who have not complied with the training requirements.

CHILDREN

Senate Bill 381 by Senator Reese (Act 239) provides that the clerk of court or the conveyances of the parish of Orleans, shall remit birth certificates of a child born outside the continental United States to any member of the armed forces of the United States of America whose parents were residents of Louisiana at the time of the child's birth, to the Louisiana Bureau of Vital Records and Statistics.

House Bill 29 by Representative Bacala (Act 96) provides that any state or local law enforcement agency receiving a report of a missing child or the recovery of a missing child and having reasonable grounds to

believe the report is accurate shall do all of the following immediately:

1. Enter the name of the child into the National Crime Information Center's (NCIC) database.
2. Notify each of the following of the facts and contents of the report:
 - a. The Dept. of Children and Family Services.
 - b. The office of state police.
 - c. The office of the sheriff for the parish in which the report was received.
 - d. Any other local, state, or federal law enforcement agency that the law enforcement agency receiving the report deems necessary and appropriate depending upon the facts of each case.

House Bill 171 by Representative Hughes (Act 69) requires the state registrar of vital records to issue the following records to the Department of Children and Family Services (DCFS) upon the written request of an office of the department:

1. A certified copy of a birth certificate of a child placed in the custody of DCFS.
2. A certified copy of a death certificate of a child who was in the custody of DCFS at the time of his death.
3. A certified copy of a death certificate of a parent of a child placed in the custody of DCFS.

House Bill 210 by Representative Mike Johnson (Act 177) provides for a child support obligor's right to claim a child as a dependent for tax purposes, and provides for the schedule of basic child support obligations. Further requires that, for child support orders rendered or modified on or after Jan. 1, 2021, the order prohibit the non-domiciliary parent from claiming a dependent for any given tax year if he owes arrears for that dependent.

House Bill 438 by Representative Turner (Act 149) provides for the information provided to a defendant, the grounds for a finding of contempt, and the ability of the court or the Department of Children and Family Services (DCFS) to collect overdue support or arrearage owed under a terminated support order in cases where a defendant is under court order to pay child support to DCFS. Further provides that termination of a court order requiring a defendant to pay child support to DCFS does not abate the power of the court or DCFS to collect any overdue and unpaid support or arrearage owed under the terminated support order or the power of the court to punish a person for a failure to comply with a terminated court order.

House Bill 729 by Representative Marcelle (Act 284) establishes the Council on the Children of Incarcerated Parents and Caregivers within the Office of the Governor to be domiciled in East Baton Rouge Parish. Defines "incarcerated parents and caregivers" to include all individuals who, prior to or following incarceration, are primarily or secondarily responsible for the health and well-being of an individual. Provides for the council's duties and requires its findings,

conclusions, and recommendations at least once every two years beginning Jan. 31, 2022.

MEDICAID

House Bill 589 by Representative Echols (Act 88) authorizes Louisiana Department of Health (LDH) to modify its administrative rules, policies, and procedures applicable to Medicaid reimbursement for telehealth services as necessary to provide for a reimbursement system that is comparable to that of the Medicare program. Further requires that LDH include in its Medicaid policies and procedures all of the following information relating to telehealth:

1. An exhaustive listing of the covered healthcare services which may be furnished through telehealth.
2. Processes by which providers may submit claims for reimbursement for healthcare services furnished through telehealth.
3. The conditions under which a managed care organization may reimburse a provider or facility that is not physically located in Louisiana for healthcare services furnished to a Louisiana Medicaid enrollee through telehealth.

House Bill 835 by Representative McMahan and Senators Johns and Fred Mills (Act 330) provides that its purpose is to generate revenue by collecting from certain institutional health care providers and governmental institutional providers a local hospital assessment payment to be used to provide the nonfederal share of a Medicaid payment program directly benefitting the residents of a parish. Further prohibits hospitals that pay the local assessment from adding such a payment as a surcharge to a patient.

State Government

by: *Matt DeVille*
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2020 Regular Session:

PUBLIC RECORDS:

Aimed at enhancing school safety, **Senate Bill 80 by Senator Troy Carter (Act 211)** exempts interior blueprints and floor plans of public school buildings and facilities from the definition of public records. This exemption prevents detailed information about the layout of public schools and facilities from being obtained through a public records request, creating a potential deterrent from those with ill intent to gain knowledge about the inner workings of a school campus that could be used to plan an attack.

House Bill 685 by Representative Ivey (Act 293) also addresses public records, relative to interagency data sharing. It creates a data sharing review framework for state agencies requesting data from one another, allowing the requesting agency to petition the joint committee on governmental affairs to conduct a review of the request. After a hearing to review the petition, the joint committee will notify the agencies involved and encourage their cooperation with fulfilling the request.

STATE EMPLOYEES:

With an eye toward the busy upcoming election season, **House Bill 248 by Representative Lance Harris (Act 253)** extends overtime pay for permanent employees of the Department of State for the

performance of their duties and responsibilities relative to early voting and on election day. The Act allows for an appropriation of funds to the secretary of state to cover these incurred costs.

In the wake of recent cyber attacks on state computer systems, **House Bill 633 by Representative Freiberg (Act 155)** requires public servants to receive cybersecurity training as developed by the Department of State Civil Service. The training will teach best practices for detecting, assessing, reporting and addressing information security threats.

PUBLIC MEETINGS:

In recognition of the unprecedented challenges brought about by COVID-19, **Senate Bill 466 by Senator Hewitt (Act 302)** provides for public meetings to be held electronically during certain emergencies or disasters. The Act allows for various public bodies including the legislature to meet and vote electronically via audio or visual means during a gubernatorially declared state of emergency or public health emergency in order to maintain the functions of government during times of crisis.

Transportation & Development

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Due to the COVID-19 pandemic, the Louisiana Legislature was somewhat limited in time but Senate Transportation and the Department of Transportation and Development was able to pass some necessary legislation in during the 2020 Regular Legislative Session.

Senate Bill 50 by Senator McMath (failed the House) would prohibit the use of a handheld wireless telecommunication device by a person when operating a motor vehicle upon any public roadway in this state. The Bill would have defined operating a wireless telecommunication device as engaging in a call; writing, sending, or reading a text-based communication; accessing, reading, or posting to a social networking site; viewing, posting, editing, creating video, photographs, or other images; accessing, reading, viewing, composing, browsing, transmitting, saving, or retrieving electronic data; using application or features of a wireless telecommunication device; and holding or physically supporting a wireless telecommunication device in either or both hands or with any part of the body. The Bill would have provided for a fine up to \$100 on first offense, up to \$300 on second offense with up to 30 hours community service, and up to a \$300 fine on third offense with up to 60 hours of community service and the suspension of drivers license of up to 30 days.,

House Bill 669 by Representative Pierre (Act 90) provides for the general re-creation

of the Department of Transportation and Development and all statutory entities made a part of the department by law, effective June 30, 2020, in accordance with the "sunset" law. The purpose of Act 90 is to supersede the provisions of the "sunset" law which sets out the procedure for review and re-creation and which require a separate bill to re-create each statutory entity within the department along with additional provisions. Act 90 makes July 1, 2025, the new termination date and termination would begin July 1, 2024 unless the department is re-created again.

House Bill 607 by Representative Hodges (Act 282) requires an attestation regarding required school attendance from a minor, their parents, or legal guardians at the time of application for a driver's license. Act 282 requires a minor's compliance with the school attendance requirements for a driver's license or permit be provided on a signed statement to the department attesting the applicant has complied with the school attendance requirements. Act 282 further requires that the documentation be provided by an applicant of at least 19 years of age or parent or guardian of a 17 year old first time applicant for a Class "E" license. If a first time applicant for a Class "E" license is emancipated, the applicant must provide the attestation for himself, provided that the applicant has proof of the emancipation.

House Bill 514 by Representative Willard (Act 152) provides for the operation, rights,

requirements and restrictions applicable to electric-assisted bicycles. Act 152, creates three separate classes for electric-assisted bicycles that are based on the speed of the bicycle and motor assistance. Act 152 allows electric-assisted bicycles to be used on road ways in the same manner as a bicycle.

House Bill 317 by Representative Thompson (Act 137) establishes a driver's license designation for a person with autism spectrum disorder. Act 137 requires the Department of Public Safety and Corrections, public safety services, to establish and implement a law enforcement training course relative to law enforcement officers' interactions with persons who have autism spectrum disorder. The applicant shall provide a statement from a qualified medical and mental health professional licensed in Louisiana or any other state verifying the disability, in order to obtain the designation.

House Bill 787 by Representative Stefanski (pending Senate Transportation, Highway and Public Works) would have established that a transportation network company cannot be held liable for owning, operating, or maintaining the digital network accessed by a driver or rider or for being the company affiliated with a driver, when harm to a person or property results from or arises out of the use, operation, or possession of a motor vehicle operating as a company vehicle while the driver is logged on to the digital network if there is no negligence or criminal wrong doing on the part of the company, the company fulfilled all of its obligations relative to a driver, and the company is not the owner or custodian of the motor vehicle that caused the harm to persons or property. The bill would not reduce the necessary liability coverage, policy limits, or liability of

contractors under the Transportation Network Company Act, the sole purpose of the bill was to exempt Transportation Network Companies from liability.

House Bill 765 by Representative Fontenot 765 (Act 54) creates the "LSU National Champions 2019" specialty license plate and provides for the creation, issuance, design, implementation, fees, and distribution of the prestige license plate.

Wildlife & Fisheries

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2020 REGULAR SESSION

House Bill 159 by Representative McFarland (Act 175) allows nighttime hunting of outlaw quadrupeds, including feral hogs, nutria, and beaver on private property year round. Requires the hunter to obtain written permission by the land owner and to notify the local sheriff at least 24 hours prior to such hunting or immediately after taking an animal at night. Prohibits any person convicted of certain offenses from participating or being present during nighttime hunting activities.

Rejection of administrative rule prohibiting lead shot at Wildlife Management Area shooting ranges. The Senate Natural Resources Committee and the House Committee on Natural Resources and Environment met jointly on June 10, 2020, to exercise oversight authority on the annual rules submitted by the Department of Wildlife and Fisheries setting the hunting seasons, bag limits, regulations, and general Wildlife Management Area (WMA) regulations for 2020-2021 and 2021-2022. The committees found the rule requiring only use of non-toxic shot at WMA shooting ranges unacceptable, while allowing the remainder of the rule go into effect.