

Final 2001 Regular Session Legislative Highlights

AGRICULTURE

Contact: Todd Parker (225) 342-3565

AGRICULTURAL CONSERVATION

Senate Concurrent Resolution 134 by Senator Smith (adopted) requests the President of the United States and memorializes Congress to expand and increase funding for agricultural conservation programs. Such programs have a profound beneficial impact on wildlife habitats and water quality in Louisiana, including ameliorating the nutrient loading of rivers and streams that contribute to the annual occurrence of hypoxia in the Gulf of Mexico, while aiding rural communities and benefitting farmers.

ANIMAL WELFARE

House Bill 2062 by Representative Schwegmann (Act 656) creates the Louisiana Animal Welfare Commission within the office of the governor. The commission's purpose is to assist the governor's Office of Community Programs with ensuring and promoting the well-being of dogs and cats. Among the powers and duties of the commission are the assisting in the recovery of lost animals and the provision of a public pet information service.

CATFISH AND CRAWFISH

House Concurrent Resolution 143 by Representative Baudoin (adopted) memorializes Congress to assist the Federal Trade Commission in preventing the sale of crawfish and catfish imported from Asia and Spain at prices with which Louisiana producers cannot compete.

DOGFIGHTING

In an effort to assist law enforcement in eliminating dogfighting activities, **Senate Bill 866 by Senator Campbell (Act 734)** prohibits the intentional owning, possessing, or training of a dog for the purposes of dogfighting and authorizes the admissibility of certain dogfighting paraphernalia as evidence of violating such prohibitions.

House Bill 1459 by Representative Donelon (Act 547) increases penalties for dogfighting. Specifically, it provides that the penalty for dogfighting be not less than \$1,000 nor more than \$25,000, or imprisonment, with or without hard labor, for not less than one year nor more than ten years, or both.

Many farmers in Louisiana are suffering the consequences of low prices for their commodities. This problem is compounded by the fact that the existing farm bill has not addressed the current circumstances and needs of farmers in Louisiana as well as across the United States. Thus, **Senate Concurrent Resolution 64 by Senator Romero (adopted)** memorializes Congress to increase federal aid to Louisiana farmers.

Senate Bill 244 by Senator Malone (passed), a proposed constitutional amendment to be submitted to the voters November 5, 2002, creates the Drought Protection Trust Fund in the constitution. **Senate Bill 762 by Senator Malone (Act 1025)**, companion legislation to **Senate Bill 244**, specifically provides that the source of monies in the fund consist of donations, monies received from the federal government for the purposes of protection, development, and enhancement of groundwater and surface water resources of the state, and any other monies which may be appropriated to the fund. The fund will be used solely for the following:

- (1) Payments to farmers who have been using at least one million gallons of aquifer water per irrigation day for the past five years for irrigation and elect not to plant during periods of drought, as determined by the office of soil and water conservation, Department of Agriculture and Forestry.

- (2) The development and enhancement of surface water resources for use by farmers for irrigation purposes, including but not limited to reconnaissance surveys for the identification of potential geographical areas suited for additional surface water development and the planning, designing, and installation of surface water development and enhancement projects, but only if one hundred percent of federal funds are not available for the same services.

FORMOSAN TERMITES

House Bill 1711 by Representative Thompson (Act 167) limits the authority of the commissioner of agriculture and forestry when implementing the Formosan Termite Initiative to articles actually infested with Formosan termites and removes his authority to require the use of chemically treated wood in all new home construction.

MAD COW DISEASE

House Bill 524 by Representative Thompson (Act 11) requires the packaging of commercial feed containing protein derived from mammalian tissue to bear the words "Do not feed to ruminants". The Act prohibits these commercial feeds from being manufactured or distributed for consumption by cattle and other ruminants and provides penalties for violations.

PEST CONTROL OPERATORS

House Bill 1497 by Representative Pinac (Act 551) requires that currently effective standard termite protection contracts be transferable to subsequent owners upon payment of an annual fee prior to the contract's expiration date. The Act requires pest control operators to issue a copy of the contract to the owner or agent of the treated property within 30 days of receiving a written request from the owner or agent.

SOUTHERN DAIRY COMPACT

The volatility in fluid milk pricing has dealt a severe blow to Louisiana's dairy industry over the past several years. Thus, **House Concurrent Resolution 93 by Representative Strain (enrolled)** memorializes

Congress to ratify the Southern Dairy Compact to provide a safety net to dairy farmers by maintaining stable milk prices.

TRANSPORTING OF DISEASED ANIMALS

House Bill 1913 by Representative Strain (Act 650) prohibits anyone from knowingly bringing into the state, transporting through the state, or moving within the state any adulterated meat or diseased livestock or animals without the express written approval of the commissioner of agriculture and forestry.

BOARDS AND COMMISSIONS

Contact: Tim Prather (225) 342-8892

In an effort to insure the health of the citizens of Louisiana, **Senate Bill 229 by Senator Schedler (Act 1944)**, establishes a birth defects surveillance system within the DHH to collect, analyze, interpret, and disseminate data relative to birth defects in the state, which are diagnosed before a child reaches three years of age. The act prohibits reporting sources from collecting or reporting the information whenever there is a written objection by the parent or legal guardian based on conflict due to religious tenets or practices and provides that identifying data in the surveillance system would be confidential and not subject to discovery.

The act requires annual reporting on the results obtained through the surveillance system. To aid in the collection of information, the act further establishes an advisory board, appointed by the secretary of the department to make recommendations on the implementation and continuing operation of the surveillance system.

WILDLIFE RESOURCES

To help further educate Louisiana's sportsmen, **Senate Bill 359 by Senator McPherson (Act 322)** creates the Louisiana Hunting and Fishing Education Advisory Council.

The act establishes the council within the Department of Wildlife and Fisheries to promote the many benefits of hunting and fishing and to educate the citizens of Louisiana on those many benefits. The council membership is voluntary and the members receive no compensation or reimbursement of expenses.

The Louisiana Hunting and Fishing Education Advisory Council is to meet at least twice annually and develop plans and strategies to promote public awareness relative to the fees, taxes, and other traditional expenses hunters and fishermen provide which help support the management of wildlife resources and habitat management.

TELECOMMUNICATIONS

To help address the problem of unsolicited phone calls in our state, **House Bill 175 by Representative Iles (Act 40)**, allows residential telephone subscribers to be placed on a "do not call" list which would indicate that the subscriber does not wish to receive telephone solicitations. The subscriber will have to notify the Public Service Commission that he wishes to be placed on the list and submit a \$5 initial listing fee. The listing will be renewed every five years upon receipt of a renewal notice and a \$5 fee. The PSC will update the list quarterly and provide the list to telephone solicitors for a fee. All fees would be made payable to the PSC for the administration of this service.

The act prohibits telephone solicitors from making telephone solicitations to telephone numbers listed on the "do not call" list and further prevents any solicitors who sell consumer information from selling the telephone numbers on the "do not call" list. The act requires solicitors to post a bond of \$50,000 in favor of the state to guarantee the payment of penalties assessed. The PSC will ensure that local exchange companies notify their customers of the list through monthly inserts in or messages on the billing statements to the customers and also through a notice in the consumer information pages of the local telephone directories. The PSC will be allowed to investigate any complaints and impose "administrative" penalties not to exceed \$1,500 for each violation, or \$3,000 for violations committed against subscribers over age 65.

ETHICS/BOARD

House Bill 270 by Representative Landcaster (Act 291), relative to the Board of Ethics which consisted of 11 members: seven appointed by the governor (one from each congressional district); two members elected by the House of Representatives; and two members elected by the Senate and further requires that the members be representative of the state's population as near as practicable. Current law also requires such

members to be from nominees who are selected by a nominating committee composed of the presidents of Centenary College of Louisiana, Dillard University at New Orleans, Louisiana College, Loyola University at New Orleans, Our Lady of Holy Cross College at New Orleans, Our Lady of the Lake College at Baton Rouge, and Xavier University of Louisiana at New Orleans; and the dean of H. Sophie Newcomb College of Tulane University.

The act removes the provision requiring one of the governor's appointees to be a retired or former judge or justice. The act also removes the restriction which prohibits any person from being eligible for nomination or selection to the Board of Ethics if he or his spouse contributed more than \$1,000 in the aggregate during the 12 months prior to his nomination or selection or more than \$5,000 in the aggregate for a five-year period prior to his nomination or selection to any of the colleges or universities on the nominating committee.

JUDGES

Addressing the issue of judicial compensation, **House Bill 274 by Representative Martini (Act 225)** requires the Judicial Compensation Commission to submit its recommendations concerning judges' salaries to the legislature 60 days prior to the commencement of any regular session of the legislature in an even-numbered year and permits a report to be submitted every two years thereafter at any regular session of the legislature in an even-numbered year. The act authorizes the legislature to adopt by concurrent resolution the same recommendations contained in the most recent report of the commission at a regular session convened in an odd-numbered year or at any extraordinary session if the recommendations are included within the object of that session.

The act requires the salaries recommended in the report to take effect on the first day of July of the year in which the recommendations in the report are approved by concurrent resolution adopted by a favorable vote of the majority of the elected members of each house during a regular session of the legislature and requires the

salaries to take effect on the dates specified in the concurrent resolution if the resolution concerning the salary recommendations is adopted during an extraordinary session of the legislature.

INSURANCE/HEALTH

Current law requires that the La. Health Care Commission in the Dept. of Insurance study the availability and affordability of health care in the state and to submit its recommendations on these matters to the commissioner of insurance. Currently, the commission is composed of 45 members, most of whom are appointed by the commissioner of insurance from nominations by various organizations. **House Bill 878 by Representative Johns (Act 67)**, deletes the members appointed from nominations by the La. Citizens' Action and the Imperial Calcasieu Health Care Alliance. Instead, the bill would provide for nominations from the National Federation of Independent Businesses and the La. State Program for the American Association of Retired Persons. The act further redesignates the La. Health Insurance Association, which submits a nominee, as the La. Health Plan and specifies that the nominee of the American Association of Retired Persons shall be a volunteer representative.

Current law further provides that a quorum for the transaction of business by the commission shall be defined by its bylaws. The act changes the quorum requirement to 40% of the membership of the commission.

CAPITAL OUTLAY

Contact: Frankie King (225) 342-8893

CAPITAL OUTLAY

House Bill 2 by Representative Hammett (Act 22), provides for the comprehensive capital outlay budget, the development and expansion, for Fiscal Year 2001-2002, including funding from the following sources of monies:

(1)	State General Fund	\$ 7,382,000
(2)	Federal Funds	\$ 42,755,857
(3)	Federal Funds - TTF	\$ 442,000,000
(4)	Transportation Trust Fund (TTF)	\$ 187,150,000
(5)	TIME Funds	\$ 70,330,438
(6)	Interagency Transfers	\$ 9,000,000
(7)	Other Statutory Dedications	\$ 6,608,168
(8)	Fees and Self-Generated Revenues	\$ 72,378,039
(9)	Reappropriated Cash	\$ 9,009,945
(10)	Revenue Bonds	\$ 258,279,050
	TOTAL CASH PORTION	\$1,104,893,497

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

Priority 1		\$ 567,735,000
Priority 2		\$ 356,365,300
Priority 3		\$ 126,968,750

Priority 4	\$ 130,898,900
Priority 5	\$ 732,470,000
TOTAL GENERAL OBLIGATION BONDS	\$1,914,437,950
Bonds NRP/RBP	\$ 4,708,412
GRAND TOTAL ALL MEANS OF FINANCING	\$3,024,039,859

(BONDS **NRP** is the reallocation of previously sold bonds.

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

Senate Bill 200 by Senator Ellington (Act 766), authorizes the Interim Emergency Board to make certain changes to project descriptions of capital outlay projects in a capital outlay act under certain circumstances upon approval of the legislature by mail ballot.

Senate Bill 289 by Senator Ullo (Act 1128), provides exemption to certain capital outlay requirements and certain maximum cost limits for the construction of buildings not to exceed \$500,000 by inmate labor to house inmate work programs.

CIVIL LAW AND PROCEDURE

Contact: Tracy Sudduth (225) 342-8896

ADOPTION

Senate Bill 30 by Senator Lentini (Senate Judiciary A, deferred) would have allowed an adult adoptee to view his own birth certificate and adoption records under certain circumstances.

After several adoption issue bills failed in various stages of the process, **Senate Concurrent Resolution 156 by Senator Ellington (adopted)** was passed to establish the Louisiana Adoption Study Committee to study the adoption proceedings in the state.

House Bill 318 by Representative Ansardi (Act 568) enacts a new chapter in the Children's Code providing for the child's continuing contact with relatives after the adoption in agency adoption cases. This enactment specifically authorizes continuing contact agreements, specifies the procedure, and provides a form for the agreement.

House Bill 740 by Representative Sneed (Act 838) provides that an action to annul an adoption must be brought within six months from the discovery of the fraud or duress and in no event later than two years after the signing of the final decree or mailing of the judgment when required.

House Bill 1041 by Representative McMains (Act 1064) provides additional requirement in adoption proceedings that either a surrendering parent or a prospective adoptive parent must be legally domiciled in Louisiana for at least eight months.

House Bill 1602 by Representative McMains (Act 910) provides for notice to the birth mother of any opposition to an adoption, for the jurisdiction for adoption proceedings, for the prohibition of conflicts of interests in adoption agencies.

House Concurrent Resolution 181 by Representative McMains (adopted) directs the Louisiana

State Law Institute to study adoption procedures and the constitutionality of certain procedures for the termination of parental rights.

CHILDREN

Senate Concurrent Resolution 19 by Senator Schedler (adopted) creates the Louisiana Child Visitation Center Review Commission to study the feasibility of establishing child visitation centers in the state to provide safe, supervised settings for noncustodial parents to meet and visit with their children.

Senate Bill 456 by Senator Michot (withdrawn) would have allowed the court to order an account to be opened to maintain child support payments and order an obligee to render an accounting in which at least 75% of the sums received are expended. The bill specifically stated that none of the child support payments shall be spent on alcohol or tobacco. The provisions of the bill did not apply to recipients of child support payments who are public entities or obligors who are in violation of a child support order.

Senate Bill 494 by Senator Hines (Act 479) provides that if a husband consents in writing to the use of his gametes to conceive a child after his death, that the child will be presumed to be his child, provided the child was born to the surviving spouse using the decedent's gametes, within two years of the husband's death. Also, provides that one year from the birth of such child for an heir or legatee of the decedent whose interest in the decedent's succession will be reduced to file suit disavowing paternity.

Senate Bill 1076 by Senator Hoyt (Act 499) provides that if a child was conceived through the commission of a felony rape, the natural parent who committed the felony rape shall be denied visitation rights. Also, provides that the commission of a felony rape by the natural parent which resulted in the conception of the child shall be grounds for termination of parental rights.

House Bill 341 by Representative Durand (Act 408) continues the alimentary obligation and extends

the child support obligation for children with certain disabilities, as defined in R.S. 28:381, until attaining 22 years of age, if he is a full-time student in a secondary school. R.S. 28:381 defines "developmental disability" to mean a severe chronic disability of a person:

- (1) That is attributable to:
 - (a) Mental retardation, cerebral palsy, epilepsy, or autism; or
 - (b) Any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, or requires treatment or services similar to those required for these persons.
- (2) That is manifested before the person reaches age 22.
- (3) That is likely to continue indefinitely.
- (4) That results in substantial functional limitations in three or more of the following areas of major life activity:
 - (a) Self-care.
 - (b) Understanding and use of language.
 - (c) Learning.
 - (d) Mobility.
 - (e) Self-direction.
 - (f) Capacity for independent living.

House Bill 978 by Representative Murray (Act 425) provides penalties for contempt of court for violations of child visitation orders when a parent has violated a child visitation order, the court may order any or all of the following: (1) require the custodial parent to allow additional visitation days to replace those denied the noncustodial parent; (2) require one or both parents to attend a parent education course; and (3) require one or both parents to attend counseling or mediation.

House Bill 980 by Representative Triche (Act 612) provides for the suspension of any license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business, industry, operate a motor vehicle, or participate in any sporting

activity, including hunting and fishing. Provides that within 30 days after receipt of a certification of noncompliance, the licensing authority shall suspend the licensee's license and notify him that his license has been suspended for noncompliance with a child support order and provides that the licensing authority shall specify an exact date and hour of suspension, and the notice provided to the licensee shall state the effective date of the suspension and how to apply for reinstatement. Defines "licensing authority" as any state board, commission, department, agency, officer, or other entity which issues, authorizes, or otherwise regulates licenses.

House Bill 1398 by Representative Clarkson (Act 1082) was the instrument that came out of months of weekly meetings held by the Child Support Task Force and it is a revision of the child support guidelines. Provides that an accounting of child support payments is limited to the six months immediately prior to the filing of the motion. Also provides that the accounting shall be in the form of an expense and income affidavit for the child and that if the court determines the motion was frivolous, the movant shall pay all court costs and attorney fees of the recipient of child support. Provides that when the court determines the amount of child support because the combined adjusted gross income is less than the lowest sum on the schedule, the court shall not set an award less than the minimum child support award of \$100.

Defines "joint custody" as a joint custody order that is not shared custody, "shared custody" as a joint custody order in which each parent has physical custody of the child for an equal amount of time, and "split custody" as an arrangement whereby each party is the sole custodial or domiciliary parent of at least one child to whom support is due. Provides that if under a joint custody order, the nondomiciliary parent's visitation exceeds 73 days, the court may order a credit to the child support obligation. Authorizes the court to determine what constitutes a day, however a day shall not be less than four hours of physical custody of the child. Provides that if the joint custody order provides for shared custody, the basic child support obligation is multiplied by 1.5 and

then divided between the parents in proportion to their respective adjusted gross incomes. Requires that each parent's share of the adjusted basic child support obligation be multiplied by $\frac{1}{2}$ to determine the theoretical basic child support obligation owed to the other parent.

Requires that each parent's proportionate share of work-related net child care costs and extraordinary adjustment be added to the amount previously calculated. Provides that the parent owing the greater amount of support, according to the previous calculation, shall pay to the other parent the difference between the two amounts as child support. Provides that if the court orders split custody, each parent computes a total child support obligation for the children in the custody of the other parent. This calculation is the theoretical support obligation owed to each parent. Provides that the parent owing the greater amount of support shall owe to the other parent the difference between the two amounts as support. Provides for a deviation from the guidelines by the court when the combined adjusted gross income of the parties exceeds the highest level specified in the schedule. Provides a new schedule to be used for determining the basic child support obligation when the parties' combined adjusted monthly gross income is between \$10,050 and \$20,000.

House Bill 1771 by Representative Pratt (Act 639) establishes a program called the Fatherhood Initiative for promoting stronger father-child relationships and enhancing men's parenting skills and abilities to provide support for their children and to develop and implement the Fatherhood Initiative plan.

CIVIL PROCEDURE

Senate Bill 648 by Senator Dupre (pending House final) would have required that money judgments, including final judgments, confirmed default judgments, judgments reviving money judgments, judgments making a money judgment of another Louisiana court executory, and judgments in parish, city, and justice of the peace

courts, provide sufficient information to adequately identify the judgment debtor which shall include, if known, race, gender, last known address, and any other information designed to more fully identify the judgment debtor. Further would have provided that the absence of such required information does not affect the rights of the parties pursuant to the judgment.

Further provided that an owner of immovable property against whom a judgment has been attached may provide verification that he is not the same person identified as the debtor in one or more recorded judgments, liens, privileges, mortgages, or other such documents and the attached judgment shall be removed at no cost to the owner.

Senate Bill 444 by Senator Dardenne (pending Senate Judiciary A Committee), Senate Bill 652 by Senator Dupre (Senate Judiciary A Committee, deferred), and Senate Bill 640 by Senator Marionneaux (pending Senate Judiciary A Committee) all dealt with the monetary threshold required for a right to trial by jury. **Senate Concurrent Study Request 2 by Senator Dupre (adopted)** requests the study of the amount required for a right to trial by jury.

Senate Bill 917 by Senator Hainkel (failed House final) would have provided that the court, on its own motion, may refer a civil case for mediation.

House Bill 20 by Representative Bruneau (Act 23) legislatively overrules the "heart of the corporation" decision in *Dorsey v. J. Ray McDermott, Inc.*, 750 So.2d 996 (La. App. 4th Cir. 1999), to provide that venue in an action against a foreign corporation is that parish where its primary business office is located as designated by the corporation in its application to do business in the state. If no designation is made, then venue is proper in the parish where the corporation's primary place of business is located.

House Bill 241 by Representative Bruneau (Act 407) changes the procedure for making service of

process on limited liability companies to mirror that of corporations by removing the requirement of having the court appoint an attorney to accept service for the limited liability company and, instead, allowing service to be made on the secretary of state.

House Bill 747 by Representative McMains (Act 417) provides that if a motion to recuse a judge is filed, or if a judge recuses himself, the judge ad hoc to hear the motion to recuse or the trial of the case shall be selected by a random process. Also provides that if a motion to recuse a judge is granted, the trial of the case is assigned to a new judge through a random process of selection.

House Bill 1844 by Representative Townsend (Act 932) provides that if a judge recuses himself, he shall provide written reasons specifying the grounds of his recusal within 15 days of rendering the order to recuse.

House Bill 1658 by Representative Riddle (pending Senate final) would have provided for the registration by obligors of an order of support when the obligee is no longer domiciled in this state.

LIABILITY

Senate Bill 630 by Senator Dardenne (withdrawn) would have provided that in any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, the court shall permit the introduction of evidence of failure to wear a safety belt.

MALPRACTICE

Senate Bill 255 by Senator Fontenot (died in Senate Judiciary A Committee) would have increased the maximum amount recoverable for medical malpractice claims, exclusive of future medical care and related benefits, from \$500,000 to \$1,000,000.

Senate Bill 489 by Senator Lentini (Act 697) provides that any petition filed and any proceeding held resulting from a medical malpractice claim once the parties have certified to the court that discovery is complete,

be given priority, to the extent practicable, over any other civil action before the court except those given preference for parties who are 70 years of age or who have a terminal illness.

Senate Bill 497 by Senator Ellington (Act 95) adds nursing homes to the list of defendants against whom claims must be filed within one year but no more than three years.

Senate Bill 713 by Senator Ellington (Act 108) redefines "health care provider" in the Medical Malpractice Act to include nursing homes and certified nurse assistants, and defines "malpractice" in the Act as including "acts or omissions in the training or supervision of health care providers."

SUCCESSIONS

House Bill 191 by Representative Bruneau (Act 560) repeals provisions relative to the construction of testaments and provides that all testate and intestate succession rights shall be governed by the law in effect on the date of the decedent's death, that the rules for interpretation of testaments shall also apply to a revocation or modification of a legacy or a testament, and that if the legal effect of a term used in a testament changes, the court may consider the law in effect at the time the testament was executed.

House Bill 360 by Representative Ansardi (Act 572) repeals Civil Code and statutory provisions on benefit of inventory, which are now obsolete. Provides that confusion does not take place until a successor has formally or informally accepted the succession.

House Bill 361 by Representative Ansardi (Act 573) reintroduces express provisions on the subject of disinheriton of forced heirs. The Articles on disinheriton were inadvertently repealed in the comprehensive successions revision (Acts 1997, No. 1421). The act provides the exclusive instances in which a forced heir may be disinherited for just cause. Provides that disinheriton must be both express and for a just cause.

UNIFORM COMMERCIAL CODE

House Bill 679 by Representative McMains (Act 128) restates, with some modifications, the present law as set forth in R.S. 10:9-101 et seq. with regard to secured transactions involving movable property as

collateral (such as equipment, inventory and accounts receivables). The act provides the rules that allow businesses to borrow money from lending institutions who obtain security (collateral) as protection for their loans. These rules also determine the priority in which the lending institutions will be paid from the collateral when there are multiple creditors of the same debtor. The rules provide a uniform set of laws throughout the nation so that businesses and lending institutions can do business in all 50 states under the same set of laws. While this act has some effect on consumer borrowing (when movable property collateral is used), that effect is limited by special consumer legislation and special consumer rules within this act.

The major focus and impact of this act involves commercial lending to businesses. Present Louisiana law is based on the national Uniform Commercial Code Article 9. The act is based on the national proposed Revised U.C.C. Article 9, which has been substantially re-written. The other states are in the process of adopting the revised version of Article 9. The target date for all states to adopt Revised Article 9 is an effective date of July 1, 2001. Revised Article 9 is the joint product of the American Law Institute and the National Conference of Commissioners on Uniform State Laws. These groups labored over four years to produce the final version of this new law, whose stated purpose is to modernize and improve present Article 9. Louisiana, however, had modified present Article 9 in several major ways to meet Louisiana's special needs and to enhance it. In this regard, Louisiana had anticipated many of the changes that ultimately found their way into Revised Article 9. As a consequence, the substantive changes in the law brought about by the adoption of Revised Article 9 are much greater in the other states than they will be in Louisiana. Revised Article 9 incorporates most of the fundamental concepts and principles of the existing law of Louisiana on these matters. This revision, however, is much longer than the present law. Revised Chapter 9 contains seven parts instead of six, and 144 sections instead of 65. Many provisions found in certain sections have been moved to others and most have been re-numbered. Present

Chapter 9 has worked extremely well in Louisiana and now has wide-spread support from interested groups, including bankers, businessmen, lawyers and judges. The need for uniform legislation on this subject is well understood, particularly because these same rules facilitate interstate transactions and bring much needed capital to Louisiana.

COMMERCE & INDUSTRY

Contact: Jeff Oglesbee (225) 342-0597

Perhaps the most controversial bill of the session, the "Fair Motor Fuel Marketing Act" **Senate Bill 834** by Senator Hoyt (withdrawn) and House Bill 1494 by Representative Townsend (call House final) would have provided for the fair marketing of motor fuel by prohibiting refiners and nonrefiners from selling motor fuel at retail below their cost if such sales injure competition.

Under the current Unfair Sales Law (R.S. 51:421 through 426), originally enacted in 1940, retailers and wholesalers are required to sell goods at cost plus a 6% surcharge to cover the cost of doing business in an effort to insure that businesses do not sell goods below cost with the effect of injuring competition. The practice, commonly referred to as a "loss leader", is used draw customers in to purchase the item that is being sold at a loss with the anticipation that they will purchase additional items which are sold at a premium cost.

As currently written, the Unfair Sales Law exempts manufactures from the provisions of the law. If enacted, the "Fair Motor Fuel Marketing Act" would have leveled the playing field by requiring all wholesalers and dealers of motor fuel, including manufacturers, to add a 6-8% markup in order to cover a proportionate cost of doing business. Although each measure was successfully voted out of committee, neither the House nor the Senate passed the legislation.

In response to the "Fair Motor Fuel Marketing Act", and in an effort to ease the cost of motor fuel sold in Louisiana, **Senator Fontenot proposed Senate Bill 396 (pending House Committee)**. Taking an alternative approach to correcting the inequities of the Unfair Sales Law, SB 396 would have exempted the sale of all petroleum products, including motor fuel, from the Unfair Sales Law. If passed, this legislation would have allowed for the sale of motor fuel at any price, including at a loss. Although the measure was passed overwhelmingly by the Senate, it died in the House Commerce committee among concerns that it would have allowed video poker

truck stops to entice additional customers by selling motor fuel as a "loss leader".

As a compromise between the two measures, **Senator Hoyt** has requested that a joint committee of the Senate Commerce and Consumer Protection committee and the House Commerce committee study the Unfair Sales Law of 1940 and make recommendations to the legislature by March 1, 2002.

Act 144 of the First Extraordinary Session of 2000, which would have created Louisiana, Inc., was defeated by the voters on November 7, 2000. In response to this defeat, **Senator Dardenne, Senator Hollis, and Representative Pinac** introduced a package of bills to reorganize the Department of Economic Development to streamline the agency in order to encourage business development in the state. Specifically Representative Pinac sponsored **House Bill 293 (Act 6), House Bill 1274 (Act 7), House Bill 1448 (Act 8), and House Bill 1666 (Act 9)**.

Referred to by some as "Louisiana Lite", the primary objective of the reorganization would be business development. The Department of Economic Development (DED) would lose its responsibility for an array of boards and commissions which will be moved to the Governor's Office.

The reorganization of DED further allows the agency to hire 15 employees outside of civil service at salaries between \$75,000 and \$125,000. Those employees are to be experts in various sectors of the economy. Every employee will be an employee of the state. The agency has already begun advertising for these new jobs on the Internet at www.greatjobsinla.org.

One of the harshest criticisms of the proposal to privatize the department as Louisiana Inc. was that it eliminated many of the safeguards, including public bid laws, that help minimize corruption in state government. Under the current reorganization of DED, the agency will not be privatized. The department will still have to follow the safeguards that are designed to protect state money.

Following the reorganization, which will take effect on July 1, 2001, DED will be charged with identifying and addressing obstacles to business development, encouraging collaboration between businesses and universities, and supporting local economic-development efforts.

In an effort to protect consumers from unwanted telephone solicitations **Senator Campbell Senate Bill 23 (withdrawn), Senator Heitmeier, Senator Cleo Fields, and Representative Iles** each introduced legislation which would allow residential telephone subscribers to have their names placed on a "do not call" list.

House Bill 175 by Representative Iles (Act 40) allows a telephone subscriber to notify the Public Service Commission that he wishes to be placed on the "do not call" listing upon the submission of a \$5 initial listing fee. The listing will be renewed every five years by the PSC upon receipt of a renewal notice and a \$5 fee. Any residential telephone subscriber who has an unlisted number will be automatically placed on the "do not call" list at no charge. All telephone solicitors will be required to purchase copies of the "do not call" list from the PSC. The PSC is required to investigate complaints and impose administrative penalties not to exceed \$1,500 for each violation, or \$3,000 for each violation committed against subscribers over the age of 65. All fees and penalties will go to the PSC for the administration of the program. The program became effective upon signature of the governor on May 24, 2001.

House Bill 888 by Representative Pinac (Act 244) enacts the Uniform Electronic Transactions Act (UETA) which allows for the implementation and use of electronic records and electronic signatures in order to form a valid and binding contract. UETA will only be applicable to transactions between parties in which each party has agreed to conduct transactions by electronic means.

UETA authorizes state agencies to use electronic records and electronic signatures generally for intergovernmental purposes and to convert written records and manual signatures to electronic records and

electronic signatures. Following the conversion to electronic form, the agency may destroy the written records.

UETA became effective upon signature of the governor on July 1, 2001.

As negotiations between the state and the New Orleans Saints continue, several pieces of legislation were introduced in an effort to keep the Saints in Louisiana. The first piece of the puzzle, **House Bill 2009 by Representative LeBlanc (Act 2)** provided supplemental appropriations to Nichols State University for repairs and improvements to facilities for the New Orleans Saints Training Camp. Following passage of the \$985,000 appropriation for improvements, Nichols State and the New Orleans Saints entered into a contract to bring the Saints training camp to Thibodaux for the next four years. According to economist at Nichols State, the training camp brought in \$1.6 million to the area's economy last year.

Senate Bill 18 by Senator Hollis (Act 1215) authorizes the Louisiana Stadium and Exposition District (LSED) to sell the naming rights to the Louisiana Superdome with the approval of the Joint Legislative Committee on the Budget. Revenues generated by the selling of the naming rights will be assigned to the entity which holds an NFL franchise and leases the facility. It is anticipated that the naming rights could be worth \$3 million to \$5 million a year.

Although not part of the overall plan to keep the Saints, **House Bill 243 by Representative Scalise (Act 1219)** allows the LSED to sell the naming rights to the New Orleans Arena and Zephyr Field with the consent of the Joint Legislative Committee on the Budget. Revenues generated by the sale of the naming rights would be allocated to the two facilities.

Finally, **House Bill 2013 by Representative Murray (Act 1203)** creates the Sports Facility Assistance Fund in the state treasury. The program will be funded by income taxes assessed to non-resident, professional athletes and sports franchises on income earned while in Louisiana. The monies collected would be appropriated

to the owner of the facility, course, stadium, or arena at which the nonresident income is earned. The monies must be used for renovations, additions, operations, or maintenance to the facility. All monies appropriated to the Louisiana Stadium and Exposition District (LSED) must be used for renovation of the Superdome and for stadium development except for monies derived from the Pacific Coast League which will be used for the baseball facility in Jefferson Parish.

Each of these measures form the initial pieces of a comprehensive plan to keep the New Orleans Saints franchise in Louisiana. It is expected that following successful negotiations between the State and the Saints, implementing legislation will be introduced during the Fall 2001 special session.

House Bill 1736 by Representative Scalise (Act 388) will prohibit the registration with the intent to profit and the resell of domain names that consist of the name of another living person without their consent. Awaiting governors signature.

Senate Bill 1009 by Senator Wilson Fields (withdrawn) would have prohibited a bank from using fingerprint identification to cash a check drawn on their bank. Failed on the Senate floor.

In an effort to prevent the unauthorized use of a persons credit card, **House Bill 626 by Representative Flavin (Act 584)** requires that the last five digits of a persons credit card must be omitted from the receipt. Provides that businesses must be in compliance no later than January 1, 2004.

As a preventive measure to avoid power outages in Louisiana, **Senate Resolution 42 by Senator Dupre (adopted) and House Resolution 107 by Representative Faucheux (adopted)** request the Department of Economic Development to develop strategies to encourage the construction of new electric generating plants.

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COMMUNICATIONS & UTILITIES/CONSUMER PROTECTION

Contact: Alan Miller (225) 342-2115

Communications

House Bill 175 by Representative Iles (Act 40) creates the "Telephone Solicitation Relief Act of 2001." This act established a "do not call" list for residential telephone subscribers who do not wish to receive telephone solicitations. Over the past three years, several states have enacted similar "do not call" legislation, but Act 40 is the most restrictive in the nation.

On January 1, 2002, telephone solicitors will cease calls to people who have registered with the Public Service Commission to have their telephone number placed on the do not call list. In order to be on the do not call list, the subscriber must register with the PSC and pay a \$5.00 registration fee. This registration and the accompanying fee are effective for five years. In order to do business in Louisiana, telephone solicitors must register with, and purchase the list from the PSC.

The few exceptions listed in the Act include: calls in response to an express request; calls made in connection with an existing debt; calls made by a solicitor that has any existing relationship with the caller or a prior relationship that was terminated no more than six months prior to the call; calls made by non-profit organizations that use volunteer callers to make the solicitation; and calls made for polling, market research or political purposes.

Any telephone solicitor that calls a number on the do not call list is subject to a fine of up to \$1,500, or a fine of up to \$3,000 if the call is made to a telephone subscriber over the age of 65. The PSC will administer and enforce this program.

Utilities

The recent increase in energy costs, particularly natural gas prices, served as the impetus for several

legislative instruments during the 2001 Regular Session. **House Bill 1621 by Representative Baylor (Act 629)** requires the PSC to adopt rules to allow impoverished, elderly utility customers, as well as customers whose sole source of income is Social Security benefits, persons who receive food stamps, and persons on life-support systems in their homes, to pre-enroll in deferred payment programs. The Act prohibits utility companies from discontinuing service to persons enrolled in this program, as long as that customer continues to pay an amount required by this program. **House Concurrent Resolution 53 by Representative Durand, (adopted)** requests the PSC to inquire into reasons why the energy costs have recently risen to astronomical levels and report its findings to the legislature prior to the 2002 Regular Session. **Senate Concurrent Resolution 97 by Senator Ullo (adopted) and Representative Holden** requests Entergy Corporation to develop mechanisms to assist utility customers in reducing energy use and increasing energy efficiency. The resolution further requests Entergy to provide direct billing assistance to low income households.

During the interim, the Senate Select Committee on Consumer Affairs held several hearings about increased energy costs. One of the committee's recommendations was that the state, through the Division of Administration, find out how much energy the State uses and how it can conserve energy in State-owned and leased facilities. **Senate Bill 877 by Senator Campbell (pending House final) and House Bill 1640 by Representative LeBlanc (Act 1184)** enacts the "Energy Management Act of 2001." Under the Act, the Division of Administration is required to implement a reporting method, applicable to all state agencies, to obtain information about energy usage and costs. The Act further provides that Energy Cost Savings Measures (ECSMs) shall be adopted by state agencies in order to save costs and become more energy efficient. Any ECSM initiated by the Agency shall allow the Agency to retain fifty percent of the cost savings it realizes. Any agency that fails to cooperate with the Division is subject to a reduction of its energy appropriation by up to five

percent.

Consumer Protection

House Bills 1494 (pending House final) and 1495 (pending House final) by Representative Townsend and Senate Bill 783 by Senator Hoyt (pending Senate Committee) sought to delete the exemption under the Louisiana Unfair Sales Law for producers, i.e. refiners. Recently, some gasoline refiners have begun selling gasoline in conjunction with discount and grocery stores, at reduced prices. Under the Unfair Sales Law, a retailer is required to mark up the wholesale sale price of its product by 6%, when offered for retail sale. These refiners selling gasoline are exempt from this mark-up provision and are able to sell gasoline at cost.

Senate Bill 396 by Senator Fontenot (pending House Committee), conversely, would have permitted the sale of gasoline at any price, even below cost.

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CONSTITUTION & CONSTITUTIONAL AMENDMENTS

Contact: Diane Burkhart (225) 342-6144

As might be expected in the first general regular session since the beginning of the current term, a very large number of constitutional amendment proposals were introduced. Relatively few progressed to the end of the legislative process.

CONSTITUTIONAL CONVENTION

Among those topics affecting the constitution that were discussed was calling a constitutional convention. Several bills seeking a constitutional convention were introduced. **Representative Pitre's House Bill 1826 (pending reconsideration, House final passage)** made the most progress in the process. He proposed a constitutional convention be convened January 6, 2003 for the purpose of framing a new constitution by no later than April 14, 2006. The convention would be convened with 105 voting delegates, one elected from each House of Representative district and 28 nonvoting delegates, including seven gubernatorial appointees, a district court judge, two court of appeal judges or supreme court justices, seven members of the House of Representatives, seven members of the Senate.

LEGISLATION

Senate Bill 4 by Senator Hines (Act 1231) proposes the following series of changes to the system of regular sessions effective Jan. 1, 2004, if approved by the electorate:

- (1) Changes the regular annual legislative session that is fiscal in nature session from even-numbered years to odd-numbered years and changes the regular annual legislative session that is general in nature session from odd-numbered years to even-numbered years.
- (2) Extends the length of a fiscal-type session from not more than 30 legislative days in a 45 calendar day period to not more than 45 legislative days in a 60 calendar day period.
- (3) Clarifies the language that restricts the subject matter to be considered in fiscal type sessions and adds to the permitted subjects: decreasing or repealing a fee, no more than five matters intended

to have the effect of law per legislator without regard to the subject limitation provided the five bills are timely prefiled; and any matter intended to have the effect of law without regard to the subject limitation provided its object is to enact a local or special law.

- (4) Changes the prefile deadline from 5 pm on Friday before the first day of a regular session to 5 pm on the 10th calendar day prior to the first day of session.
- (5) Changes the absolute introduction deadline in a regular annual legislative session that is general in nature session from midnight of the 30th calendar day to 6pm on the 23rd calendar day. Changes the absolute introduction deadline in a regular annual legislative session that is fiscal in nature session from midnight of the 10th calendar day to 6pm on the 10th calendar day.
- (6) Changes the prohibition on third reading and final passage during a general-type session from after midnight of the 55th legislative day to after 6pm of the 57th legislative day or the 82nd calendar day, whichever occurs first. Changes the prohibition on third reading and final passage during a fiscal-type session from after midnight of the 27th legislative day to after 6 pm of the 42nd legislative day or the 57th calendar day, whichever occurs first.

PUBLIC OFFICIALS

In eliminating the participation of certain part-time public servants, including legislators, school board members, police jury members, city council members, and others in public retirement systems, an exemption was created for any person in any of the eliminated positions on Jan. 1, 1997. **Senate Bill 157 by Senator Lambert (pending in House Retirement Committee)** proposed to include in the exemption any person who served prior to Jan. 1, 1997, in an elected position of a political subdivision otherwise prohibited, and who was a member covering that position during his term or terms.

Senate Bill 163 by Senator Fontenot (Act 1230) proposed a change that would have allowed the qualifications for the coroner in Livingston Parish to be established by law. In **Senate Bill 1050 (subject to call, House referral)**, **Senator Fontenot** provided for the qualifications that would have required the coroner to be a licensed physician, unless no licensed physician qualifies or unless the incumbent is not a licensed physician, is challenged by a doctor, and wants to run for a successive term.

Local school system superintendents were among the public officials that were the subject of legislative interest. **Representative Flavin** in **House Bill 305 (pending in Senate Education Committee)** and **Representative Crane** in **House Bill 519 (pending in Senate Education Committee)** both proposed to eliminate the authority of BESE to establish qualifications for local superintendents and provided instead that the qualifications shall be fixed by the local school system.

Representative Crane's bill, however, went beyond the **Flavin** bill to provide that, consistent with written policies and procedures adopted by a local school board, it would be the duty of the system superintendent to implement the policies of the local school board and to direct, manage, supervise, and otherwise be responsible for all administrative affairs and day-to-day activities of the school system, including but not limited to supervision and control of the budget, finance, instructional, purchasing, and support services functions and of the personnel function for all system employees except such employees as the school board may specifically provide for itself to assist in the performance of board powers, duties, functions, and responsibilities. The bill specified that neither the school board nor its members would participate in the administrative affairs of the school system other than through the system superintendent in accordance with written board policies and procedures and that in all administrative matters concerning school or system business, other than for formal inquiries and investigations, the school board and its members would communicate and work directly with the system superintendent and his immediate staff and would communicate and work with system officers and employees subject to the direction and supervision of the system superintendent solely through the superintendent.

Importantly, the bill provided that the school board could terminate a system superintendent's employment by majority vote of the board membership pursuant to a formal written evaluation and a determination that the superintendent was failing to meet objectives, expectations, or any other requirement set forth in a written

performance contract required between the system superintendent and the school board. The bill required that the performance contract include but not be limited to provisions specifying the evaluation process to be used as well as the guidelines, time lines, and procedures to be used to terminate the employment of the system superintendent.

REVENUE AND EXPENDITURES

Prohibitions on the use of public funds

In the continuing growth of the list of exceptions to the general constitutional rule that prohibits the loan, pledge, or donation of funds, credit, property, or things of value of the state or a political subdivision, **Senate Bill 240 by Senator Ellington (Act 1232)** offers, as an addition to the list, authorizing the treasurer to invest the Medicaid Trust Fund for the Elderly in Securities.

Representative Faucheux offered another such exception with **House Bill 467 (pending Senate Committee on Revenue and Fiscal Affairs)** that would have authorized a city or parish to provide capital from tax revenues dedicated to industrial or economic development or proceeds of bonds secured by such revenues to a person, association, or corporation. The joint resolution further required that the local government enter into a cooperative endeavor agreement with the beneficiary in which the beneficiary agreed to locate or expand industrial enterprises within the city or parish in exchange for receipt of such revenues. It also provided that such revenues could be used only for the acquisition or maintenance of real property, plants, buildings, factories, works, facilities, machinery, and equipment, that a specified number of local residents be employed as a result of such development, and that the cooperative endeavor agreement be subject to State Bond Commission approval.

The proposed constitutional amendment provided that due consideration had to be given by the local governmental subdivision to the establishment of certain safeguards, including the evaluation of costs of the project

compared to the benefits derived by the local governmental subdivision and sanctions to be imposed upon breach of the cooperative endeavor agreement. It provided for public notice of the terms and conditions of the cooperative endeavor agreement to be published at least twice for two continuous weeks in the official journal of the local governmental subdivision prior to a public hearing on the agreement by such local governmental subdivision.

A third new exception is proposed in **House Bill 508 by Representative Daniel (Act 1235)** which authorizes higher education institutions or their respective management boards to invest in stocks a portion of certain funds derived from gifts and grants, funds functioning as endowments, or other permanent funds, provided that the amount to be invested in stocks may not exceed 50% of the aggregate of all such funds.

Homestead exemption

Further clarification of the extension of the homestead exemption from ad valorem taxes was provided in **House Bill 462 by Representative Donelon (pending Senate Revenue and Fiscal Affairs Committee)** which proposed to extend the homestead exemption from ad valorem taxes to include the primary residence which serves as a bona fide home occupied by any person who is purchasing the home under a bond for deed contract. A "bond for deed" contract is defined in present law as "[A] contract to sell real property, in which the purchase price is to be paid by the buyer to the seller in installments and in which the seller after payment of a stipulated sum agrees to deliver title to the buyer".

Constitutionally protected appropriations

House Bill 507 by Representative Daniel (Act 1236) authorizes the legislature to provide by law methods for adjusting constitutionally protected or mandated appropriations or allocations. Once enacted, such law may not be changed except by a specific legislative instrument receiving a favorable vote of two-thirds of the

elected members of each house of the legislature, and, notwithstanding the provisions of present constitution with respect to the limitations related to subject matter for annual sessions of the legislature, such law may be introduced and considered in any regular session of the legislature.

The joint resolution authorizes adjustments to any constitutionally protected or mandated allocations or appropriations, and any transfer of funds associated therewith, when total state general fund allocations or appropriations have been reduced in an aggregate amount equal to at least 0.70% of the total of such appropriations or allocations for that fiscal year. Such adjustments are limited to 5% of the total appropriation or allocation from a fund in the current fiscal year; however, adjustments to the Minimum Foundation Program are limited to 1%. Monies transferred as a result of such budget adjustments are deemed available for appropriation in the year of the transfer, but in no event shall the aggregate amount of any transfers exceed the amount of the deficit.

The proposal provides a procedure for avoiding a budget deficit in the next fiscal year if the official revenue forecast for the next fiscal year is at least 1% less than the official forecast for the current fiscal year. An amount equal to no more than 5% of the total appropriations or allocations for the current fiscal year from any fund established by law or present constitution may be transferred to a fund for which revenues have been forecast to be less than the revenues in the current fiscal year. Such monies would be available for expenditure in the next fiscal year for a purpose other than as specifically provided by law or present constitution, but in no event shall the aggregate amount of any transfers exceed the amount of the difference between the official forecast for the current fiscal year and the next fiscal year. Further, an amount equal to no more than 1% of the current fiscal year appropriation for the Minimum Foundation Program would be available for expenditure for other purposes in the next fiscal year.

The proposal specifically excludes from applicability (1) the Bond Security and Redemption Fund or any bonds secured thereby, or any other funds pledged as security for bonds or evidences of indebtedness; (2) the severance tax and royalty allocations to parishes (Art. VII, §4(D) and (E)); (3) state retirement contributions; (4) the Louisiana Education Quality Trust Fund; (5) the Millennium Trust, except for appropriations from the trust; and (6) monies not required to be deposited into the state treasury.

RIGHTS

The Declaration of Rights article of the constitution specifies individual rights guaranteed by the Louisiana Constitution.

To those presently specified **Senator McPherson** in **Senate Bill 168 (pending House Natural Resources Committee)** proposed to add the preservation of the freedom to hunt, fish or trap, subject to regulation, restriction or prohibition as provided by law. The proposed amendment would have restated the provision of Const. Art. IX, Sec. 7(A) which provides that the control and supervision of all hunting and fishing activities, and the allocation of the wildlife of the state, including all aquatic life, is vested in the Louisiana Wildlife and Fisheries Commission and specified that nothing in the proposal changes the burden of proof requirements otherwise established by law for any challenge to a law or regulation relating to hunting or fishing, or allocation of the wildlife of the state.

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CRIMINAL LAW & PROCEDURE

Contact: Peggy Russell (225) 342-0596

DNA TESTING/POST CONVICTION RELIEF

Recent developments in DNA testing technology coupled with 88 recent high profile cases in which inmates have been exonerated due to testing of DNA evidence, including the local case of Clifford Charles who was released after 19 years in prison, have led to a national push for introduction of legislation to address post conviction DNA testing. Louisiana law limits application for post conviction relief to a period of two years. Because, in many cases, current DNA technology was unavailable at the time post conviction relief applicability expired, a task force was created by the governor to study the issue during the interim preceding the 2001 Regular Session and to propose legislation for introduction. Based on the conclusions of the task force, **Senate Bill 511 by Senator Lentini (Act 120)** which, as amended in the Senate, authorizes a four-year period during which application may be made seeking post-conviction DNA testing, except for offenders who have been sentenced to death who have no time limit to apply.

Under provisions of the law, the application is to include an explanation of why DNA will resolve any articulable doubt as to guilt and why DNA will establish guilt or innocence. Additionally, the application is required to include an affidavit attesting to the innocence of the applicant signed by the applicant and would be required to identify the evidence being sought for testing.

The law prohibits post conviction testing where there is a question as to the integrity of the evidence to be tested or when the granting is solely because there is DNA testing available which was not available or was not done at the time of the conviction.

The law provides that once an application is approved, the court is authorized to issue orders for obtaining a sample and authorizes the state and the petitioner to select a laboratory to do the testing. If both parties cannot

agree on a laboratory, the court is to choose the laboratory when agreement cannot be reached. Senate Bill 511 further prohibits the destruction of relevant evidence from the time the evidence is identified until the case is resolved by the court.

The act authorizes the granting of relief only if results proved the applicant's factual innocence and would require all DNA collected under the proposed provisions to be included in the state DNA data base.

Additionally, the legislation establishes the DNA Testing Post-Conviction Relief for Indigents Fund to be funded through legislative appropriation, gifts, grants, and donations.

DWI

0.08 BAC Level. Through TEA21, the federal highway funding program, Congress enacted a mandate to states requiring compliance with reduction of blood levels for the determination of DWI to .08 percent by 2004. Any state not in compliance by that time will lose two percent of its federal highway monies per year up to a maximum of eight percent in 2007. In Louisiana, the deduction equates to \$5 million of federal highway funding for every two percent. As an added incentive, any state which enacts a .08 BAC level before 2004 has an opportunity to receive up to an additional \$2.3 million annual federal funding to be used for DWI enforcement.

Four bills were introduced to address the issue, **House Bill 32 by Representative Crow and House Bill 746 by Representative Gallot (both pending House Committee)** and **Senate Bill 436 by Senator Barham (pending Senate Committee) and Senate 363 by Senator Dupre (House Committee)**. The proposed legislation would have reduced the crime of adult DWI from 0.10% to 0.08% while retaining the present crime of underage DWI committed when the operator under the age of 21 years has a BAC of 0.02%.

Senate Bill 881 by Senator Chaisson (Act 728) expands the definition of DWI, vehicular homicide, vehicular negligent injuring, and first degree vehicular negligent injuring to include any amount of controlled

dangerous substances or a combination of intoxicants in the operator's system. The additional provisions provide that person could be found guilty of such crimes if he is under the influence of an type of drugs, prescription or non-prescription, or any combination of alcohol(whether or not it meets the BAC requirements) plus any type of drugs. The legislation provides that the fact that any person charged with any such drug or alcohol related crimes and is or has been legally entitled to the use of alcohol or drugs or any combination of both shall not constitute a defense against such charge. The act reduces the crime of adult DWI to the 0.08% BAC as mandated by the federal regulations. The provisions will not become effective until September 30, 2003 and shall be null and of no effect if the federal mandate is repealed.

Open Container. TEA21 mandates states to adopt a statewide open container law prohibiting open alcoholic beverage containers or consumption of an alcoholic beverage in a motor vehicle. Currently, because of noncompliance, Louisiana is being required to transfer \$3.3 million annually from DOTD construction programs to various safety programs. Present state law prohibits the operator of a motor vehicle which is on the highway or a public right-of-way from possessing an open alcoholic beverage container or from consuming a alcoholic beverage in the passenger area of a motor vehicle. **Senate Bill 784 by Senator Chaisson (pending House Committee)** would have extended such prohibition to a passenger in a motor vehicle.

Senate Bill 559 by Senate Lentini (pending House floor) would have deleted present provisions which authorize a person placed on probation for second offense DWI from operating a motor vehicle during probation when the vehicle is equipped with a functioning ignition interlock device. The proposed legislation would have further retained the required 12-month suspension of driver's license of any person who is convicted of 2nd DWI, but would remove the authorization for a restricted license during the suspension period. The legislation would have required proof, upon termination of the suspension, that the operator's vehicle is equipped with a

functioning ignition interlock device and would have required that such device remain on his vehicle not less than six months from the date the driver's license is granted.

DEATH SENTENCE

Due to recent national concern over flawed defenses of convicted felons, DNA testing, and exoneration of incarcerated persons, there has been a movement toward studies into the imposition of the death penalty and a moratorium on death penalties in the states until such studies to assess systematic problems which may have an effect on the penalty. **Senate Bill 80 by Senator Fields (pending House committee)** would have created the nine-member Louisiana Death Sentence Study Commission to study capital punishment and , as originally introduced, would have placed a moratorium on the death penalty in the state. The bill was amended in the Senate Committee on Judiciary C to eliminate the moratorium but retained the study commission. The commission would have been authorized to review and analyze all cases in which a first degree murder or aggravated rape of a victim less than 12 years was filed and to consider the facts of the crime, the parish in which the charges were filed and what the original charges were, vital statistics of both the defendant and the victim, any evidence indicating the defendant was mentally retarded, the cost per disposition and implementation of sentence, specific information of defense counsel, and results of appellate or post conviction reviews.

ALTERNATIVE TO INCARCERATION.

Rising expense of incarceration and studies indicating the positive effect on recidivism rates of pre-trial intervention programs have encouraged the implementation of alternatives to incarceration. **House Bill 665 by Representative Odinet (Act 1163)** authorizes home incarceration provisions, currently utilized in misdemeanor or felony cases, to be utilized for third and subsequent DWI offenders.

Current penalties for third offense DWI include imprisonment for one to five years and a \$2000 fine with at least 6 months to be served without the benefit of probation, parole, or suspension of sentence. The act retains the fine and require a six week substance abuse treatment and home incarceration for one to five years in lieu of imprisonment and requires current imprisonment provisions if the offender fails to complete the substance abuse treatment or violations the conditions of home incarceration.

Current penalties for fourth and subsequent DWI offense include imprisonment for 10 to 30 years and a \$5,000 fine and requires that at least two years be served without the benefit of probation, parole, or suspension of sentence. The act retains the fine and requires a six-week inpatient substance abuse treatment and home incarceration for one to five years in lieu of imprisonment. It further authorizes the sentence to include follow-up substance abuse treatment not to exceed one year if the treating physician deems it necessary. If the offender fails to complete substance abuse treatment or violates any condition of home incarceration, or if he has previously been required to participate in substance abuse treatment and home incarceration for a third or subsequent offense, he is to be imprisoned for 10 to 30 years with at least 3 years being served without benefit of parole, probation, or suspension of sentence.

Senate Bill 665 further requires the following provisions:

1. Home incarceration would include electronic monitoring, curfew restrictions, and monthly department home visitation.
2. Offenders would be required to obtain employment and to participate in a court-approved driver improvement program.
3. Driving privileges of offenders would be restricted and the offender would be required to have an interlock device installed on his motor vehicle.
4. Offenders would be required to pay for costs of substance abuse programs and any driver improvement programs.

5. Offenders who fail to complete the program would not receive credit for time served under home incarceration.

Crime

Carnal Knowledge of a Juvenile. Currently, the crime of carnal knowledge of a juvenile occurs when the offender and the victim engage in consensual sexual intercourse and are not married and the offender is 18 or older, the victim is 12 through 16, and the age difference is more than two years; or when the offender and the victim engage in consensual anal or oral sexual intercourse and the offender is 18 or older, the victim is 12 through 16 and the age difference between the offender and the victim is more than two years. The crime is considered a felony with a penalty of up to 10 years in prison without the eligibility of having the conviction set aside or the prosecution dismissed. Additionally, offenders are considered sex offenders under present law and are subject to the requirements for registration of the offender and notification to neighbors.

House Bill 226 by Representative Faucheux (Act 96) redesignates carnal knowledge of a juvenile as felony carnal knowledge of a juvenile and makes the provisions applicable to consensual sexual intercourse when the offender and the victim are not married, the offender is 19 or older and the victim is 12 through 16 years old or the offender is 17 or older and the victim is 12 through 14. The Act adds a fine of up to \$5000 for felony carnal knowledge.

House Bill 266 further creates the crime of misdemeanor carnal knowledge of a juvenile which would apply to consensual sex when the offender and the victim are not married, the offender is 17 or 18 years old, the victim is 15 or 16 years old, and the difference between the two is greater than two years. The penalties for misdemeanor carnal knowledge are a fine of not more than \$1000, or imprisonment of not more than 6 months, or both. Additionally, a person convicted of misdemeanor carnal knowledge shall not be subject to the registration and notification requirements of convicted sex offenders.

The provisions limit a charge of misdemeanor carnal knowledge to first offense and provides that the commission of actions constituting misdemeanor carnal knowledge is considered felony carnal knowledge when the offense was committed for a second or subsequent time or the commission of actions constituting misdemeanor carnal knowledge for the first time when the violator has committed a previous sex offense for which registration was required.

Newly Created Crimes. The following legislative instruments create the following new crimes:

Theft of the Assets of an Aged Person or Disabled Person. **SB 217 by Senator McPherson (Act 44)** defines such crime as the intentional use, consumption, conversion, mismanagement, or appropriation of an aged or disabled adult's assets or power of attorney which are meant to be used for health care of such person. The penalties for the crime follow the current penalties relative to theft which are based on the value of the assets misappropriated as follows:

- (1) \$500 or more - imprisonment with or without hard labor for not more than 10 years, not more than \$3,000 fine, or both.
- (2) Less than \$300 but not \$500 - imprisonment with or without hard labor for not more than 6 months, not more than \$500, or both.
- (3) Less than \$300 - imprisonment of not more than six months, not more than \$500, or both.

Cyberstalking. **Senate Bill 345 by Senator Dardenne (Act 737)** defines such crime as the use of electronic mail or communication to threaten bodily harm to a person, his family or his property for the purpose of extorting things of value; to threaten, terrify, or harass a person; or to make false statements relative to harmful, indecent, criminal conduct with the intent to threaten, terrify, or harass a person; or to knowingly permit the use of any electronic communication device for any of the above listed purposes. Penalties for such crime are established as follows:

- (1) 1st offense - imprisonment for not more than one year, or fine of not more than \$2000, or both.
- (2) 2nd offense within seven years - imprisonment for not less than 180 days nor more than three years, fine of not more than \$5000, or both.
- (3) 3rd or subsequent offense within seven years - imprisonment for not less than two nor more than five years, or a fine of not more than \$5000, or both.

Theft of Anhydrous Ammonia. Because anhydrous ammonia is used in the production of methamphetamine a noticeable increase in theft of the chemical has occurred. Because the chemical is stored under pressure and is combustible resulting to potential disaster to areas surrounding storage facilities, **House Bill 36 by Representative Nevers (Act 286)** creates the crime of theft of anhydrous ammonia and establishes a penalty of imprisonment of not more than five years, or a fine of not more than \$5000, or both.

Theft of Motor Fuel. As created by **House Bill 422 by Representative Farrar (Act 812)** the theft of motor fuel is the dispensing of fuel into a motor vehicle tank at a point of sale establishment and leaving the premises without payment for the fuel being made. In addition to the current penalties for theft, the driver's license of the offender is to be suspended for up to six months.

Aggravated Robbery. **House Bill 176 by Representative McDonald (Act 347)** creates the crime of aggravated robbery which is the intentional infliction of serious bodily injury upon another person while taking anything of value from such person. The penalty for the commission of such crime shall be imprisonment of not less than three nor more than 40 years.

Unlawful distribution, possession, or use of theft alarm deactivation devices. Many retail outlets have attached electronic or magnetic devices on merchandise to prevent theft. The device is intended to activate an alarm if the merchandise is moved from an authorized area without payment being made or authorization being given by the owner of the merchandise or his agent. **House Bill 1061 by Representative Sneed (Act 909)**

creates this crime to address the unlawful distribution, use, or possession of devices designed to deactivate such theft alarms and establishes a penalty for violation of imprisonment of not more than six months, a fine of not more than \$500, or both.

Aggravated kidnaping of a child. Under the provisions of **House Bill 2038 by Representative Perkins (Act 654)** aggravated kidnaping of a child is the unauthorized taking of a child under twelve years of age by anyone other than the child's parent, grandparent, guardian with the intent to secret the child from his parent or legal guardian. The penalty for such offense shall be life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

The legislation further provides that, if the child is returned without physical injury or sexual abuse, the imprisonment shall be reduced to a period of time from not less than five nor more than 40 years.

Theft of a Business Record. **House Bill 1661 by Representative Donelon (Act 914)** creates the crime of theft of a business record which is the taking of a business record or information contained in such record without consent or by fraudulent activities. The legislation defines a business record as information which complies with the following:

- (1) Is material to the conduct of the business.
- (2) Is not a public records in accordance with law.
- (3) If used by another would have an adverse material effect on the business.
- (4) Is defined as a "trade secret."
- (5) Is of such a nature that its loss or replacement would have an adverse material effect on the business.

The penalty for commission of such crime is imprisonment for not more than two years, or fine of not more than \$10,000 or the cost of replacement of the business record whichever is greater, or both.

Computer Tampering. **House Bill 669 by Representative LaFleur (Act 819)** creates the crime of computer tampering which includes any of the following actions taken knowingly without the authorization of the owner of the computer and provides for the following penalties:

- (1) Accessing a computer or any part of a computer or any program or data contained within a computer - imprisonment for not more than six months, or a fine of \$500, or both.
- (2) Copying or otherwise obtaining any program or data contained within a computer - imprisonment for not more than six months, or a fine of \$500, or both.
- (3) Damaging computer, or altering or removing any program or data contained within a computer, or eliminating or reducing the ability of the owner of the computer to use the computer or any data contained within the computer - imprisonment for not more than five years, a fine of not more than \$10,000, or both.
- (4) Introducing any electronic information of any kind or form into one or more computers with the intention of accomplishing any of the three actions listed above - imprisonment for not more than five years, a fine of not more than \$10,000, or both.
- (5) If the computer tampering under the provisions of (3) and (4) above, is committed with the intention of disrupting operations of the state, a local governing authority, or a utility company or is committed with the intention of causing death or bodily harm - imprisonment of not more than 15 years, a fine of not more than \$10,000, or both.

The proposed legislation establishes the following penalties:

- (1) Computer tampering defined in (1) and (2) above- a fine of not more than \$500 or imprisonment for not more than six months, or both.
- (2) Computer tampering in r the crime of computer tampering defined in (3) and (4) above - a fine of not more than \$10,000 or imprisonment for not more than five years, or both. If such tampering is committed with the intention of disrupting operations of the state, a local governing authority, or a utility company or is committed with the intention of causing death or bodily harm - a fine of not more than \$10,000 or imprisonment of not more than 15 years, or both.

Owning a vicious or dangerous dog. **House Bill 622 by Representative Faucheux (Act 823)** defines a dangerous dog as one which has demonstrated unprovoked aggressive activity which requires defensive action on two separate occasions within a 36-month period and a vicious dog as one which, unprovoked, inflicts serious

bodily injury or death. The act requires an owner to restrain or confine a dangerous dog and to mark the enclosure with warning signage. The penalty for noncompliance shall be a fine of not more than \$300. The act prohibits any person from owning a vicious dog and provides for penalties of imprisonment for not more than 6 months, a fine of \$500, or both. Exceptions to the provisions include dogs trained specifically to be used for law enforcement or search and rescue activity. Additionally, the provisions prohibit a determination of a dog's being dangerous or vicious when the attack occurs in any of the following situations:

- (1) The victim was committing a crime upon the property of the owner of the dog.
- (2) The victim, whether a person or an animal, was teasing, tormenting, abusing, or assaulting the dog.
- (3) The dog was protecting or defending a person.
- (4) The dog was working as a hunting, herding, or predator dog, or under the control of his owner.

The legislation provides procedures for a court to determine if a dog is either dangerous or vicious. Upon such a finding, the court shall order restrictions regarding the confinement of a dangerous dog or the euthanization of a vicious dog. Failure to comply with a court order to confine a dangerous dog shall result in a fine of not less than \$150 nor more than \$500.

CONTROLLED DANGEROUS SUBSTANCES

Currently, the penalty for the production, distribution, or possession with intent to distribute Schedule I controlled dangerous substances (narcotics) is punishable by life imprisonment without benefit of probation, or suspension of sentence and a possible fine of not more than \$50,000. **Senate Bill 970 by Senator Bajoie (withdrawn)** would have removed the possession of heroin from the general penalty requirements and establishes the following schedule of penalties based on the amount of the heroin the offender's possession, similar to schedules established for cocaine and other controlled dangerous substances:

- (1) 28 grams but less than 200 grams - Imprisonment for not more than five years.
- (2) 200 grams but less than 400 grams - Imprisonment of not less than five nor more than 20 years and a fine of not more than \$10,000.
- (3) 400 grams or more - Imprisonment for not less than 20 years nor more than life and a fine of not more than \$50,000.

COURT COSTS

Two Senate bills and twenty-seven House bills were introduced which would have imposed additional court fees incurred in civil, traffic, and criminal matters in state, parish, and city courts of the state. Receipts from the additional fees would have funded not only a variety of court expenses but also funding of advocacy programs, legal assistance programs, building funds, criminal laboratories, and juvenile facilities. Despite consensus on the value of the programs and the need for continued and additional funding, opposition was voiced repeatedly to the burden on those person who would bear the costs, which in many cases would be greater than the maximum fine of the violation. All 29 bills remained in the Senate Finance Committee.

To address the need for a balance between the funding needs and the imposition of fees, **Senate Concurrent Resolution 148 by Senator Dardenne (adopted)** establishes a special commission to study court costs and the uses of such court costs and other fees.

CULTURE, RECREATION & TOURISM

Contact: Jeff Oglesbee (225) 342-0597

HISTORIC PRESERVATION

Senate Bill 1090 by Senator Smith (pending House Committee) would have required the secretary of state to catalogue all existing monuments, memorials, plaques, markers, and historic flag display located on public property. The bill would have prohibited the removal, relocation, alteration, or disturbance of the historical item unless such action had been previously approved by a concurrent resolution adopted by the legislature.. The legislation received lengthy debate in the Senate as it was deemed by some an effort to preserve Confederate monuments, in particular the Confederate flag.

As an alternative measure, **Senate Resolution 28 by Senator Barham (adopted)** requests the Governor's Military Advisory Board to study the feasibility of a creating a Louisiana Historical Monuments and Memorials Protection Act.

TOURISM

Senate Concurrent Resolution 48 by Senator McPherson (adopted) encourages the development of bird eco-tourism in Louisiana by directing the Department of Culture, Recreation, and Tourism, as well as other agencies, to continue to develop statewide, regional, and site specific seasonal bird lists, and birding trails along with maps and promotional materials..

House Bill 1527 by Representative Broome (Act 622) authorizes the expenditure of public funds by the offices of cultural development, film and video, the state library, and state museums in the Department of Culture, Recreation, and Tourism in order to advertize the statewide development and implementation of cultural, recreational, and tourism related programs.

Senate Concurrent Resolution 71 by Senator Irons (adopted) request the Department of Culture,

Recreation, and Tourism and the Department of Economic Development to jointly study the benefits, especially the revenue impact, of a Louisiana entertainment industry.

MUSEUMS

House Bill 735 by Representative Hopkins (Act 130) renames the Caddo Pine Island Oil and Historical Museum as the Louisiana State Oil and Gas Museum as a historical, cultural, scientific and technological educational institution whose primary purpose is to research, collect, preserve, and present documents, artifacts, and objects of art that reflect on the oil industry in the state..

House Bill 842 by Representative Hammett (Act 850) creates the Louisiana Delta Music Museum in the Department of State which will be charged with the promotion and preservation of the unique music of the Delta.

PARKS

House Bill 1686 by Representative Broome (Act 917) repeals law which authorizes a complete fee waiver for any person who possesses a Golden Age Passport for every third night of camping in public camp sites. The holder of the Golden Age Passport will continue to be entitled to a one-half reduced nightly rate.

MISCELLANEOUS

House Concurrent Resolution 85 by Representative LaFleur (adopted) names Melville the Atchafalaya River Catfish Capital of Louisiana.

House Concurrent Resolution 12 by Representative Riddle (adopted) directs the Department of Public Safety and Corrections to produce and distribute Louisiana Purchase Bicentennial license plates for private passenger motor vehicles beginning January 1, 2002 through December 2003 as the official state license plate. The plate is intended to commemorate the official signing of the Louisiana Purchase which was held at the Cabildo

in New Orleans on December 20, 1803.

House Bill 70 by Representative Powell (Act 10) designates the Louisiana strawberry as the official state fruit.

House Bill 347 by Representative McDonald (Act 53) provides for and defines the pattern of the official state tartan that may be freely used by any and all organizations, societies, and institutions located within the state.

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EDUCATION

Contact: Sherri Breaux (225) 342-6145

ELEMENTARY AND SECONDARY EDUCATION

Agricultural Education

Senate Bill 558 by Senator Theunissen (Act 351) establishes the Agricultural Education Advisory Committee to provide recommendations for the development and implementation of the state action plan for the delivery of education in agriculture literacy, awareness, and career exploration in public schools.

Charter Schools

House Bill 796 by Representative Wooten (Act 453) and Senate Bill 57 by Senator Hainkel (duplicate) revises the requirements regarding a mission of "at-risk" students into a charter school established with the mission to meet the needs of the children of military personnel. The Act exempts from charter school enrollment requirements that a charter school enroll not less than 85% of the average percentage of pupils enrolled in the local public school district from which the charter school enrolls its pupils who are eligible for the federal free or reduced cost lunch programs, any charter school that is established with the educational mission of meeting the needs of dependent children of military personnel provided that the school predominantly enrolls dependent children of military personnel, all such children who seek admission to the school and who are at risk are admitted, and the charter school complies with the requirements relative to the enrollment of at-risk pupils in general (based upon only the general population pupils admitted) in enrolling pupils from the general population who are not dependent children of military personnel.

House Bill 794 by Representative Thompson (Act 592) requires the percentage of at-risk pupils in Type 2 charter schools in parishes having a population between 20,500 and 21,000 persons (Richland Parish) to be, as near as practicable, not more than the percentage of at-risk pupils in the schools located in the local

school district. The Act also prohibits the initial enrollment of such a school and any cohort of students enrolled for each new school year from having, as near as practicable, fewer than 50% of the students who are at-risk (eligible to participate in the federal free and reduced lunch program).

House Bill 1247 by Representative LeBlanc (Act 1076) requires charter schools that fail to open or that close for any reason to refund all cash on hand to the state or local school district.

House Bill 1255 by Representative LeBlanc (Act 988) authorizes BESE to provide annually for a Feb. 15 pupil membership count (in addition to the Oct. 1 membership count) for purposes of adjusting allocations made to Type 2 charter schools as a result of changes in enrollment after Oct. 1 each year. The Act specifies that any allocation adjustment made shall not be retroactive and shall be applicable from March 1 through the end of the school year.

House Bill 1282 by Representative Crane (Act 991) makes various changes to the charter school law relative to the chartering process, approval time lines, procedures for application and budget submission, funding adjustments and allocations, litigation costs, pupil counts, and exemptions, to include as follows:

- ? Each application for a Type 1, 2, and 3 charter school shall be submitted to the pertinent chartering authority by a nonprofit corporation established in accordance with state laws
- ? Each charter school shall be liable for all court costs, attorney fees, and expenses if litigation is necessary to recover public funds paid to the school
- ? The State Board of Elementary and Secondary Education (BESE) may provide annually for a Feb. 15th pupil membership count to reflect changes in pupil enrollment among Type 2 schools that may occur after Oct. 1st of each year.
- ? BESE may provide a lesser per pupil amount to a Type 2 school than that required by law if the school's initial charter proposal contains a request for a lesser amount.
- ? Every pupil enrolled in a charter school shall be counted in the school's total pupil count for purposes of funding including those pursuing a high school diploma or participating in a pre-general education development skills program; however, no child enrolled in a prekindergarten

program offered by a charter school shall be counted for purposes of funding unless such funding is specifically provided for such purpose.

Civil Rights

House Concurrent Resolution 74 by Representative Broome (adopted) deplores all instances and ideologies of racism, rejects the concept that certain races and classes of humans are inherently superior to others, and condemns the extent to which these philosophies have been used to justify and approve racist practices. The Resolution also requests the state's public education system, as appropriate in the curriculum, to address the commonalities of people and the weaknesses of racism.

Community service

Senator Wilson Fields passed **Senate Bill 839 (withdrawn)** out of Senate committee that would have provided for the establishment of a system for high school students to provide 20 hours of community service. After some research, the senator found that some states require students to perform a specified number of hours of community service or include "service-learning" as a prerequisite to high school graduation. Therefore, in lieu of passing such a requirement, Senator Fields felt the issue warranted study and authored **Senate Concurrent Resolution 126 (adopted)** which requests the joint education committee to study "service-learning" by students and the feasibility and advisability of establishing service-learning as a requirement for high school graduation in Louisiana.

Curricula

Senate Bill 212 by Senator Irons (Act 681) authorizes school systems to offer instruction in personal financial management to students, provided such instruction is integrated into an existing course of study. **Senator Irons** also sponsored **Senate Bill 792 (Act 729)** which establishes a program of suicide prevention in public schools.

House Bill 352 by Representative Perkins (deferred, Senate committee) would have provided for the governing authority of each public and approved nonpublic school to require all students in the fourth through sixth grades to recite a specified passage from the Declaration of Independence at the commencement of the first class of each day. Students would have been excused from such requirement at the option of a parent.

Early Childhood.

Senate Bill 776 by Senator Bill Jones (Act 1146) provides for the allocation of funding for the purpose of providing early childhood development and care classes called ECDs for four-year old children in every school system that seeks to participate and agrees to make access to such classes available to every four year old within its jurisdiction. The classes will consist of not less than 10 hours a day for each day of regular school attendance in the participating system, and will require that an age appropriate high quality early childhood education program be provided during the portion of each day that school is in session and a program of high quality child care during the remainder of the day. The ECD classes will be provided at no cost to the child or his family for any child who is eligible to receive free or reduced price meals. Any other eligible child may be charged a tuition for all or part of the class. For FY 2001-2002, the program is expected to be funded from \$15 million in federal TANF funds from the Department of Social Services. At a cost of no more than \$5,000 per child, this will allow for an estimated 3,000 at-risk children to be enrolled in ECD classes in FY 2001-2002.

Additionally, to the extent that funding is available for such purpose, provides for a one-time payment of up to \$5000 for each ECD classroom to be used solely and exclusively for the provision of developmentally appropriate materials, equipment, and supplies as approved by the Dept. of Education pursuant to rules approved by BESE.

Posting of signs

House Bill 1933 by Representative Crowe (deferred, Senate committee) would have required principals of public and approved nonpublic schools to display the national motto "IN GOD WE TRUST" in each classroom, auditorium, and cafeteria in his respective school.

School Attendance

Whenever any local school board closes school for a day as the result of the employees threatening or failing to appear for work, the school board must schedule and conduct an instructional day of school for each day school was closed in addition to the days scheduled for the school year in which the closure occurs under **Senate Bill 702 by Senator Dardenne (Act 485)**.

House Bill 19 by Representative Thompson (Act 115) changes the age through which a parent or person having control of a child must send the child to school from the 17th birthday to the 18th birthday, retaining the present law exceptions.

House Bill 458 by Representative Crane (Act 815) increases the minimum number of instructional days per school year in public elementary and secondary schools from 175 to 177 days.

School Buses

House Bill 1955 by Representative Alario (Act 946) authorizes local school boards to lease school buses from school bus operators employed by the board or with whom the board has a contract under certain circumstances. The payment for the lease is to be equal to and in place of the school bus operators' operational schedule.

School Records

Senate Bill 118 by Senator Theunissen (Act 315) requires the principal of every public elementary or secondary school to transfer the education records of any student who was enrolled in the school upon the

written request of any in-state or out-of-state educational facility operated within any correctional or health facility where such student has become enrolled or is seeking enrollment within 10 business days of such request. If a student has been expelled, the records must provide the dates of the expulsion and the reasons for which the student was expelled.

House Bill 856 by Representative Martiny (Act 134) requires school boards, within certain guidelines and limitations, to adopt policies for disclosing education records or information from education to state and local law enforcement officials and other officials within the juvenile justice system.

School Systems

Senate Bills 162 (failed, Senate floor) and 256 by Senator Fontenot (withdrawn) would have provided for the recognition of and means for establishment a public school system without enacting a law pursuant to a proposed constitutional amendment.

House Bill 327 (failed, House floor) and House Bill 1839 (not heard, Senate committee), both by Representative Kennard, would have provided for a new school system in East Baton Rouge Parish, the Central Community School System, upon passage of the constitutional amendment. Senator Fontenot had duplicate measures introduced in the Senate (Senate Bills 172 and 1014).

House Bill 1350 by Representative McVea (Act 895) provides for the Zachary Community School System to begin its initial year of actual operation providing for the education of students within its jurisdiction at the beginning of the 2001-2002 school year or any subsequent school year after the board complies with state and federal requirements for actual operation of a separate school system. The Act also provides for the reapportionment of the East Baton Rouge Parish School Board and for the election of its members as reapportioned in the event the community school system begins operation as a separate school system.

School Violence

Several bills were introduced in an effort to address issues relating to school safety. **Senator Theunissen** sponsored **Senate Bill 115 (Act 313)** that requires each public school to have a crisis management and response plan prepared and approved by the local school board by Jan. 1, 2002. A crisis management and response plan is a plan to address school safety and the incidence of violence at schools, on school buses, and at school-related activities; to respond effectively to such incidents; and to ensure that every student, teacher and school employee has access to a safe, secure, and orderly school that is conducive to learning. The plan must also include the management of any other emergency situation. Any plan must detail the roles of employees, responsibilities, coordination agreements, services and security measures of a school in the event of a violent incident or emergency situation. The plans may also include provisions for encouraging peer helper programs and identifying students who may have experienced rejection or other traumatic life events.

Senate Bill 1035 by Senator Bajoie (Act 786) authorizes elementary schools to develop and offer youth development and assistance programs that employ violence prevention and intervention initiatives for students in kindergarten and the elementary grades. Such programs will need to provide for the early identification of and support for students who are at risk before their behavior escalates into aggression or disruption, disciplinary problems, or juvenile delinquency.

House Bill 364 by Representative Damico (Act 230) authorizes local school boards to adopt and implement zero tolerance policies for fighting, to include in such policies, a requirement that students who are disciplined and their parents shall attend conflict resolution classes, and to charge a fee (no more than \$100) for such attendance. Local school boards must adopt and implement policies prohibiting harassment, intimidation, and bullying of students. Certain parishes are exempted from such requirements: Livingston, Tangipahoa, East Baton

Rouge, East Feliciana, West Feliciana, and St. Helena.

Special Education

House Bill 489 by Representative Crane (Act 59) provides for procedures and timelines applicable to hearings and appeals with regard to the provisions of special education and related services to children with exceptionalities. **House Bill 1284 by Representative Crane (Act 181)** provides for the responsibilities of local educational agencies in the provision of special education and related services to children with exceptionalities and defines "resident" for the purposes of the laws relative to the education of such children.

Standardized Tests/administration

House Bill 482 by Representative Pratt (Act 58) requires school boards to establish procedures for investigations of accused irregularities and improprieties in administering standardized tests.

K-12 FUNDING

Educational Excellence Funds (tobacco settlement monies)

Senate Bill 11 by Senator Theunissen (Act 765) establishes a process of plans for expending money from the Educational Excellence Funds. Under the Louisiana constitution, one-third of all monies received as a result of the Master Settlement Agreement of the tobacco litigation which are deposited into the Millennium Trust and one-third of the investment earnings on such money are to be credited to the Education Excellence Fund. Such appropriated EEF money is to be distributed among public and private school and school systems in accordance with a specified formula after each recipient submits a prioritized plan for expenditure of the money that complies with the constitutional limitations and includes performance expectations to ensure accountability in the expenditure of the money. These plans require approval by the state Dept. of Education to assure that the plans support excellence in education practice, as well as approval by the legislature. This measure specifies that the appropriate

standing committees to approve such plans are the Senate and House education committees and provides for the process for such approval.

House Bill 1056 by Representative LeBlanc (Act 872) conforms statutory provisions to corresponding constitutional provisions governing the distribution of monies from the EEF to various educational entities. Statutory companion legislation was inadvertently not amended to coincide with amendments to the constitutional legislation in the 1999 Regular Session.

Minimum Foundation Program

The State Board of Elementary and Secondary Education adopted the most recent formula on May 24, 2001 and submitted a resolution to the legislature for approval, **Senate Concurrent Resolution 139 by Senator Theunissen (adopted)**. The formula results in an estimated total in FY 2001-2002 of \$2.4 billion, an increase of approximately \$137 million over the amount appropriated for FY 2000-2001 (See *Legislative Action on Fiscal Year 2002 Budget*, prepared by the Senate Fiscal Staff for further details on appropriations contained in House Bill 1). Compared to the 2000 formula contained in SCR 58 of the 2000 Regular Session, this formula provides as follows:

? **Retains with one change Level 1 - cost determination and equitable distribution of state and local funds as follows:**

- (1) Increases the per pupil amount from \$3103 to \$3188.
- (2) Retains definitions and weighted-funding calculations for at-risk students, special education students, and gifted and talented students, and economy of scale. Retains the weighted-funding calculation for secondary vocational education units but revises the definition to mean "the number of combined fall and spring student units enrolled in secondary vocational education courses".
- (3) Retains provisions for annual adjustments in per pupil amount.
- (4) Retains the provisions for calculation of average local cost contribution of 35% and state contribution of 65%.

? **Retains Level 2 - incentive for local effort as follows**

- (1) Retains the basis for determining the amount of local revenue over the local share required by Level 1 that is eligible for incentive funding that incorporates prior year revenues from sales tax, property tax (including debt service), state and federal revenue in lieu of taxes and 50% earnings on property.
- (2) Retains the 33% of the base Level 1 cost as the limit on the amount of state Level 2 support.
- (3) Retains the lessor of local revenue over Level 1 requirement or the limit on state Level 2 support as the amount of local revenue eligible for Level 2 state support.

? **ADDS Level 3 - legislative enhancements as follows:**

- (1) **MINIMUM PAY RAISES**
 - (a) Provides for an allocation to each local school system of a supplemental allocation to ensure a minimum \$2060 per full-time equivalent certificated personnel and \$1030 per sabbatical certificated personnel based on PEP data as of Oct. 1, 2000.
 - (b) Specifies that the allocation is provided to every school system which has insufficient Level 1 and Level 2 increases over last year, after considering the one-time adjustment to the retirement system and an adjustment in student membership, to provide the pay raise amount, including the retirement contribution.
 - (c) Specifies that Level 3 money is to be spent solely on enhancements in salary for every certified administrator, every teacher or other certified personnel who directly interacts with students in either regular or special education programs who is assigned professional activities of instruction of pupils in a classroom situation for which daily attendance figures are kept or is responsible for teaching or advising pupils with regard to their abilities and aptitudes, educational and occupational opportunities, or personal and social adjustment, and every school nurse in any city or parish school system.
 - (d) Defines the personnel to receive salary adjustment by Dept. of Education function and object code. Includes teachers, therapists/specialists/counselors, school site-based principals, assistant principals, and other school administrators, central office certificated administrators, school nurses, and "sabbaticals".
 - (e) Provides similarly for the allocation of any additional appropriation to increase the minimum pay raise amount.
 - (f) Increases the total amount of the pay raise supplement to any school system in an amount to cover the retirement system contribution share of 13.1%.

- (g) Provides for the continuation of such pay raise supplements in future years.
- (2) REDUCTION OF FUNDING OVER MINIMUM PAY RAISE
 - (a) Reduces the excess amount of Level 1 and Level 2 funding increase to a school district whose increase would otherwise exceed the amount necessary to provide the pay raises. This reduction is one-time only in FY 2001-2002.
- (3) FOREIGN ASSOCIATE TEACHERS
 - (a) Revises provisions from requiring state support of not more than 250 Foreign Associate Teachers at the amount of average classroom teacher salary by years of experience and degree to specifying that any local school system employing a Foreign Associate Teacher shall receive a supplemental allocation from BESE.
 - (b) Limits the total amount of such supplements to \$4,244,410.
- (3) HOLD HARMLESS
 - (a) Eliminates any "hold harmless" distinction in Level 1 and Level 2 funding for all school systems.
 - (b) Separates for FY 2001-2002 the "over funded" allocations for 11 specified school districts and sets limits on such amounts.

? **Retains REQUIRED EXPENDITURES as follows:**

- (1) Retains a required expenditure of 70% of all local school system general fund expenditures on instruction and retains the definition of such instructional expense.
- (2) Adds provisions requiring the expenditure of the increases in amounts of Level 1 and Level 2 money and Level 3 money to the pay raises and prohibiting such money from being used to supplant salaries being paid in 2000-01 or authorized for 2001-02, including step increases.
- (3) Specifies that the pay raise be included in the pay schedule of the applicable employees no later than Sept. 1, 2001.
- (4) Specifies that for FY 2002-2003, 2003-2004, and 2004-2005, if this formula is still in effect and no other provision for an annual increase in certificated pay has been provided, 50% of the future increases in Level 1 and Level 2 funding shall be used for supplements and enhancements of full-time certificated staff salaries and retirement benefits.

? **Retains FUNDING FOR LAB SCHOOLS as follows:**

- (1) Retains provisions for funding LSU and SU lab schools at an amount per student equal to the

amount allocated per student for the state share of the minimum foundation program.

- (2) Retains provisions directing such money to the universities and making such money subject to the MFP audit provisions and definitions.
- (3) Provides that increased state funds are to be used for certificated pay raises.

? **Retains provisions for ADJUSTMENTS as follows:**

- (1) Adds a direction to make a reduction adjustment to the FY 2000-2001 state share distribution to recover funds for the Foreign Associate Teacher Program from local school systems based on the distribution of funds in effect in FY 1991-1992.
- (2) Retains provisions for estimated payments of MFP funds to be justified with the actual amount due for the year when the student counts are in and audited as reflected in the Budget Letter.
- (3) Adds a specification that the estimated payments shall occur for the first 8 months of the year.
- (4) Retains provisions subjecting the final allocation to review or audit of district data.

? **Retains DEFINITIONS as follows:**

- (1) Eliminates definitions relative to the annual calculation of the allocations due systems in an over funded position - the "old" hold harmless.
- (3) Adds specification regarding the calculation of "sales capacity" as it relates to a determination of local wealth that if a school system sales tax goes into effect during the fiscal year, the tax rate is to be prorated to report an annual rate applicable for the total revenue generated.
- (4) Revises definition of the state and local per pupil amount to reflect its increase to \$3188.

? **Eliminates provisions relative to a one-time adjustment based on a reduction in the employers' retirement contribution rate.**

SCHOOL EMPLOYEES

Certification - Teachers

In 1999, the legislature enacted legislation that provided an annual salary adjustment of not less than \$5,000 for certain public school teachers employed by a school board who provide instruction to students and

have certificates issued by the National Board for Professional Teaching Standards (NBPTS).

Senate Bill 114 by Senator Theunissen (Act 312) extends the date of eligibility for which eligible persons to receive the salary adjustment must have been awarded the initial certificate from July 1, 2002 to 2007, and additionally allows school administrators who obtained such national certification while teaching to also receive the \$5,000 salary adjustment as provided for teachers. **Representative Crane** also sponsored **House Bill 192 (Act 42)** which similarly extends the date of eligibility for which eligible persons to receive the salary adjustment must have been awarded the initial certificate from July 1, 2002 to 2007.

House Bill 221 by Representative Crane (Act 45) extends, from one year to three years, the length of time for which out-of-state teachers (who meet all other requirements for teacher certification except the exam requirement) are granted nonrenewable provisional teaching certificates and exempts certain eligible out-of-state teachers from such exam requirement.

Certification - School Counselors

A similar measure providing a boost for nationally board-certified school counselors, **Senate Bill 247 by Senator Schedler (Act 682)** provides an annual salary supplement for certain public school counselors having the National Certified School Counselor (NCSC) credential issued by the National Board for Certified Counselors (NBCC). Effective for the 2001-2002 school year and thereafter, a full-time school counselor with a valid Louisiana counseling credential approved and issued by BESE and the NCSC credential can receive from the school board an annual amount of \$5,000. The salary supplement for each eligible counselor will continue for a period not to exceed the term of the national certificate which is not to exceed five years, and will continue in effect without interruption as long as the school counselor provides to the school board documentation of renewal by the national board. Subject to funding, the amount of the salary adjustment provided by a school board to a school counselor will be reimbursed to the school board annually by the state Dept. of Education out of funds

appropriated for such purpose. To receive the salary supplement (the same as nationally board certified teachers), a school counselor must have been awarded the initial credential issued by the NBCC prior to July 1, 2007.

Criminal History Checks

Currently, the Bureau of Criminal Identification, upon written request, must supply a written report to an employer to ascertain whether a school employee has been convicted of, or pled nolo contendere to, any one or more of certain crimes and the date or dates on which they occurred. **Senate Bill 117 by Senator Theunissen (Act 314)** requires the bureau, upon receiving the request for a criminal review, to make available to the Dept. of Education and to the governing authority of any elementary and secondary school a record of all criminal convictions for 10 years prior to the date of the request. The recipient of such information will be required to maintain confidentiality in accordance with federal and state law.

Extended Sick Leave

House Bill 1680 by Representative Pratt (Act 278) provides that the required physician statement may be presented and the extended sick leave may be requested subsequent to a teacher's return to service. In such a case, the extended leave shall be granted for all days for which such leave is requested and the required documentation is presented, provided that such occurs within three days after the teacher returns to service.

School Superintendents

House Bill 304 and 305 by Representative Flavin (deferred, Senate committee), the constitutional amendment and statutory companion, would have required the local school boards to fix the qualifications and prescribe the duties of the local superintendent of schools.

House Bill 510 by Representative Crane (not heard, Senate committee), a constitutional amendment, would have provided for local school boards, rather than BESE, to fix the qualifications and prescribe

the duties of the local superintendent and would have required the superintendent to reside within the boundaries of the employing school system. The measure provided for the hiring, firing, and duties of a local school system superintendent, including the responsibilities of the superintendent for all administrative affairs and day-to-day activities of the system. The bill also provided for the participation by a school board and its members in such administrative affairs through the superintendent in accordance with written board policies and procedure. Provided that in all administrative matters concerning school or system business (other than formal inquiries and investigations) the board and its members would communicate and work directly with the superintendent and his immediate staff, and communicate and work directly with system officers and employees subject to the direction and supervision of the superintendent solely through the superintendent.

Staff Development Days

House Bill 1447 by Representative Crow (Act 905) deletes the provisions in law that requires teachers (contingent upon salary increases) to work an additional three days for staff development when funds are appropriated for certain teacher salary increases.

Teacher Shortage

House Bill 651 by Representative Futrell (Act 125) creates the Critical Teacher Shortage Incentive Program to provide certain newly certified teachers \$3000 per year for the first four consecutive years of teaching if they agree to teach in one of the following critical shortage areas: mathematics, biology, chemistry, physics, or special education. BESE must annually report to the Senate and House education committees on program implementation. Implementation of the program is subject to the appropriation of funds for such purpose.

Tenure

Several bills were introduced that dealt with issues regarding the removal of tenure for teachers and certain school employees. Two bills also retained tenure for employees but would have added an additional cause of action to terminate a permanent employee (failure to achieve the standard required for satisfactory performance on an evaluation). Although the bills failed, **Senator Dardenne** felt the issue warranted a study and sponsored **Senate Concurrent Resolution 121 (adopted)**, which will include the input and participation of teachers, union representatives and others. This Resolution requests the joint education committee to study the merits of and need for tenure as a benefit for public elementary and secondary classroom teachers and other public school employees and to make recommendations to the legislature.

HIGHER EDUCATION

Faculty Salaries

Appropriations: \$38.7 million for faculty pay increases at postsecondary institutions from gaming revenues dedicated to the SELF Fund. (See also *Legislative Action on Fiscal Year 2002 Budget*, prepared by the Senate Fiscal Staff for further information.)

LSU-Alexandria

Senate Bill 853 by Senator McPherson (Act 402) recognizes and defines LSU-A as an institution offering baccalaureate degrees within the LSU System and under the supervision and management of the LSU Board of Supervisors. While the Board of Regents may provide for conversion, implementation will be the responsibility of the Board of Supervisors and Regents accordingly.

Learning Centers

Senate Bill 829 by Senator Theunissen (Act 1132) authorizes the Board of Regents to establish a

learning center in Jefferson Parish as a consortium of existing institutions of postsecondary education to provide comprehensive offerings of college courses and programs. The Act also authorizes the Board of Regents to establish a learning center in Rapides Parish as a consortium of existing institutions of postsecondary education to ensure course and program offerings in La. Economic Development District 6, and also authorizes the establishment of learning centers in La. Economic Development Districts 3 and 5 in those service delivery areas of the state which have no public community college and are not adequately provided with postsecondary education services. The Board of Regents will provide for the operation, management, and supervision of such centers and ensure the cost effective delivery of courses and programs through the use of existing institutions and their offerings. No learning center will be established in any economic development district where a community college exists unless approved by adoption of a legislative concurrent resolution. The Board of Regents will provide for the establishment of advisory councils to advise and make recommendations on program needs, etc., the membership of which must include substantial representation from the local communities where such centers located.

START

Senate Bill 690 by Senator Hoyt (Act 332) makes several changes in the Student Tuition Assistance and Revenue Trust Program (START). The federal tax code imposes no limitations on account ownership in a qualified state tuition program such as START. The measure will consolidate START accounts into a single classification, referred to as an education savings account and creates classes of ownership, each with specific eligibility requirements and benefits. By expanding ownership, the opportunity is created for more students to be named as beneficiaries of the program. The bill also adds an incentive providing that if an account owner deposits less than the maximum \$2400 per year, then the difference between the actual deposits and \$2400 will roll over

to subsequent years and be exempt from inclusion to the taxable income for purposes of state income tax in addition to the \$2400 in the year actually deposited.

When START was originally enacted, the tax treatment of funds in a qualified state tuition program was not yet determined. It was known that grants for tuition could receive special tax treatment as scholarships under Section 117 of the Internal Revenue Code. For these reasons, tuition assistance grants were limited by definition to be used for the payment of tuition. However, Section 529 ultimately allowed funds in qualified state tuition programs to be used for qualified higher education expenses. Restricting tuition assistance grants to the payment of tuition serves no useful purpose and is a disincentive to investors. In addition, this restriction imposes an unnecessary administrative burden on the institutions that receive START disbursements because they must certify that the tuition assistance grants are being applied to tuition, an action that may adversely impact the family's ability to qualify for federal tax credits (HOPE and Lifetime Learning Credits). The new law changes the terminology "tuition assistance grants" to "earnings enhancements" and allows such to be used for any qualified higher education expense.

These changes also authorize the authority to offer accounts with investment options structure according to risk. Provides, however, that account options that include investment risk will not be eligible for state-funded earnings enhancements nor will investments (principal and earnings) be guaranteed.

Tuition

Senate Bill 620 by Senator Hainkel (deferred, House committee) would have expanded the authority of the La. Tuition Trust Authority to include governing the La. Higher Education Loan Program. The Higher Education Loan Program would have been established as a program under which the trust authority would have been empowered to initiate and service student loans and to enter into obligations and issue debt in

furtherance of making and servicing student loans.

House Bill 2007 by Representative Alario (Act 1117) authorizes each public postsecondary education management board to establish tuition and mandatory attendance fee amounts applicable to students who are La. residents and, effective January 1, 2002, to adjust such amounts not to exceed a rate of increase of three percent annually, subject to the approval of the Joint Legislative Committee on the Budget. Provides that this authority shall terminate July 1, 2005. The Act also authorizes, subject to the approval of the Joint Legislative Budget Committee, the Southern University management board to impose a program fee not to exceed \$200 per student per semester for students at Southern University at Shreveport pursuing the clinical portion of their studies in allied health programs.

House Bill 2059 by Representative Daniel (Act 955) permits public postsecondary education managements boards to establish (within present law guidelines and limitations) proportional tuition and mandatory attendance fee amounts applicable to part-time students and to students enrolled for summer and intersession terms.

Service of Process

House Bill 1848 by Representative Salter (Act 934) requires each postsecondary education management board to designate the physical location of its domicile and an agent for service of process and to file all such information with the secretary of state.

TUITION OPPORTUNITY PROGRAM FOR STUDENTS

Appropriation: \$102.2 million to continue full funding for TOPS

Legislation that Passed

Legislative Instrument	Subject and Summary	Effective Date of Act	Effective Date or Class
Act 351 (HB 367)	National Guard Tuition Exemption – Provides that tuition for this exemption is the same as tuition defined for TOPS by rule and deletes requirement to be a registered voter.	6-13-01	2001-2002 Award Year
Act 1042 (HB 389)	TOPS – Prohibits restrictions on early high school graduates from using award earned.	6-28-01	2001-2002 Award Year
Act 1053 (HB 818)	TOPS – Extends waivers for core curriculum courses to the 2002-2003 school year.	6-28-01	2000-2001 School Year
Act 1192 (HB 1800)	TOPS – Students may qualify for a TOPS award who graduate from a high school outside the United States <u>or</u> completes the twelfth grade level of a home study program outside the United States approved by BESE.	6-29-01	2000-2001 School Year
Act 1221 (HB 1945)	TOPS – Provides the Performance Award to students who meet the requirements for a TOPS-Opportunity Award and have a composite score of 24 or higher on the ACT, and have a minimum cumulative GPA of 3.00 on a 4.00 scale, and have completed at least ten honors curriculum courses grades on a 5.00 scale. Includes a sunset provision, in that no student would be able to receive an award under this qualifying criteria beginning with the 2003-2004 school year or thereafter. However, any student granted an award under this criteria may continue as long as they continued to meet the continuation requirements for the award.	7-2-01	2001-2002 Award Year

Legislative Instrument	Subject and Summary	Effective Date of Act	Effective Date or Class
Act 1202 (HB 2012)	TOPS – Requires Regents to develop a TOPS information reporting system and requires BESE to insure that students and parents (or the person responsible for the student’s attendance) are informed about the availability of TOPS.	6-29-01	All colleges must comply by 2002-2003 award year. BESE – 2001-2002 school year
Act 1144 (SB 438)	TOPS-Tech <ul style="list-style-type: none"> · Lowers the minimum ACT composite score from 19 to 17 for TOPS-Tech · Includes a new core curriculum containing two options for students. <ul style="list-style-type: none"> Option 1: requires 17 core units Option 2: requires 19 core units (career options) · Allows a student to attend any eligible college and university (adds LAICU schools) and provides formula for determining tuition. 	6-29-01	ACT req - 2000-2001 school year Current Tech core, TOPS core or new core – through 2001-2002 school year TOPS core or new core only 2002-2003 school year
SCR 116	TOPS-Tech – Establishes a study group to review the TOPS-Tech Award and make recommendations on redesigning the eligibility requirements to make them more appropriate.		As requested
SCR 131	TOPS – Requests the joint education committee to study all aspects of the TOPS program and to offer recommendations.		As requested

Sources: Sherri Breaux and the Louisiana Office of Student Financial Assistance

Selected TOPS legislation that failed to pass

Presently, under the TOPS program, to be eligible for an Opportunity, Performance, or Honors award, a student must successfully complete at least 16½ units of high school course work which constitutes a core

curriculum. **House Bill 1534 by Representative Crane (tabled, Senate floor)** would have maintained this requirement through the 2004-2005 school year. Beginning with the 2005-2006 school year and thereafter, however, a student would have been required to successfully complete at least 18½ units rather than 16½ units, with the additional two units to be selected from among the math, science, and social science courses as listed in the present core curriculum or from advance placement courses, or from college or university courses taken for postsecondary education credit.

Senate Bill 437 by Senator Dardenne (failed, Senate floor) began as a bill to raise the minimum ACT requirement to 21 beginning with next year's graduates. Present law states the minimum for the base Opportunity Award to be the rounded average but never to fall below 19. The bill was amended in Senate committee to instead require that the minimum ACT would be the rounded state average but never to fall below 20 (which is the current required ACT score).

House Bill 391 by Representative Townsend (deferred, Senate committee) would have permitted graduates from nonpublic high school not approved by BESE to be eligible for TOPS awards, beginning with the 1998-1999 graduating class. The bill would have required BESE to establish additional requirements for such schools in order for graduates (beginning with the 2003-2004 class) to be eligible for TOPS, rather than requiring such schools to comply with BESE requirements for students at such schools to receive the benefits of certain state funds. Additionally, the bill included provisions similar to Representative Scalise's House Bill 389 that would have prohibited any student from being restricted or otherwise delayed relative to the date the award may be used due to the student having graduated from high school in less than four years.

House Bill 410 by Representative Karen Carter (pending, Senate floor) would have provided TOPS award eligibility for certain students receiving a GED issued by the La. Dept. of Education on or after July

1, 2000, who score three points higher on the ACT than that required for La. public and approved high school students, provided certain conditions are met:

- ? The student prior to the student's 21st birthday has obtained a high school equivalency diploma issued by the La. Dept. of Education on or after July 1, 2000.
- ? Depending on the respective TOPS award, the ACT score is at least three points higher than that otherwise required for the award.
- ? Must be eligible to enroll in college as a first-time freshman.
- ? Must meet citizenship and residency requirements.
- ? Must meet requirements for TOPS awards generally relative to having no criminal record except for misdemeanor traffic violations. If the student has been in the U.S. Armed Forces and has separated from service, the student must have received an honorable discharge or general discharge under honorable conditions.

The Senate Education Committee added an amendment that restricted applicants to require that any applicant must have attended high school for at least two school years, then left the high school because of an exceptional circumstance as defined by the TOPS administering agency, and finally provide certification from the principal or headmaster that the student was in good standing (at least 2.5 GPA) at the time the student last attended the school. The amendment further removes provisions for eligibility of a Performance or Honors Award. The student would only be eligible for a TOPS-Tech or Opportunity Award.

Another amendment to House Bill 410 was adopted on the Senate floor that incorporated Representative Carter's House Bill 815 which would have established a new award, the "Associate Award", as part of the TOPS program. Beginning with the 2001-2002 graduating class, a student may be eligible for this award, provided the student meets all initial and continuing requirements for an Opportunity Award, except that the student must have an ACT (or equivalent SAT score) of at least 18 but lower than that required for the Opportunity Award (currently 20). See summary of House Bill 815 by Representative K. Carter below.

House Bill 815 by Representative Karen Carter (deferred, Senate Finance) would have established a new award, "Associate Award", as part of the TOPS program. Beginning with the 2001-2002 graduating class, a student would have been eligible for this award, provided the student met all initial and continuing requirements for an Opportunity Award, except that the student must have had an ACT (or equivalent SAT score) of at least 18 but lower than that required for the Opportunity Award (currently 20). The student receiving this award would have been limited to pursuing an academic undergraduate degree at the associate degree level or a skill or occupational training program, including a vocational or technical education certificate or diploma program, or a nonacademic undergraduate degree. Eligibility would have been limited to four semesters or an equivalent period of time at an institution operating on other than a semester system. Since some areas of the state have limited community college opportunities, some four-year institutions offer associate degree programs. To ensure that every student in the state would have the same opportunity to 2-year associate degree programs, the Senate placed an amendment on the bill that removed the prohibition of using the award at a baccalaureate degree granting institution. The same restrictions would have still applied. The student would have been limited to pursuing a 2-year program at such institutions at the weighted average of amounts paid for students at postsecondary institutions which offer associate degrees but do not offer baccalaureate degrees.

House Bill 1901 by Representative McDonald (pending, conference) would have made a number of changes relative to initial and continuing eligibility of students for TOPS and for program administration as follows (as amended in the Senate):

- ? Would have made changes in the term "legal guardian" to "court-ordered custodian" throughout TOPS law.
- ? With regard to residency requirements for military personnel, would have changed references from "home of record" to "state of legal residence".

- ? Would have reduced the time period in which a student can regain program eligibility when lost due to academic performance in college from 2 years to one year, effective for the 2001-2002 award year.
- ? Provided for receipt of an applicant's qualifying ACT test score which is first obtained on an authorized testing date after the national April ACT testing date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation.
- ? Would have required students who have successfully completed at the 12th grade level a home study program approved by BESE to meet the same citizenship and residency requirements provided in present law for other students.
- ? Provided for U.S. citizenship of the student and allowed a student to be eligible if a permanent resident, as defined by the U.S. Immigration and Naturalization Service.
- ? Provided that no initial Performance or Honors award would be made to any out-of-state student or home study student after the 2001-2002 award; such students would have only been eligible for TOPS-Tech and Opportunity awards.
- ? Allowed certain graduates of out-of-state high schools to be eligible if such schools are accredited by a regional accrediting organization recognized by the U.S. Dept. of Education and meets BESE standards for approval of nonpublic schools. This was an equity issue. SACS-accredited high schools are allowed to qualify in current law.

An amendment was also adopted on the Senate floor that would allow in-state students to qualify for TOPS-Tech and Opportunity awards under the same criteria as is now allowed for out-of-state and home study students, as an alternate qualifying criteria. That is, if a student did not meet the GPA or core curriculum requirements, then the student would be allowed to qualify for an award if he scored three points higher on the ACT as is required by law for public school students for these two awards. This amendment did not make any changes to any present qualifying requirements for students. It would have added another qualifying criteria and allowed an in-state student who did not meet the core or GPA requirements to qualify for an award in the same manner as those out-of-state and home study students if they scored higher on the ACT. The measure died in conference.

House Bill 253 by Representative Crowe (deferred, Senate committee) would have extended the deadline from May 15, 2000 to July 15, 2001 for nonpublic high schools to be approved by BESE and to have applied for eligibility to receive certain state funds in order for graduates to be eligible for a TOPS award.

A number of TOPS bills were heard in both houses and were unsuccessful, such as converting TOPS to a loan forgiveness program, instating a household income cap for eligibility, expanding eligibility to include graduates of unapproved nonpublic schools, increasing the ACT requirement to a minimum score of 21, and making those alternative qualifications that are now available to home-study and out-of-state students available to in-state students.

ENVIRONMENT

Contact: Carla Roberts (225) 342-9541

Senate Bill 965 by Senator Hoyt (Act 446) is the first legislation in Louisiana to address the depletion of the states aquifers. Senate Bill 965 establishes the Ground Water Management Commission in the Office of the Governor to address the states water use. In the short term (until July 1, 2003), the commission will designate "critical ground water areas" in the state. The Ground Water Management Commission will, in conjunction with the Ground Water Advisory Task Force, to develop a long term plan for the implementation of a comprehensive water management system. The long term comprehensive water management system will address both the ground and the surface water resources of the state.

House Concurrent Resolution 187 by Representative Strain (adopted), is an urgent request for the Ground Water Management Commission to work with Arkansas, Texas and Mississippi to develop a comprehensive aquifer policy. HCR 187 recognizes that many of the aquifers lie under both Louisiana and a neighboring state.

House Bill 2046 by Representative Damico (Act 1121), provides for the Motor Fuels Underground Storage Tank Fund to close and clean-up abandoned underground motor fuels storage tanks that are leaking. Leaking underground storage tanks pose a serious risk for groundwater contamination. **H o u s e Concurrent Resolution 203 by Representative Damico**, et al and co-authored by Senators Cain, Dean, Fontenot, Gautreaux and Malone, urges the House and Senate Environmental Committees to study the litter laws of the state. There was concern that the litter which is pervasive in the state is not being addressed adequately and effectively by state laws. The Committees plan to conduct committee hearings in locations around the state to receive public input as to the problems associated with littering in those geographic locations as well as possible solutions.

House Bill 1029 by Representative Damico (Act 252), sets up a 90 day time limit for the attorney general to approve any BEPs (Beneficial Environmental Projects) which the Department of Environmental Quality has recommended. BEPs are projects which LDEQ deems are appropriate projects for a violator to perform in lieu of paying a fine to the state. Some past BEPs which LDEQ has approved include directing Penzoil Quaker State to pay \$42,095 to enhance training at the City Shreveport Fire Academy and to update the computers and software at the Caddo Parish Local Office of Emergency Preparedness and also a project in which Dupont Dowe gave \$13,000 to the Baton Rouge Zoo to aid in funding of pollution prevention.

House Bill 1897 by Representative Perkins (Act 1197), changes the time period regarding publication of LDEQ notices of violations, compliance orders and penalty assessments. These notices are normally published in booklet form and mailed to all persons who request the publication. In the past, LDEQ was required to publish such information every 12 months. The bill would require the publication to be done every three months. In an effort to support more effective public access to information, Senator Fontenot offered a Senate Floor Amendment, which was later adopted by the House, to require all BEPs to be published on LDEQ's Internet website.

FINANCE

Contact: Tom Wade (225) 342-9169

APPROPRIATIONS

House Bill 1 by Representative LeBlanc (Act 12) provides for the ordinary expenses of state government. Noteworthy among the act's funding provisions are the increased funding for teacher and college professor pay raises and for economic development, as well as additional spending to generate extra federal health-care dollars. An in-depth analysis of this act will be provided by the fiscal staff.

BUDGETARY CONTROLS

House Bill 485 by Representative Toomy (Act 1234) is a proposed constitutional amendment mandating full funding of state salary supplements to certain full-time local law enforcement and fire protection officers beginning July 1, 2003. The legislation requires the governor to include full funding of state salary supplements for full-time local law enforcement and fire protection officers in his annual budget estimate. Beginning July 1, 2003, it requires the legislature to appropriate monies sufficient to provide for payment of such salary supplements. It also specifies that eligible local officers shall include classes of officers eligible under the law as of July 1, 2003, and provides that full funding shall be the amount needed to meet legal requirements by law as such requirements are in effect on July 1, 2001. A reduction of the appropriation by the governor requires the written consent of 2/3 of the elected members of each house of the legislature. The proposed amendment will be submitted to the voters at the statewide election to be held on November 5, 2002.

House Bill 1665 by Representative LeBlanc (Act 1092) sets up a mechanism for the elimination of a projected deficit. Current law does not define either a deficit or a projected deficit. This legislation defines "deficit" to be the excess for any fiscal year of actual expenditures over actual monies received for any fund at the close of the fiscal year. It defines "projected deficit" as the excess of appropriations and non-appropriated

requirements over the official forecast for any fund during any fiscal year. In addition, current law defines "nonrecurring revenues" to include undesignated general fund balances. This legislation deletes this statutory definition and leaves the determination to the Revenue Estimating Conference.

Current law requires the division of administration to present a budget status report to the Joint Legislative Committee on the Budget. This legislation adds that the first budget status report submitted after October 15 of any fiscal year shall reflect the balance for any fund for the previous fiscal year. It also requires that at the first meeting of the Joint Legislative Committee after the publication of the consolidated annual financial report the budget status report shall be adjusted to reflect the unreserved, undesignated balance in any fund at the end of the previous fiscal year. The division of administration is required to adjust such balance for items that do not affect the budgetary soundness of the state. It also requires that the budget status report shall describe any issues which affect the long-term budgetary soundness of the state. This description shall be prepared by the division of administration and sent to the legislative fiscal office at least one week before the meeting. The legislative fiscal office may submit written comments and recommendations to the committee.

Current law grants the governor the power to adjust the budget during the interim upon receiving notification that a deficit exists. This legislation grants the same powers to the governor upon receiving notice that a projected deficit exists. Current law requires that if adjustments have not been made to eliminate a deficit in a fund within thirty days of the determination of such deficit, the governor shall call a special session of the legislature for that purpose. This legislation requires the same action by the governor within the same time frame if it has been determined that a projected deficit exists in a fund.

FUNDS

Senate Bill 632 by Senator Dardenne (Act 1145) authorizes the sale of up to sixty percent of the

funds to be received from the state's legal settlement with tobacco companies. Commonly referred to as the "tobacco securitization bill", the legislation is designed to provide some security for the state against the possibility of the tobacco companies being unable to pay the agreed upon settlement amount at some point in the future.

The legislation creates the Tobacco Settlement Financing Corporation as a special purpose, public corporate entity, which is an independent instrumentality of the state, and domiciled in East Baton Rouge Parish. The corporation's purpose is to carry out the financing, purchasing, owning and managing of the tobacco assets. The corporation is subject to the Code of Governmental Ethics, Open Meetings Law, Public Records Law and the Bond Validation Procedure Laws.

The legislation provides authority for the State Bond Commission subject to Joint Budget Committee approval to sell and convey, from time to time, a portion of the state allocation to the corporation, not to exceed sixty percent thereof. It provides for \$50 million to be deposited into the Louisiana Fund with the remaining proceeds being deposited into the Millennium Trust if a sale is made during Fiscal Year 2001-2002 and any proceeds from a sale made after that fiscal year to be deposited into the Millennium Trust.

Senate Bill 757 by Senator Schedler (Act 776) creates the Medicaid School-Based Administrative Claiming Trust Fund as a special fund in the state treasury. It provides that the monies in the fund shall be used for administrative claiming which is reimbursable under the federal Medicaid program. It authorizes the Department of Health and Hospitals to retain up to fifteen percent of the gross federal financial participation generated from the certification of funds by participating public entities for the department's reasonable costs incurred in preparing the application and for implementing and monitoring the program. It further provides that any money remaining in the fund in a fiscal year after appropriations are made shall remain in the fund. In addition, it provides that local school boards enter into hold harmless agreements with the state in the event the federal government disallows

administrative expenditures.

HOSPITALS

Senate Bill 739 by Senator Schedler (Act 1024) provides that for four years, beginning July 1, 2001, the appropriation for the health care services division within the Louisiana State University Health Sciences Center shall only indicate the amount of state general fund dollars appropriated to the division and shall exclude state general funds for Medicaid and Medicaid-Uncompensated Care. It provides that all other funds generated by hospital operations shall be deposited directly into the Health Care Services Fund without appropriation. This creates a business enterprise financing structure for the division, subject to several approval steps involving the Joint Legislative Committee on the Budget and the Senate and House Committees on Health and Welfare.

PUBLIC BUILDINGS

Senate Bill 18 by Senator Hollis (Act 1215) authorizes the Louisiana Stadium and Exposition District to sell the right to designate and use an alternative name to refer to the Louisiana Superdome. It requires that any agreement which transfers this right shall provide that all royalty and other payments in consideration for such right be paid to the entity which holds the National Football League franchise and leases the stadium facility. It provides that if such entity terminates its lease of the stadium facility or notifies the NFL or the Louisiana Stadium and Exposition District of its intention to relocate the franchise or if it enters into any agreement with another entity to move the franchise from New Orleans, that subsequent monies payable from the royalties and other payments under the agreement shall revert to the Louisiana Stadium and Exposition District. It also requires that any naming agreement be approved by the Joint Legislative Committee on the Budget.

GAMING

Contact: Camille Sebastien (225) 342-2087

Senate Bill 224 by Senator Smith (pending Senate Committee) would have provided for a constitutional amendment to prohibit the legislature from authorizing, by legislative act, any referendum elections to be held on a proposition to allow or expand gaming, gambling, or wagering on and after January 1, 2003.

Senate Bill 225 by Senator Smith (withdrawn) would have provided for a constitutional amendment to prohibit any referendum elections on a proposition to allow or expand gaming, gambling, or wagering authorized by legislative act in Grant Parish, on or after January 1, 2003. **Senate Bill 466 by Senator Smith (withdrawn)** would have prohibited any further referendum elections to be held on a proposition to allow or expand gaming, gambling, or wagering authorized by legislative act, on and after January 1, 2003. This bill would have only taken effect and become operative if and when the proposed constitutional amendment contained in Senate Bill 224 would have been adopted at the election to be held on November 5, 2002.

Senate Bill 341 by Senator Dupre (pending House Committee) would have prohibited elected officials from having a pecuniary interest in excess of ten percent in any business or organization which holds a riverboat license, or in any holding, intermediary, or subsidiary company of any such business or organization, or in any business or organization which holds a casino-operating contract or in any holding, intermediary, or subsidiary company of any such business or organization. The Board of Ethics would have administered and enforced the provisions of the law and the procedures and penalties provided for in the Code of Governmental Ethics would have applied to the administration and enforcement of the provisions of the **House Bill 207 by Representative Green (Act 216)** creates the crime of cheating and swindling and repeals the crimes of cheating contained in the Louisiana Gaming Control Law. The act provides that it shall be unlawful for any person who by trick or sleight of hand performance, or by fraud or fraudulent scheme, cards, dice, or device, for himself

or another, wins or attempts to win money or property or a combination thereof, or reduces a losing wager or attempts to reduce a losing wager, increases a winning wager or attempts to increase a winning wager in connection with gaming operations.

- (a) When the value of such money or property or combination thereof or reduced or increased wager amounts to a value of \$500 or more, the offender shall be imprisoned, with or without hard labor, for not more than 10 years, or may be fined not more than \$3,000, or both.
- (b) When the value of such money or property or combination thereof or reduced or increased wager amounts to a value of three hundred dollars or more, but less than a value of \$500, the offender shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than \$2,000, or both.
- (c) When the value of such money or property or combination thereof or reduced or increased wager amounts to less than a value of \$300, the offender shall be imprisoned for not more than six months, or may be fined not more than \$500, or both. If the offender in such cases has been convicted of cheating and swindling two or more times previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than \$2,000, or both.

House Bill 882 by Representative Faucheux (pending House Committee) would have created the crime of gambling at a licensed gaming facility whereby the offender would have been fined not more than \$500 hundred dollars or imprisoned for not more than six months, or both. **House Bill 1444 by Representative Faucheux (pending House Committee)** would have created the crime of resident gambling at a licensed gaming facility, whereby the offender would have been subject to a penalty of imprisonment of not more than six months or a fine of not more than \$500, or both.

House Bill 2066 by Representative Landrieu (Act 1124) requires that the Louisiana Gaming Control Board adopt rules for the development of a uniform compulsive and problem gambling identification and treatment program. It further provides that within 120 days from the adoption of the proposed rules each holder of a license for conducting gaming on a riverboat or slot machines at live racing facilities and the casino gaming operator shall submit for approval to the board a comprehensive program that provides policies and procedures that must

address certain areas of concern and are designed to achieve certain goals as provided for in the bill. The act also provides that the board shall provide by rule for the establishment of a list of persons self-excluded from gaming activities at all gaming establishments, as well as rules to provide for the establishment of a list of persons who are to be excluded from any room, premises, or designated gaming area of any establishment where gaming is conducted pursuant to a license or contract issued pursuant to present law. The act also provides that the board must define standards for exclusion and the board will have authority to place persons on the excluded list. By amendment added on the Senate floor, the Louisiana Gaming Control Board shall also adopt rules in accordance with the Administrative Procedure Act to provide for a uniform compulsive and problem gambling program for persons licensed pursuant to the provisions of the Video Draw Poker Devices Control Law.

CHARITABLE GAMING

House Bill 1364 by Representative J.D. Smith (pending Senate Committee) would have allowed the governing authority of a parish or municipality, except the city or parish where the official gaming establishment is located, to authorize licensed charitable organizations to also offer "pick-8" bingo games with mega jackpots under certain conditions in addition to currently authorized bingo games.

RIVERBOATS

Senate Bill 1082 by Senator Gautreaux (pending Senate Committee) would have provided that when a license to conduct gaming operations on a riverboat is relinquished, the Louisiana Gaming Control Board would have to provide public notice that the license is available in the state for a period of 90 days. By amendment offered in committee by Senator Gautreaux, the bill in its amended form would have deleted the 15th license limitation, thereby providing for an unlimited number of riverboats and provided the Louisiana Gaming Control Board with authority to promulgate rules and regulations necessary to provide criteria and minimum

standards which the board would consider in deciding whether to issue a license to conduct gaming activities on a riverboat in the state. The impetus behind this amendment was to take the value away from the license because of the limitation on the number of licenses to protect the citizens of Louisiana from the corruption associated with the value of the licenses in the state.

House Bill 1904 by Representative Dartez (Act 942) provides that the Intracoastal Waterway shall be deemed to include all of Bayou Boeuf within, or which forms the border of, St. Mary Parish, including that portion of Bayou Boeuf in St. Mary Parish historically described by the National Oceanic and Atmospheric Administration as the Morgan City to Port Allen Landside Route of the Intracoastal Waterway. The act also provides that the law is meant to be a clarification of prior law and shall not be construed to add a designated waterway to those already designated in the law nor to require the holding of an election or elections.

House Bill 1986 by Representative Welch (referred House Committee) would have authorized the Gaming Control Board to issue an additional seven licenses to conduct gaming activities on a riverboat for a total of twenty-two licenses. The bill would have further provided that the board shall issue the additional riverboat licenses so that at least one riverboat would be located in each of the seven congressional districts in the state.

SLOT MACHINES AT RACETRACKS

House Bill 532 by Representative Ansardi (pending Senate Committee) would have authorized slot machine gaming at an eligible live horse racing facility in Orleans Parish provided that an application is approved by the Louisiana Gaming Control Board, only after the electorate in the parish of Orleans has approved the conduct of slot machine gaming at such facility at an election. The bill would have further provided that the application for the eligible facility in Orleans may be approved by the board only after the Amended and

Renegotiated Casino Operating Contract entered into pursuant to R.S. 27:201 et seq. on October 30, 1998, as amended, effective October 19, 1999, March 8, 2001, and March 29, 2001, has been further amended to provide that the inclusion, licensing, or operation of an eligible facility in Orleans Parish shall not constitute an Exclusivity Violation or prohibited land-based gaming as defined in such contract, as amended. The license issued by the board to conduct slot machine gaming at the eligible facility in Orleans Parish would be subject to the following conditions:

- (1) On or after July 1, 2003, the eligible facility will be authorized to have a maximum of 300 slot machines.
- (2) On or after July 1, 2004, the eligible facility will be authorized to have a maximum of 400 slot machines.
- (3) On or after July 1, 2005, the eligible facility will be authorized to have a maximum of 500 slot machines.
- (4) If after July 1, 2005, the gross gaming revenues of the casino gaming operator exceed \$350 million for any preceding 12-month period, the eligible facility will be authorized to have a maximum of 700 machines.

In the event the casino operating contract is terminated the eligible facility will not be subject to a limitation on the number of slot machines to be placed in the designated gaming area, which equals an area of 15,000 square feet.

After complying with certain mandates, each fiscal year, the state treasurer shall credit 5% of the state portion of taxable net slot machine proceeds collected from each licensed eligible facility to the Orleans Parish Excellence Fund, which is in addition to the Bossier Educational Excellence Fund, the St. Landry Parish Excellence Fund, and the Calcasieu Parish Excellence Fund.

House Bill 1457 by Representative Morrell (pending House calendar) would have authorized slot machine gaming at an eligible live horse racing facility in Livingston Parish. By amendments adopted in House committee, no license would be issued for slot machine gaming at an eligible facility in Livingston Parish until the

facility for the conducting of a live racing meeting is constructed and a schedule of live race meetings has been established. An amendment adopted in House committee also added the provision that the remaining monies after compliance with the law regarding disposition of fees would be deposited in and credited to the Support Education in Louisiana First Fund.

House Bill 1701 by Representative Murray (pending House Committee) would have amended the definition of "eligible facility" in the Pari-mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act to repeal the authority of the parishes of St. Landry and Calcasieu to conduct slot machine gaming at their facilities. The bill would have also repealed the authorization for the special taxing districts in these parishes.

Video Draw Poker Gaming Devices

Senate Bill 74 by Senator Cain (pending House Committee) would have prohibited the placement of automatic teller machines in the gaming area of truck stop casinos. While the bill would still have allowed automatic teller machines in any restaurant, convenience store, or other business located on the premises of a qualified truck stop, they would not have been allowed to be placed in an area separated for adult patronage.

House Bill 761 by Representative Martiny (pending Senate final) would have provided for an increase in the amount of currency accepted in video draw poker devices. The bill would have provided that video draw poker devices may have a mechanism that accepts bills with a denomination not to exceed \$20 rather than the present amount of \$10.

House Bill 855 by Representative Martin (failed conference) would have provided that the holder of a video draw poker license shall not be required to undergo additional suitability determinations for the issuance of an additional license. By amendments adopted in Senate committee, the provision for conducting suitability determinations on the licensee for activity which occurred subsequent to the last suitability determination on that

licensee was deleted. The bill as amended by Senate committee still would have provided that the law will not be construed to prohibit the division from conducting a suitability determination on the licensee.

House Bill 1635 by Representative Hopkins (call Senate final) would have authorized a video poker gaming device licensee to advertise or participate in any promotion which is contingent upon the play of a video poker gaming device. Senate committee amendments would have deleted the provision that a licensee may advertise or participate in any promotion which is contingent upon the play of a video poker gaming device and add the provision which would authorize a video poker gaming device licensee to provide a customer with a promotional item not to exceed \$50, which is contingent upon the play of a video poker gaming device.

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HEALTH & HOSPITALS

Contact: Donnie Broussard (225) 342-6162

HEALTH CARE PROGRAMS/SERVICES

Louisiana Birth Defects Surveillance System. **Senate Bill 229 by Senator Schedler (Act 194)** establishes the Louisiana Birth Defects Surveillance System to collect, analyze, and disseminate data regarding birth defects in the state which are diagnosed before a child becomes three years old, to provide information to families of these children regarding services available in their community, and to develop appropriate prevention programs.

LaCHIP/Medicaid Families. The Department of Health and Welfare will apply to the Health Care Financing Administration, Department of Health and Human Services, for authority to implement waivers or demonstration projects to expand Medicaid eligibility for parents of LaCHIP and Medicaid eligible children in families whose income does not exceed 100% of the federal poverty level and for pregnant women in families whose income is greater than 185% of federal poverty level but does not exceed 200% of the federal poverty level in accordance with **Senate Bill 781 by Senator Hines (Act 1027)**. Children in families whose income does not exceed 200% of poverty are currently covered under LaCHIP. Coverage of these parents in the LaCHIP families should not only increase care and provide medical services for these parents, but should also provide better care for the children.

Exceptional Persons. **Senate Bill 855 by Senator Schedler (Act 1147)** creates the Disability Services Support System Planning Group and a consumer task force for the planning group for program planning and developing of proposals for improvement of programs for persons needing long-term care support. The Developmental Disabilities Trust Fund would have been created by **House Bill 1738 by Representative Landrieu (pending Senate final passage)** which would be used to support the development and continued

improvement of a system of community-based service delivery for the benefit of citizens with developmental disabilities. The funds would consist of proceeds from the sale of property belonging to the Department of Health and Hospitals or the office of citizens with developmental disabilities. Hospice. If approved by the Health Care Financing Administration, the Department of Health and Hospitals will develop and implement a pilot project for hospice care under the Medicaid State Plan for terminally ill persons who are eligible for Medicaid under **Senate Bill 1043 by Senator Schedler (Act 756)**. This act allows a Medicaid recipient to live at home until death and should prove to be less costly than hospitalization or placement in a nursing home. If the pilot project proves to be cost effective, DHH may attempt to provide hospice care services statewide in the future.

Medicaid Drug Program. **Senate Bill 502 by Senate Schedler (Act 395) and House Bill 1596 by Representative Landrieu (pending House final passage)** authorizes the Department of Health and Welfare to establish a drug formulary that uses a prior approval process, or any other process, in order to reduce the cost of drugs in the Medicaid program. Requires that the prior approval process meet the following criteria:

- (1) Provide for phone or other telephonic response within no more than 24 hours of a request.
- (2) Provide for dispensing a minimum of a 72 hour supply of covered drugs in an emergency situation.
- (3) Comply with federal law, rule, and regulation.
- (4) Involve medical personnel.
- (5) Assure that a qualified, licensed physician be available for consultation during the process.

DHH may execute contractual arrangements to perform the prior approval function with a medical school, pharmacy school, the fiscal intermediary for the Medicaid program or such other qualified contractor as deemed appropriate. This act further creates the Medicaid Pharmaceutical and Therapeutics Committee, appointed by the governor and subject to Senate confirmation, to advise the secretary on policy recommendations related to the

prudent administration of the Medicaid drug program. Requires the committee to develop and maintaining a pharmacopoeia in conjunction with a prior approval process for the drug formulary. Implementation of the pharmacopoeia is dependent on initial approval by the Senate and House committees on health and welfare but limits legislative committee actions to approving or rejecting the pharmacopoeia and does not include adding or deleting specific drugs to the pharmacopoeia. Requires that the pharmacopoeia comply with all federal and state laws, rules, and regulations and that the secretary of DHH assure that actions by the committee are in compliance. Further authorizes the committee to recommend additions or deletions to the pharmacopoeia. DHH may not be able to restrict or require prior approval of maintenance medications for Medicaid recipients who were prescribed such drugs prior to the effective date of this act; however this prohibition only applies for six months after such effective date.

Mammogram. **Senate Bill 319 by Senate Bajoie (pending House final passage) and House Bill 2000 by Representative Clarkson (Act 1116)** allows a mammogram to be performed without a prescription by a licensed practitioner authorized to perform mammograms in this state. The practitioner must notify the patient, and the physician of the patient's choice, of the results of the mammogram, including information indicating whether the need for any follow-up is necessary. If enacted, this bill will encourage more women to get a mammogram, provide better access and early detection of breast cancer, and save lives.

HEALTH CARE FACILITIES

Hospitals. Because in Louisiana, there are two and one half times more hospitals than the national average, **Senate Bill 492** was introduced by **Senator Schedler (deferred in Senate Health and Welfare Committee)** and **House Bill 593 by Representative R. Alexander (pending House Health and Welfare Committee)** to require the Department of Health and Hospitals to implement a moratorium, effective immediately,

on the licensure of new hospitals and to prohibit the department from approving any new hospitals for licensure until August 1, 2003. It is believed by many in the health care industry that private citizens are paying a great deal of the health care tab through taxes, contributions, and community support, and over thirty-eight percent of all hospitals in Louisiana are operating in the red. While these bills were each deferred in committees, **Senate Concurrent Resolution 128 by Senator Schedler (adopted)** creates a task force to study the current health care facility licensure process and criteria for licensure to determine if the public is being well served within the context of available financial resources. **House Bill 704 by Representative Karen Carter (Act 832)** decreases the time period within which a hospital must hold abandoned property and provides for the disposal of any soiling clothing which is considered abandoned property. Property left in the possession of the hospital is considered abandoned if, after notification, (1) the owner, or his next of kin fails to claim the property within thirty days if he was discharged from or died in the hospital, or (2) if the owner is anyone else other than a person who was discharged from the hospital or died therein fails to claim the property within one hundred and twenty days. **House Bill 652 by Representative Hudson (Act 977)** expands the current prohibition against smoking in enclosed areas of a hospital by providing for penalties for those who smoke in areas not designated as smoking areas. Anyone who violates such prohibition may be issued a summons by a law enforcement officer and fined a maximum of \$500 or a maximum of 10 days of community services, or both.

Methadone Clinics. **Senate Bill 722 by Senator Hainkel (Act 774)** also declares a moratorium on the certification of any additional methadone maintenance clinics from July 1, 2001 until July 1, 2003, except for new programs which were approved prior to July 1, 2001. During the moratorium the Department of Health and Hospitals will conduct a study to determine the need for and the criteria for certification of methadone maintenance clinics which must be completed not later than January 15, 2003.

Long-Term Care Facilities, Mental Health Clinics, Mental Health Centers, Home Health Agencies. In 1997, a moratorium was placed on the licensure and enrollment in the Medicaid program of long-term care hospitals and beds, mental health clinics and mental health centers, and home health agencies until July 1, 2001 due to an over abundance of such facilities. Under **House Bill 1008 by Representative R. Alexander (Act 863)** the moratoriums are extended to July 1, 2006, with the exception of home health agencies in which the moratorium is extended until July 1, 2003.

Nursing Homes. Nursing homes will now be reimbursed under a case mix reimbursement methodology to insure that they are paid a reasonable and adequate rate for services rendered to Medicaid recipients no later than January 1, 2003, and thereafter, in accordance with **Senate Bill 445 by Senator Dardenne (Act 694)**. The current methodology, implemented in 1984, does not take into consideration major changes in federal laws relative to nursing home staffing, provisions of patient care, enforcement and regulatory requirements; changes in Medicare and other health insurance programs that have resulted in patients with more complex medical problems being discharged to nursing home; or incentives for capital improvements.

Ambulatory Surgical Centers. Certain ambulatory surgical centers will now be able to offer stereotactic radiosurgery by use of a GAMMA Knife or similar neurosurgical tool under **Senate Bill 1036 by Senator Bajoie (Act 754)**. This will mean a vast improvement in treatments of certain illnesses, including cancers, and will be less costly to the patient and shorten his recovery period.

Outpatient Abortion Clinics. The Department of Health and Hospitals is authorized to license outpatient abortion clinics under **House Bill 949 by Representative R. Alexander (Act 391)**. Legislation enacted in the past to give the department such authority was ruled unconstitutional, therefore this bill rectifies the language and allows the department to license and inspect these clinics for health and safety purposes.

HEALTH CARE PROVIDERS

As in years passed, numerous bills were introduced affecting health care providers and their scope of practice and this year was no exception.

Physician Assistants. A physician assistant would have been authorized to prescribe and administer certain drugs and medical devices to the extent delegated by his supervising physician under **Senate Bill 25 by Senator Hines (fail House final)**. Such drugs and medical devices were limited to all legend drugs and Schedule III, IV, and V substances which are consistent with and exclusively within the parameters of the practice speciality of the physician assistant's supervising physician.

Advanced Practice Registered Nurses. An advanced practice registered nurse (APRN) may: prescribe medical devices with passage of **Senate Bill 503 by Senator Hines (Act 480)**; administer a digital block or pudendal block if trained to do so according to **Senate Bill 731 by Senator Hines (Act 721)**; refer a patient to an occupational therapist for treatment as provided in **House Bill 919 by Representative Durand (Act 919)**; and give orders to a radiologic technologist pursuant to **House Bill 1776 by Representative Durand (Act 640)**.

Physicians/Osteopaths. **Senate Bill 524 by Senator Schedler (House calendar)** would have recognized equal professional status and privileges of allopathic and osteopathic physicians and deletes specific references to osteopaths in current law. The term "physician" would have meant a person who has an allopathic degree (M.D.) or an osteopathic degree (D.O.) issued by the Board of Medical Examiners.

Dentists. Within a 24-month period following the death or disability of a licensed dentist, a spouse or personal representative of the deceased or disabled dentist may contract with another licensed dentist to manage the deceased or disabled dentist's practice under **Senate Bill 562 by Senator Schedler (Act 199)**. A spouse

will be prohibited from making any clinical decisions but may contract with another licensed dentist to run the practice and treat the patients for up to 24 months to allow time to make a transition. Optometrists.

Senate Bill 361 by Senator Hines (House calendar) would have authorized a licensed optometrist to use or prescribe a substance listed in Schedule III, IV, and V, for a maximum of 48 hours, in diagnosing, preventing, treating, or mitigating abnormal conditions and pathology of the eye and its adnexa when used in treatment of disorders or diseases of the eye and its adnexa if certified to do so by the Louisiana State Board of Optometry Examiners.

Psychologists. A psychologist who has undergone specialized training in clinical psychopharmacology and has passed a national proficiency examination in psychopharmacy approved by the State Board of Examiners of Psychologist would have been authorized to prescribe and distribute certain drugs and other procedures related within the scope of practice of psychology according to rules promulgated by the board under **Senate Bill 312 by Senator Heitmeire (pending Senate Committee on Health and Welfare)**.

Sanitarians. Licensed sanitarians must now complete a maximum of eight annual contract hours of continuing education for the renewal of his license. Failure to fulfill this requirement will cause the license to lapse until the continuing education requirements are meet. The licensure and licensure renewal fees will also increase from \$10 to \$25 under **House Bill 357 by Representative Strain (Act 807)**.

Marriage and Family Therapists. **House Bill 1843 by Representative Dartez (Act 1843)** provides for the licensure of marriage and family therapists by the Louisiana Licensed professional Counselors Board of Examiners based on recommendations of the newly created Marriage and Family Therapy Advisory Committee. The Act defines the practice of marriage and family therapy and provides educational and experience requirements for licensure as a marriage and family therapist.

DISEASE CONTROL AND PREVENTION

Stroke. With Louisiana being located in the "stroke belt" and having 1.3 times greater number of stroke than the rest of the nation, the Louisiana Stroke Treatment Task Force is established by **Senate Concurrent Resolution 20 by Senator Hines (adopted)** to study the feasibility of developing and implementing a comprehensive statewide education program on stroke prevention targeted to high-risk populations and to geographic areas where there is a high incidence of stroke.

MISCELLANEOUS

Oxycontin. **Senate Concurrent Resolution 58 by Senator Thomas (adopted)** directs the Department of Health and Hospitals to study the use, abuse, and other problems related to oxycontin. There is an increasing problem with the use and abuse of this drug which is a highly addictive pain medication which was created to help people with cancer. However, individuals are getting the drug off the street, are becoming very quickly addicted, and are losing their families, careers, and even their lives.

Breast Feeding in Public. A mother's right to breast-feed her baby in any place of public accommodation, resort, or amusement without fear of discrimination is recognized under **House Bill 377 by Representative Iles (Act 576)**. Statistics have shown that babies from birth to one year of age who are breast-fed are much healthier but statistics also reveal a declining percentage of mothers who are now choosing to breast-feed their babies. With affirmation that mothers have a right to breast-feed in public places, it is hoped that more young mothers will be encouraged to do so.

Medical Records. Hospitals and other health care providers may increase their fees for copies of medical records, etc. requested by a patient or his legal representative under **House Bill 743 by Representative Ansardi (Act 839)**. The handling cost for copies of a patient's medical records obtained from a hospital will

increase from \$10 to \$15 and for records obtained from other health care provider will increase from \$5 to \$7.50. Copies of X-rays, microfilm, and electronic and imaging media will increase to \$20 if obtained by a hospital and \$10 if obtained from another health care provider .

Medical Treatment for Minors. Current law allows a minor who is or believes himself to be afflicted with an illness or disease to consent to the provision of certain medical treatment. **House Bill 1201 by Representative Welch (Act 884)** expands current law by further authorized a minor to consent to medical care or the administration of drugs to alleviate or reduce pain, discomfort, or distress during labor and childbirth.

Abortion. **House Bill 1909 by Representative Donelon (Act 1110)** addressed the regulation of later term abortion, including the presence of a second attending physician and requirement of an ultrasound; added certain drugs to the methods by which abortion may be performed.

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INSURANCE

Contact: Tammy Smith (225) 342-9127

THE LOUISIANA INSURANCE RATING COMMISSION

Senate Bill 1107 by Senate President Hainkel (vetoed) would have transferred rate making authority from the Insurance Rating Commission to the property and casualty division of the Department of Insurance. Under this bill, the insurance company would have made all rate requests to the property and casualty division and the department would have 30 days to act on the rate request. If the department fails to act, the rate change would have been effective automatically. If a company's request is denied, it could still appeal to the Insurance Rating Commission. The Insurance Rating Committee would make a ruling. If a company is dissatisfied with the ruling of the rating commission, it could then appeal to the 19th Judicial District Court.

AUTOMOBILE INSURANCE

Senate Bill by Senator Cleo Fields (pending Senate Committee) proposed to prohibit the use of a driver's credit rating to set automobile insurance rates. The committee heard testimony from the Department of Insurance and the insurance industry indicating the use of credit ratings as a valuable rate determinate classification. The bill was debated for two consecutive meetings and an attempt was made for a compromise proposal; however, the bill was defeated in committee.

Senate Bill 75 by Senator Wilson Fields (pending Senate Committee) proposed to require insurers to include in the notification of cancellation to the office of motor vehicles, the reasons for and circumstances surrounding the cancellation of an insurance policy. The committee also heard this legislation at two separate hearings in hopes of a compromise proposal. Unfortunately, none could be reached and the bill failed in committee.

HOMEOWNERS' INSURANCE

Senate Bill 14 by Senator Irons (pending Senate Committee) would have required homeowners' policies to provide coverage for loss or damage to commercial or residential property caused by drought. Further, these policies would provide also coverage for any diminution in value of commercial or residential property which is attributable to drought. This legislation failed to pass the Senate Insurance Committee and was later converted to **Senate Concurrent Resolution 140 (adopted)** to memorialize Congress to study the feasibility of insurance coverage for loss, damage or diminution in the value of property caused by drought.

HEALTH INSURANCE

Senate Bill 314 by Senator Heitmeier (Act 1013) requires health insurance policies and contracts to provide coverage foods and low protein food products for the treatment of inherited metabolic disease.

Senate Bill 211 by Irons (pending House committee) would have required insurers that subsidize the cost of prescription drugs to provide coverage of birth control pills. The provisions of this bill would have excluded coverage for IUDs or any type of abortion drug. The bill further provided an exception for religious organizations that provided insurance coverage to its employees.

Senate Bill 865 by Senator Thomas (Act 1133) proposes that the Department of Insurance review all state laws that mandate coverage by health insurance companies to determine their cost-effectiveness. Each statutory mandate shall undergo an actuarial cost analysis to be conducted by the Department of Insurance. The proposed law would have exempted federally mandated benefits or options. It includes mandates that require insurance companies to pay for mammograms, prostate cancer screening, treatment for cleft lip palates and mental illness.

Senate Bill 927 by Cravins (pending Senate Committee) would have prohibited patients from assigning benefits under their health insurance plan to hospitals. The current law mandates that insurers accept the patient's assignment of benefits to institutional providers, namely hospitals, and that hospitals have a right to collect payment directly from the insurer. Senator Cravins' bill would have ended this practice. **House Bill 1474 by Representative Clarkson (pending Senate Committee)** would have expanded the Cravins bill to require health insurers and health maintenance organizations (HMOs) to recognize assignment of benefits to a health care provider, including a health care facility, by an insured, beneficiary, subscriber, or enrollees. The bill further would have provided that if a health care provider has accepted an assignment of health insurance benefits from any insured, beneficiary, subscriber, or enrollees and the insurer disputes a charge on the basis that the charge exceeds the usual and customary charge for the service rendered, then the health care provider is prohibited from billing the balance of the charge to the insured, beneficiary, subscriber, or enrollees and requires the provider and the insurer to resolve the dispute taking into account all circumstances surrounding the provision of the service.

LICENSING OF INSURANCE PRODUCERS

House Bill 1557 by Representative Bowler (Act 158) puts Louisiana in compliance with federal regulations of insurance producer licensing preventing federal preemption and authorization by the National Association of Registered Agents and Brokers to serve as the national licensing authority that would devise uniform licensing requirements for the states. The federal act, commonly referred to as the Gramm-Leach-Bliley Act, required uniformity and reciprocity in insurance producer licensing.

WORKERS' COMPENSATION INSURANCE

Senate Bill 1105 by Senator Schedler (Act 1150) regulates professional employer organizations (PEO) and similar organizations that provide products and services that include insurance coverage. The proposed

legislation provides that if a PEO service agreement provides for the procurement and maintenance of state or federal workers' compensation insurance, the PEO engaged in the business of soliciting, selling, or negotiating policies of insurance shall be properly licensed and issue multiple coordinating policies.

JUDICIAL AFFAIRS

Contact: Camille Sebastien (225) 342-2087

During the session, there were several bills introduced which would have imposed additional court costs on certain people in certain areas of the state to fund various measures, and because of the observation that the costs were excessive and financially burdensome to the people of this state, most of them were recommitted to the Senate Finance Committee, where they are still pending today.

Senate Bill 279 by Senator Dardenne (Act 84) authorizes an administrative law judge to conduct adjudications or conferences, if the parties do not object, and to administer oaths in such proceedings by electronic means.

Senate Bill 564 by Senator Romero (Act 341) authorizes a federal court judge with an official duty station within the territorial limits of Louisiana to perform marriage ceremonies within his jurisdictional boundaries in the state.

Senate Bill 1027 by Senator Chaisson (Act 750) authorizes the clerk of each court of appeal to expend the balance of the premiums paid on the fidelity bonds required under R.S. 13:351 to defray the expense of employment benefits for court employees and judges, which is in addition to the expenses for the purchase of stationery, books, furniture, equipment, and other expenses in the operation of the court and the clerk's office already authorized by present law.

Senate Concurrent Resolution 148 by Senator Dardenne (adopted) establishes and provides for a special commission to study court costs imposed in civil, traffic, and criminal matters in the state, parish, and city courts of the state and the uses of such court costs and other fees. This resolution arises out of the fact that twenty-nine bills were introduced during the 2001 Regular Session proposing the imposition of additional court costs in civil, traffic, and criminal matters to fund various projects, entities and agencies.

House Concurrent Resolution 14 by Representative Clarkson (adopted) requests the Louisiana Judicial College to institute mandatory continuing legal education for judges on laws regarding child support guidelines and family law matters.

House Concurrent Resolution 30 by Representative Toomy (adopted) authorizes and directs the state treasurer to pay the approved 5% increase in the judicial salaries of the supreme court, courts of appeal, district courts, and the state-paid salaries of city court and parish court judges. Considering the study undertaken by the Judicial Compensation Commission, pursuant to Act No. 1077 of the Regular Session of 1995, and the recommendations of Loren C. Scott, Professor Emeritus and former holder of the Freeport McMoRan Chair of Economics, Louisiana State University, which included consideration of the studies of, and information provided by, the National Center for State Courts and the American Judicature Society, and in recognition of the eroding effect of inflation upon the purchasing power of judicial salaries in the state of Louisiana, the compensation paid to judges in other southern states, and the compensation paid to other comparable positions in Louisiana and other southern states, that the actual salary of supreme court, court of appeal, and district court judges shall be increased by five percent each year on July 1, 2001, on July 1, 2002, and July 1, 2003 and further that the state-paid salary of city court and parish court judges shall be increased by five percent each year on July 1, 2001, on July 1, 2002, and on July 1, 2003.

House Bill 102 by Representative Murray (call Senate final) would have provided for an additional annual salary of 5% of the annual salary paid to a district court judge for each chief judge of a judicial district court including the chief judges of the civil and criminal district courts for the parish of Orleans. Additionally, provides that each chief judge of a judicial district court, including the chief judge of the civil district court for the parish of Orleans and the chief judge of the criminal district court for the parish of Orleans, shall be entitled to receive an

additional amount of 5% of the annual salary paid to a district court judge in annual compensation, payable monthly upon the warrant of the chief judge. Prohibits the expenditure of additional funds of the state or local political subdivision for the additional salary, benefits, or any other ancillary expenses associated with the additional salary.

Several house bills and senate bills were introduced that provided for additional judgeships in certain district courts throughout the state. They are as follows: **House Bill 22 by Representative JR Smith (Act 25)** for the 30th JDC, **House Bill 215 by Representative Pitre (Act 217)** for the 17th JDC, **House Bill 663 by Representative Hill (Act 240)** for the 33rd JDC, **House Bill 1112 by Representative Schneider (call Senate final) and Senate Bill 822 by Senator Hainkel (Act 779)** for the 22nd JDC, **Senate Bill 26 by Senator B Jones (Act 190)** for the 3rd JDC, **Senate Bill 561 by C Fields (Act 198)** for the 19th JDC, **Senate Bill 968 by Senator Gautreaux (pending Senate Committee)** for the 32nd JDC.

House Bill 274 by Representative Martiny (Act 225) provides that the "Judicial Compensation Commission" will consist of 15 rather than 10 members and authorizes the legislature to enact legislation increasing judicial salaries whether in an odd-numbered or even-numbered year, or at any extraordinary session of the legislature, if included within the objects of that session. The act further clarifies the effective date of the salaries recommended in the report submitted by the commission.

House Bill 1108 by Representative McMains (Act 428) provides that the salaries of the commissioners of the 19th Judicial District Court and the 15th Judicial District Court, who are paid by the state, in addition to any supplements or emoluments provided by law, shall be 90% of the state-funded portion of the salary paid to a district court judge per annum, payable in the same manner and from the same sources as the salary and benefits of a district court judge.

House Bill 1825 by Representative Lancaster (Act 1103) includes retired justices of the peace who were unsuccessful in being reelected to the retired justices of the peace who are allowed by present law to perform marriage ceremonies.

House Bill 1927 by Representative Nevers (Act 283) exempts additional mayors' courts in municipalities having a population of less than 5,000 from the requirement of collecting court costs to fund indigent defender programs.

LABOR

Contact: Tabitha Irvin-Gray (225) 342-0645

SEXUAL ORIENTATION DISCRIMINATION

Employment. In an effort to treat all persons equal, **Senate Bill 862 by Senator Cravins (withdrawn)** set out to do just that. This bill would have made it unlawful for an employer, including any governmental entity or governmental agency to discriminate in employment on the basis of actual or perceived sexual orientation. This bill did not apply to any private business having 25 or fewer full-time employees, the United States government or its military including the National Guard, the provision of employee benefits to an individual for the benefit of such individual's partner, or religious organization, except with respect to employment and employment opportunities that relate to any employment position that pertains solely to a religious organization's for-profit activities. The burden of proof for a civil action is by clear and convincing evidence and that the statistical data regarding the sexual orientation of a defendant's employees shall not be admissible.

PUBLIC EMPLOYEES

House Concurrent Resolution 64 by Representative Holden (adopted), requests the House and Senate of the labor and industrial relations committees to meet as joint committees to study the wages and benefits of Louisiana workers because most citizens in Louisiana are making wages below the poverty level. The resolution also urges the study to develop a strategy to bring wages up to levels that will support and sustain Louisiana families.

EMPLOYMENT/UNIONS

House Bill 1740 by Representative Scalise (Act 1190) make reference to a labor peace agreement. It was explained that a labor peace agreement is a contract which dictates terms by which an employer would have to work out with the labor organization. This bill provides that any agreement, understanding, or practice

in any form between any employer and labor organization made in violation of certain provisions of law is not enforceable. It also provides that governmental bodies are prohibited from passing any law, ordinance, or regulation or imposing any condition on employers' or employees' freedom to act under federal labor laws.

LEGISLATIVE AFFAIRS

Contact: Yolanda Dixon (225) 342-6184

LEGISLATION

Senate Bill 5 by Senator Campbell (pending House final) would have limited the number of bills a legislator may introduce in a regular of session to 15. The proposed constitutional amendment would make an exception to the fifteen bill limit for local or special bills and bills which repeal law. Bills which repeal law may not be amended to amend or enact law. Bills requested by executive branch departments are limited to ten per department and will not count against a legislator's limit.

Senate Bill 691 by Senator Cravins (pending Senate committee) and House Bill 1826 by Representative Pitre (pending House final) would have provided for a general constitutional convention to be convened on January 6, 2003, composed of 105 elected delegates (one elected from each representative district) and 28 legislative delegates (21 representatives elected by the House members residing in each respective congressional district [three from each]; and seven senators elected by the members of the Senate residing in each respective congressional district in effect at the time of election) charged with preparing a final draft for a proposed new constitution no later than March 15, 2003. Provides for the Joint Legislative Committee on a New Constitution, composed of the legislative members to meet and prepare a draft of the new constitution, alternative proposals, a budget for the convention, and draft proposed rules of the convention by June 30, 2002.

LEGISLATIVE SESSIONS

Senate Bill 4 by Senator Hines (Act 1231) proposes the following series of changes to the system of regular sessions effective Jan. 1, 2004, if approved by the electorate:

- 1) Changes the regular annual legislative session that is fiscal in nature session from even-numbered years to odd-numbered years and changes the regular annual legislative session that is general in nature session from odd-numbered years to even-numbered years.

- 2) Extends the length of a fiscal-type session from not more than 30 legislative days in a 45 calendar day period to not more than 45 legislative days in a 60 calendar day period.
- 3) Clarifies the language that restricts the subject matter to be considered in fiscal type sessions and adds to the permitted subjects: decreasing or repealing a fee, no more than five matters intended to have the effect of law per legislator without regard to the subject limitation provided the five bills are timely prefiled; and any matter intended to have the effect of law without regard to the subject limitation provided its object is to enact a local or special law.
- 4) Changes prefile deadline from 5 pm on Friday before the first day of a regular session to 5 pm on the 10th calendar day prior to the first day of session.
- 5) Changes the absolute introduction deadline in a regular annual legislative session that is general in nature session from midnight of the 30th calendar day to 6pm on the 23rd calendar day. Changes the absolute introduction deadline in a regular annual legislative session that is fiscal in nature session from midnight of the 10th calendar day to 6pm on the 10th calendar day.
- 6) Changes the prohibition on third reading and final passage during a general-type session from after midnight of the 55th legislative day to after 6pm of the 57th legislative day or the 82nd calendar day, whichever occurs first. Changes the prohibition on third reading and final passage during a fiscal-type session from after midnight of the 27th legislative day to after 6 pm of the 42nd legislative day or the 57th calendar day, whichever occurs first.

LEGISLATORS

Senate Bill 10 by Senator Hainkel (pending Senate Committee) would have repealed provisions which limited the terms of members of the Senate and the House of Representatives to two and one-half terms in three consecutive terms, for a term of office which began on or after January, 1996.

Financial Disclosure for legislators was the subject of **Senate Bill 635 by Senator Hainkel (Act 328)**.

Senate Bill 635 would have allowed any legislator who receives Medicaid funds to indicate on his financial disclosure report that information relative to ownership, financial interest and income may be accessed through the files on record with the Department of Health and Hospitals. The expense allowance of legislators was the subject of **Senate Bill 1064 by Senator Hainkel (pending Senate conference)**. The bill would have created a supplemental allowance of \$8,400 per year for members of the Senate as follows:

1. Payment of rent for office space, utilities and other expenses related to the holding or conduct of his office.
2. Purchase or lease payments for furniture or equipment.
3. Stationery and supplies.
4. Postage.
5. Photography.
6. Printing
7. Office telephone services (in excess of the amount currently allowed by policy).
8. Member travel within his senatorial district in furtherance of the holding or conduct of his office.

The bill would have required an itemized statement and invoices or supporting receipts prior to payment, and authorizes members to carry over \$3,000 of unused allowance to the next fiscal year. The total reimbursable amount in any fiscal year is limited to no more than \$11,400. The bill further would have specified that no allowance be available to members of the legislature, except as provided by law.

LOBBYING

Senate Bill 697 by Senator Bill Jones (pending House committee) would have prohibited lobbyists from lobbying on a contingency fee basis and prohibits any state employee from lobbying on behalf of any professional association which is related to his official capacity or duties.

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LOCAL GOVERNMENT & SPECIAL DISTRICTS

Contact: Ann Brown (225) 342-0333

EXPROPRIATION

By Governing Authorities: Many municipalities and parishes found that growth within their boundaries resulted in a need to quickly expropriate property to facilitate the improvement of public infrastructures such as drainage, flood protection, highways, roads, streets, sewerage projects, and utilities. Present law provides for expropriation after a jury trial determines the value of the property. Once the final judgement has been rendered and the amount deposited in the registry of the court then the governing authority would be entitled to the property. Proposed legislation authorizes a quicker form of expropriation. "Expropriation by a declaration of taking" requires the following steps: (1) a 15 days notice must be given to the property owner before filing a petition for expropriation; (2) a petition must be filed which includes an itemized statement of the full extent of the owner's loss; (3) the court is required to issue an order directing the municipality or parish to deposit the amount of the estimate in the registry of the court; (4) title to the property will vests in the municipality or parish upon final court order; and (5) the property owner may apply for a trial to determine the measure of compensation to which he is entitled by filing an answer within one year from the date of notice of expropriation.

Bills introduced authorizing expropriation by a declaration of taking were: **Senate Bill 249 by Senator Dupre (Act 470)** provides such authority to the Terrebonne Parish Consolidated Government; **Senate Bill 251 by Senator Dupre (Act 471)** provides such authority to the Consolidated Terrebonne Parish Waterworks District No. 1; **House Bill 67 by Representative Pitre (call House final)** would have provided such authority to waterworks districts; **House Bill 69 by Representative Pitre (Act 210)** provides such authority to the Lafouche Parish Water District No. 1; **House Bill 237 by Representative Faucheux (House committee)** would have provided such authority to municipal and parish governing authorities; **House Bill 349 by**

Representative McMains (Act 228) provides such authority to the parish of East Baton Rouge and the city of Baton Rouge; and **House Bill 902 by Representative McCallum (Act 853)** provides such authority to the town of Bernice. A similar bill, **House Bill 311 by Representative Pitre (House committee)** would have provided port commissions and port authorities with the authority to expropriate by a declaration of taking.

PUBLIC BUILDING

Superdome: The city of New Orleans considered selling the right to name the Louisiana Superdome which is governed by the Louisiana Stadium and Exposition District.

As such, several bills were proposed to achieve this goal. **Senate Bill 18 by Senators Hollis and Bajoie (Act 1215)** requires any agreement on naming the stadium by a National Football League franchise be approved by the Joint Legislative Committee on the Budget; **Senate Bill 38 by Senator Cain (Senate committee)** would have provided for the selling right to be extended to a private company; **Senate Bill 612 by Senator Bajoie (Senate committee)** would have provided for the selling right to be extended to one who is a major lease holder of the dome and who uses it for all of its' regular and post-season home games; **Senate Bill 786 by Senator Dardenne (Senate committee)** would have provided for the selling rights to be extended to a private entity. **House Bill 243 by Representative Scalise (Act 1219)** provides also for the sale of the naming rights to Zephyr Field for approval by the Joint Legislative Committee on the Budget for the selling of the naming right to any seller.

New Orleans Arena: **Senate Bill 614 by Senator Bajoie (Senate committee)** would have provided that the selling right to name the New Orleans Arena be extended to one who is a major lease holder of the dome and who uses it for all of its' regular and post-season home games.

LOCAL OFFICIALS

Police Chief: Several local governing authorities wanted to change the method of selection used for their local police chief. The majority wanted to change the position from an elective to an appointive position.

Bills introduced to change the police chief positions were for the following areas: **Senate Bill 39** by **Senator McPherson (Act 311)** changes the town of Woodworth to an appointive position; **Senate Bill 267** by **Senator B. Jones (Act 82)** changes the municipality of Grambling to an appointive position; **Senate Bill 942** by **Senator C. Fields (withdrawn)** would have provided for an elected chief of police in municipalities with a population size between 210,000 and 250,000; **House Bill 897** by **Representative Hammett (House committee)** would have provided for an appointive position in the town of Lake Providence; **House Bill 903** by **Representative R. Alexander (Act 854)** provides for an appointive position in the village of Sikes; **House Bill 904** by **Representative Hopkins (Act 984)** provides for an appointive position in the town of Greenwood; **House Bill 1153** by **Representative Bruce (Act 376)** provides for an appointive position in the village of Longstreet; **Senate Bill 325** by **Senator Hainkel (Act 5)** and **House Bill 118** by **Representative Powell (Act 793)** removes the chief of police for the city of Hammond from the classified service category.

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NATURAL RESOURCES

Contact: Ben Bradford (225) 342-0331

LOUISIANA SCENIC RIVERS ACT

Senate Bill 98 by Senator Hainkel (failed House final) would have provided that any violation of the Louisiana Scenic Rivers Act, or any rule adopted pursuant thereto, shall constitute a class four violation. The bill would have provided that the provisions of the Louisiana Scenic Rivers Act shall not be applicable to those tracts of land located along the banks of the Tchefuncte River between LA Hwy 22 to Lake Pontchartrain which possess a commercial zoning classification, or to those tracts of land located along the banks of such sections of the Tchefuncte River and situated between and in the same ownership as tracts of land which possess a commercial zoning classification granted by the appropriate local government zoning authority.

DEPARTMENT OF NATURAL RESOURCES

Senate Bill 999 by Senator Hines (pending Senate Natural Resources Committee) would have transferred all functions, duties and powers of the Department of Wildlife and Fisheries to the Department of Natural Resources and abolished the positions of secretary, undersecretary and deputy secretary of Department of Wildlife and Fisheries, and created the office of wildlife and the office of fisheries within the Department of Natural Resources.

House Bill 338 by Representative Daniel (Act 963) provides that in addition to those oil, gas, or mineral leases and rights of the lessors and lessees which remain in effect on lands that have changed ownership due to accretion, dereliction or other action of a navigable stream, bay or lake, such leases and rights shall also remain in effect on lands that have changed ownership as a result of erosion, subsidence, or other action of the sea or arm of the sea.

House Bill 1696 by Representative Pierre (Act 919) provides that the State Land Office, within the

division of administration, shall have the responsibility to administer, control, and lease public lands and waters where authorized, and organizes the State Land Office into an administrative section, land and water bottom management section, historical records section, and titles and survey section. The bill authorizes the office to conduct meetings, public hearings, appoint advisory committees, accept gifts, donations, bequests, and promulgate rules and regulations to assist in the performance of the office's duties. The bill also authorizes the office to issue classes of permits to construct, create, alter, improve, extend, or maintain any wharf, pier, dock, landfill, structure, or other encroachment on state water bottoms, places the responsibility of administering reclamation with the State Land Office, and authorizes the office to grant leases on state lands that have been encroached upon.

House Concurrent Resolution by Representative Thompson (adopted) memorializes congress to support federal legislation strengthening safety regulations of natural gas and liquids pipeline operations.

House Concurrent Resolution by Representative Pierre (adopted) memorializes congress to adopt a comprehensive national energy policy.

OFFICE OF CONSERVATION

House Bill 1315 by Representative Damico (Act 182) authorizes the commissioner of conservation to let contracts in response to a declared emergency at an oilfield site, facility, structure of pipeline without adherence to the requirements of the Public Bid Law or Procurement Code, and provides that the commissioner may let contracts to respond to emergencies by an informal bidding process by which bids are solicited from at least three bidders. The commissioner shall report annually on the number and type of emergencies to the Senate and House Committees on Natural Resources.

DEPARTMENT OF WILDLIFE AND FISHERIES

House Bill 575 by Representative Nevers (failed Senate final) would have established a permissive

system for titling vessels and outboard motors, ten horsepower or greater, to be administered by the Department of Wildlife and Fisheries. The department shall issue and handle all vessel and outboard motor title applications and certificates for a fee not to exceed twenty dollars. Persons engaged in the business of selling vessels and outboard motors shall be required to maintain records for every vessel bought, sold or exchanged for three years.

House Bill 1381 by Representative Hutter (pending Senate Natural Resources Committee) could have prohibited entry upon immovable property known to be owned by another whether the property is properly posted or not, with the intent to hunt or fish without the permission of the owner or one authorized to grant consent. The bill would have provided that violations shall be punishable by a fine of between \$100 and \$350 or not more than 60 days imprisonment, or both for a first offense, and that persons who enter immovable property without permission shall hold the owners or his assigns harmless for any offense or quasi offense, including acts of gross negligence.

OFFICE OF THE OIL SPILL COORDINATOR

House Bill 1895 by Representative Pierre (Act 649) establishes the Regional Restoration Planning Program in the office of the oil spill coordinator and provides for funding the program and other activities of the oil spill coordinator. The act also provides that the oil spill coordinator is authorized to employ additional staff to administer, manage, and implement the program, and establishes the Natural Resource Restoration Trust Fund funded by natural resource damage assessments to be used for the coordinator's duties relating to natural resource damage assessments and relating to the implementation of the Regional Restoration Planning Program. The act provides that the funds remaining in the Natural Resource Restoration Trust Fund at the end of the fiscal year and all interest accrued shall remain in the fund. Any federal funds placed in the fund shall be administered in accordance with federal requirements. It provides that administrative and personnel expenses of the office of the

coordinator, including the technical assistance program, not to exceed \$450,000 per fiscal year, and decreases the total use of the fund for operating costs and contracts for response and prevention from \$1,000,000 to \$600,000.

OCCUPATIONS & PROFESSIONS

Contact: Mary Arceneaux (225) 342-9684

ACCOUNTANTS

An "accountant/client" privilege is placed within the Code of Evidence by **House Bill 2047** by **Representative DeWitt (Act 1206)**. The act allows the client to refuse to disclose any confidential communication made to his accountant, and lists numerous exceptions including a communication that is:

- (1) Made in furtherance of a crime or fraud.
- (2) With a now deceased client between parties who are making claims through that client.
- (3) Relevant to a breach of duty by an accountant.
- (4) Relevant to the authenticity or capacity of an accountant who signed as a witness
- (5) Relevant to the common interests of two or more clients.
- (6) Concerning the identity of the client.
- (7) Concerning information required to be disclosed by accounting profession standards.
- (8) Concerning an investigation of the State Board of CPA's.
- (9) Concerning disclosures in ethical investigations or peer review.
- (10) Related to a domestic proceeding.

Actuarial services were added to the definition of professional services subject to the Professional, Personal, Consulting, and Social Services Procurement Law, such that contracts for such services that exceed \$50,000 must be formally bid. **House Bill 1031** by **Representative LeBlanc (Act 869)**.

ARCHITECTS

The membership of the State Board of Architectural Examiners was increased from five to seven (all chosen by the governor), with five members chosen from a list of three nominees from each of the five districts

according to geographic regions defined in the new law, the other two being an experienced architect or government administrator, and a non-architecture-related individual. **House Bill 403 by Representative Flavin (Act 231)**. The five geographical regions are defined as follows:

District 1: Orleans, Plaquemine, and St. Bernard.

District 2: Assumption, Jefferson, Lafourche, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne, and Washington.

District 3: Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, St. Martin, Tangipahoa, West Baton Rouge, and West Feliciana.

District 4: Acadia, Allen, Avoyelles, Beauregard, Calcasieu, Cameron, Evangeline, Grant, Iberia, Jefferson Davis, Lafayette, Natchitoches, Pointe Coupee, Rapides, Sabine, St. Landry, St. Mary, Vermilion, and Vernon.

District 5: Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Red River, Richland, Tensas, Union, Webster, West Carroll, and Winn.

Separate legislation increased the permissible maximum fees that can be assessed for initial licensure and registrations license renewals, and delinquent license renewals. **House Bill 402 by Representative Flavin (Act 55)**.

Type of Fee	<u>Present</u>	<u>New</u>
Initial license (in-state)	\$ 50	\$200
Registration out-of-state	250	500
Renewal (in-state)	50	200
Renewal out-of-state	125	500
Delinquent renewal (in-state)	60	200
Delinquent renewal out-of-state	125	500

ATTORNEYS

House Bill No. 718 by Representative McMains (Act 835) increases the penalties for soliciting employment for legal practitioners and for unlawful payments by attorneys to "runners" and makes both offenses relative felonies. Possible penalties for solicitation of employment for an attorney were increased from \$1,000 to \$5,000 or imprisonment for not more than five years with or without hard labor, or both. Possible penalties for unlawful payments by attorneys were increased to a possible fine of \$7,000 or imprisonment for not more than seven years with or without hard labor, or both.

House Bill 481 by Representative Pinac (Act 968) allows the Louisiana State Licensing Board for Contractors to contract with outside counsel or collection agencies on a contingency-fee basis to enforce certain judgments. Such attorneys or collection agencies must be selected pursuant to a request for proposals in accordance with the Professional, Personal, Consulting, and Social Services Procurement Law and the Louisiana Procurement code, respectively. All funds collected pursuant to a contingency-fee contract shall be deposited directly to the board, and the contingency fee will then be paid by the board to the attorney or collection agency.

The permissible amount an attorney may withhold in workers' compensation litigation was increased from 20% of the first \$10,000 to 20% of the first \$20,000, and 10% of all amounts recovered thereafter (as provided in current law). **Senate Bill 50 by Senator Marionneaux (Act 672).**

CHIROPRACTORS

House Bill 1118 by Representative Faucheux (Act 375) adds to the powers and duties of the Board of Chiropractic Examiners. It provides for removal of non-participating board members, authorizes alternative examination requirements and an increase in license application and renewal fees and fines for suspended and revoked licenses and; allows waiver of renewals while on active duty in the military.

CONTRACTORS

The warranty period for actions against contractors was reduced from 10 to seven years, and the scope of the preemptive period for claims against contractors was extended to include surveyors in connection with residential building contractors, by **House Bill 1129 by Representative Pinac and Senator Michot (Act 179)**.

House Bill 278 by Representative Montgomery (Act 802) allows licensed residential building contractors who have been licensed to engage in residential building construction for 15 consecutive years, to elect to place their licenses in inactive status. Inactive licensees are then prohibited from engaging in residential building contracting. An inactive licensee may request a transfer to active status, if:

- (1) The inactive license has been renewed.
- (2) The inactive license is current at the time of the request.
- (3) The licensee submits proof of required insurance.

House Bill 481 by Representative Pinac (Act 968) allows the Louisiana State Licensing Board for Contractors to contract with outside counsel or collection agencies on a contingency-fee basis to enforce certain judgments. Such attorneys or collection agencies must be selected pursuant to a request for proposals in accordance with the Professional, Personal, Consulting, and Social Services Procurement Law and the Louisiana Procurement code, respectively. All funds collected pursuant to a contingency-fee contract shall be deposited directly to the board, and the contingency fee will then be paid by the board to the attorney or collection agency.

Senate Bill 627 by Senator Michot and Representative Alexander (Act 711) retains existing requirement that any person performing the work of a residential building contractor be licensed by the State Licensing Board of Contractors, except an owner who supervises a project on his personal residence, provided he does not build more than one residence per year. The original Senate bill provided that the one-year period would commence on the date of occupancy of the residence but that change was removed in Senate committee.

The bill retained new exceptions for owners of property who have a change in marital status or a change in employment location in excess of 50 miles from his personal residence.

The Senate requested the State Licensing Board for Contractors to study issuance of electronic building permits by **Senate Resolution 48 by Senator Hoyt**.

COSMETOLOGY

A lengthy bill reauthorized, and rearranged, the Louisiana Board of Cosmetology. **House Bill 1485 by Representative Pinac (Act 907)**. Among many other things, the bill transferred the board to be within the office of the governor, as well as the following:

- defines "cosmetologist" as a person who engages in the one or any combination of the practices of esthetics, hair dressing, and manicuring, for compensation, direct or indirect, including tips. It but provisions that prohibit a cosmetologist from engaging in any hair cutting that is not on females when giving permanent waves and shaping hair.
- provides a refusal mechanism for board members who in the discharge of a duty or responsibility would be required to vote on a matter which would cause violation of the Code of Governmental Ethics
- removes the prohibition against any person connected with the ownership of a school having involvement with the administration of the exam of applicants for certificates of registration.
- makes the position of executive director unclassified with an annual salary not to exceed \$50,000 plus reimbursement for necessary expenses.
- deletes requirement that the board employ an assistant director
- deletes requirement that any board member who fails to attend more than three meetings in any calendar year shall resign.
- carries forward inspection requirements (except the requirement for a chief inspector), but does not require one inspector for each congressional district, nor does it mandate that inspectors be civil service employees.
- adds to facilities exempt from licensure by the Louisiana Board of Barber Examiners. and removes prohibition against a licensed barber performing work in a beauty shop , or a certified cosmetologist from working in a barber shop.

- allows for a change of location but does not require that the location be in the same parish and a 30-day notice be submitted by the school. It further requires the assessment of an additional fee for the initial inspection of a school that has changed locations. Also repeals the separate provisions for licensing schools of esthetics.

- retains previous provisions that the board shall employ an exam team composed of no more than six licensed cosmetologists who are registered voters and who have lived in the state for a year. They must have been actively engaged as a cosmetologist or a teacher for a minimum of five years. The exam team members cannot be connected with the ownership of a licensed school nor be employed by a licensed school while on the team. The team shall receive a per diem of \$100 and other expenses. The bill further allows a board member who has no ownership interest in a school to serve as an exam team member in the absence of any exam team member.

COUNSELORS AND THERAPISTS

House Bill 1843 by Representative Dartez (Act 1195) provides for the licensure of marriage and family therapists by the La. Licensed Professional Counselors Board of Examiners based on recommendations of the newly created Marriage and Family Therapy Advisory Committee. The act defines the practice of marriage and family therapy and provides educational and experience requirements for licensure as a marriage and family therapist.

Licensed professional counselors were authorized to participate in videotaped testimony of children in abuse cases by **Senate Bill 738 by Senator Mount (Act 486)**. Specifically, they may now:

- (1) Supervise the taking of a child's statement in a videotape of a child 14 years old or under for use as competent evidence for or against a defendant charged with rape or physical or sexual abuse of a child.
- (2) Conduct a replacement home study to obtain a certification of adoption if requested to do so by a person qualified to adopt a child.
- (3) Counsel with both an adopted person and his biological parents or siblings prior to being put in contact with each other.
- (4) Be included and considered as a:
 - (a) "Health care provider" under the Louisiana Workers' Compensation Law.
 - (b) "Treatment provider" for purposes of providing mental health services for rehabilitation of sex offenders.
 - (c) "Qualified professional supervisor" under the Substance Abuse Counselor Certificate Act to provide substance abuse counseling.

- (d)"State health care provider" and "health care provider" for medical malpractice coverage.
- (e)"Psychotherapist" under the Code of Evidence for health care provider-patient privilege.

Senate Bill 510 by Senator Schedler (Act 481) exempts certain records and information in the possession of the Louisiana State Board of Examiners of Psychologists from the provisions of the public records released to the public. The exception applies to any records, writings, accounts, recordings, letters, exhibits, data, pictures, drawings, charts, photographs, or copies or memoranda thereof, and any report or reports concerning the fitness of any person to receive or continue to hold a license to practice as a psychologist in the custody or control of the Louisiana State Board of Examiners of Psychologists.

The act also provides that any action taken by the Louisiana State Board of Examiners of Psychologists and any legal grounds upon which such action is based, relative to the fitness of any person to receive or continue to hold a license to practice as a psychologist shall be a public record, and statistical reports which do not reveal the identity of any licensed psychologist may be released to the public .

DENTISTS

Surviving spouses of deceased or disabled dentists have 24 months to legally operate the deceased or disabled dentist's practice to facilitate the sale or other disposal of the practice. **Senate Bill 562 by Senator Schedler (Act 199)**. First, the act exempts the spouse or personal representative of a deceased or disabled dentist from licensure requirements. However, that person may not govern the clinical aspects of a particular service, product, process, or activity as it relates to the care of dentistry; preclude or otherwise restrict a dentist's ability to exercise independent professional judgment over all qualitative and quantitative aspects of the delivery of dental care; allow any person other than a dentist to supervise and control the selection, compensation, terms, conditions, obligations, or privileges of employment or retention of clinical personnel in the dental practice; set or limit a fee charged by the dentist or limit the methods of payment accepted by the dentist or the dentist's practice;

or limit or define the scope of services offered by the dentist. The two year period begins when the dentist is declared legally dead, or when the spouse or personal representative of the disable dentist files with the Louisiana State Board of Dentistry a verified copy of disability status signed by a physician attesting to the dentist's disability.

The board was authorized to apply for a warrant authorizing the seizure of dental health and controlled dangerous substance records relative to a matter under investigation if the board has reasonable cause to believe such records may be created, altered, or destroyed before board review. **House Bill 1583 by Representative Walsworth (Act 624).**

Solo dentists may now practice using the limited liability company business structure. **Senate Bill 418 by Senator Schedler (Act 476).**

Extensive changes affecting most aspects of practice for dentists and dental hygienists were enacted by **Senate Bill 633 by Senator Dardenne.** General areas of law affected apply to ethics, conflicts of interest, examination process, credentials required, regulatory aspects, and fines and penalties. For example, the bill prohibits a full-time member of the faculty or teaching staff of a university or college having a dental or dental hygiene department from being appointed to the Louisiana State Board of Dentistry but allows a part-time member of the faculty or teaching staff to serve on the board as long as the time spent providing instruction at the dental college is no more than eight hours per week. It expands the prohibition against a dentist or dental hygienist who owns stock or operates a dental supply business or commercial laboratory from being appointed to the board, to prohibit such a person from being appointed to the board or serving on the board if he owned stock or operated a dental supply prior to the appointment or while serving on the board.

In addition to the existing powers and duties of the board it may also:

(1)Employ licensed dentists and dental hygienists as examiners to assist the board in conducting clinical licensing exams.

(2)At the discretion of the president, petition the court for a money judgment for any fines and costs payable to a final administrative adjudication judgment or ratified consent decree.

The bill adds some degree of flexibility concerning residency requirements to comply with the North American Free Trade Agreement (NAFTA). It provides that the applicant must present evidence of only taking (rather than already passing) the exam given by the Joint Commission on National Dental Examinations before being accepted for the regular exam given by the board. However, if the applicant fails the exam given by the Joint Commission on National Dental Examinations, he must successfully retake the La. clinical testing exam after providing satisfactory evidence of subsequently passing the exam given by the joint commission.

Where the board seeks judicial relief for a money judgment against any licensed dentist or licensed dental hygienist for fines and costs imposed, the board may recover any and all reasonable attorney's fees. It also allows the board to issue investigative subpoenas, to require the testimony be given under oath and allows such testimony and documentation and evidence to be given to any attorney acting on behalf of the board. Requires a subpoena issued by the board to be served in accordance with the APA and the Code of Civil Procedure. Allows the board to obtain sworn testimony taken before a certified court reporter who may possess any information concerning the matter under investigation.

Dental hygienists must also report anesthesia incidents, as dentists have been required to do in the past. Failure to comply may result in disciplinary action by the board and may be a prerequisite for the issuance or renewal of his license or permit.

Reflecting a pervasive legislative struggle concerning administration of anesthesia by various medical personnel, the bill provides that when the personal permit requirement is waived regarding the use of a medical

doctor or certified registered nurse anesthetist, the dentist is restricted to utilizing the services of a medical doctor or certified registered nurse anesthetist determined by the board to be in compliance with the board's requirements following the initial inspection in relation to the application and equipment of the provider of the anesthesia.

EMBALMERS AND FUNERAL DIRECTORS

Consumer complaints, small business owners feeling victimized by the funeral industry, and other motivations prompted a study of the funeral industry.

Retail sale of caskets by anyone other than licensed funeral directors remains against Louisiana law, despite several federal appellate court decisions to the contrary. The Senate Commerce Committee refused to approve **Senate Bill 142 by Senator McPherson (pending Senate Committee)** which would have authorized the retail sale of caskets and related merchandise without requiring the seller to obtain a funeral director's license.

Although the 1997 Legislature adopted laws to address questions regarding the implementation of funeral service insurance policies continued confusion and a perceived immediate need to address this issue, the Legislature created a Funeral Insurance Advisory Task Force to work with both the Department of Insurance and the Louisiana State Board of Embalmers and Funeral Directors will study and make recommendations regarding funeral services insurance policies. **House Concurrent Resolution 149 by Representative Ansardi**

(adopted). The Funeral Insurance Advisory Task Force shall consist of the following members:

- (1) One member of the House Committee on Insurance appointed by the chairman of the committee.
- (2) One member of the Senate Committee on Insurance appointed by the chairman of the committee.
- (3) One member of the House Committee on Commerce appointed by the chairman of the committee.
- (4) One member of the Senate Committee on Commerce appointed by the chairman of the committee.
- (5) One person representing the Department of Insurance appointed by the commissioner of insurance.
- (6) One person representing the State Board of Embalmers and Funeral Directors appointed by said board.
- (7) Two persons representing the Louisiana Insurers Conference appointed by the chairman of the organization.
- (8) One person representing the Louisiana Funeral Directors Association appointed by the chairman of the association.

- (9) One person representing the Association of Embalmers and Funeral Directors appointed by the chairman of the association.
- (10) One consumer representative appointed by the senior Louisiana officer of the American Association of Retired Persons.

In addition, the Louisiana State Board of Embalmers and Funeral Directors would have had to report all complaints to the commissioner of insurance under **House Bill 1968 by Representative Ansardi (pending Senate Committee)**.

EMERGENCY MEDICAL TECHNICIANS

Emergency medical technicians may now in some instances carry and administer epinephrine under **House Bill 1838 by Representative Schwegmann (Act 385)**. Specifically, when authorized by medical direction, an emergency medical technician-basic or an emergency medical technician-intermediate may administer or aid the patient in the administration of a dose of epinephrine from an auto-injector to treat allergic reaction and anaphylaxis.

NOTARIES

Statewide standards for examination and practice by notaries will be studied by a special task force under the auspices of the secretary of state's office, to report back to the House Committee on Civil Law and Procedure and the Senate Committee on Judiciary A.

House Bill 1662 by Representative Landrieu (Act 632) reduced the number of deputies appointed by the Custodian of Notarial Archives for the Parish of Orleans from two to one, and dedicates any unexpended or unencumbered funds to microfilming or other imaging projects instead of the general fund of the city of New Orleans.

As a prerequisite to the Legislature of Louisiana considering the availability of a statewide commission for non-attorney notaries public, the secretary of state shall develop standards of conduct, including standardized testing and mandatory continuing education, and a system for the monitoring and enforcement of any standards or requirements developed, including necessary fees, to ensure the integrity of the profession and to report his findings to the House Committee on Civil Law and Procedure and the Senate Committee on Judiciary A prior to January 1, 2003.

- (1) A representative of the Louisiana Notary Association.
- (2) A representative of the Notaries' Association of New Orleans.
- (3) A representative of the Professional Association of Civil Law Notaries.
- (4) A representative of the International Union of Latin Notaries.

NURSES

Senate Bill 503 by Senator Hines and Representative Durand (Act (480)) makes registered nurses "authorized prescribers" authorized to prescribe medical devices or appliances.

The membership of the Nursing Supply and Demand Commission was increased by **Senate Bill 109 by Senator Hines (Act 675)**. The act also authorizes the Commission to increase its own number by a majority vote. As introduced, the bill added one member, appointed by the Louisiana State Nurses Association. In Senate Committee and on the floor, the membership was increased to five, and the original Louisiana State Nurses Association member deleted. As the bill left the Senate, the membership of the commission was increased by adding a member appointed by the following organizations:

- (a) The Louisiana Council of Administrators of Nursing Education.
- (b) The Louisiana Alliance of Nursing Organizations.
- (c) The Louisiana Association of Nurse Anesthetists.
- (d) The Louisiana Organization of Nurse Executives.
- (e) The Louisiana Practical Nurses Association.

The Joint Administration Committee on Prescriptive Authority for Advanced Practice Registered Nurses

was increased, its membership changed, and the committee given authority to approve prescriptive authority for advanced practice registered nurses. **Senate Bill 730 by Senator Hines (Act (720))**. Two members were added, and the overall committee composition changed, as follows:

- (1) One advanced practice registered nurse who practices in a rural area appointed by the Louisiana State Board of Nursing from a list of three names submitted by the Louisiana Association of Nurse Practitioners.
- (2) One advanced practice registered nurse who practices in an urban area appointed by the Louisiana State Board of Nursing from a list of three names submitted by the Louisiana Association of Nurse Practitioners.
- (3) One physician who collaborates with an advanced practice registered nurse in a rural area appointed by the Louisiana State Board of Medical Examiners from a list of three names submitted by the Louisiana State Medical Society.
- (4) One physician who collaborates with an advanced practice registered nurse in an urban area appointed by the Louisiana State Board of Medical Examiners from a list of three names submitted by the Louisiana State Medical Society.
- (5) One physician who collaborates with an advanced practice registered nurse appointed by the Louisiana Board of Medical Examiners from a list of three names submitted by the Louisiana State Medical Association.
- (6) Two, rather than three, members who serve on the Louisiana State Board of Medical Examiners.
- (7) Three registered nurses who serve on the Louisiana State Board of Nursing.

Separate legislation, **Senate Bill 731 by Senator Hines (Act 721)**, specifies the authority for advanced practice registered nurses to administer digital block or pudendal block if he has been trained to perform such procedure and if the procedure is listed in the clinical practice guidelines.

House Bill 1776 by Representative Durand (Act 640) authorizes licensed radiologic technologists to take orders from advanced practice registered nurses. Louisiana law already provides that implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a

referral or order from a physician licensed to practice in the state of Louisiana.

Certified advanced practice nurses were added to, and certified registered nurse anesthetists were deleted from the list of professionals whose service contracts must be publicly bid if they are in excess of \$50,000. **House Bill 1031 by Representative LeBlanc (Act 869).**

OCCUPATIONAL THERAPISTS

The legislature included "occupational therapist" in certain definitions of "health care provider". **House Bill No. 152 by Representative Broome (Act 288)**

House Bill 1776 by Representative Durand (Act 640) authorizes licensed radiologic technologists to take orders from advanced practice registered nurses. Louisiana law already provides that implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician licensed to practice in the state of Louisiana.

PHYSICAL THERAPISTS

The Louisiana Board of Physical Therapy Examiners was authorized to adopt a fee schedule for various regulatory functions, up to the maximum fees set in law for applications, reinstatements, annual license renewals, license verifications, duplicate wall licenses, and duplicate wallet licenses. **House Bill 404 by Representative LeBlanc (Act 296).** The maximum fees for such items are:

- (1) Application fee \$400.00
- (2) Reinstatement fee \$200.00
- (3) Annual License Renewal fee \$200.00
- (4) License Verification fee \$ 50.00
- (5) Duplicate Wall License fee \$ 50.00
- (6) Duplicate Wallet License fee \$ 50.00

PHYSICIANS

Contentious legislation would have prohibited the delegation of anesthesia-related duties by a physician to an anesthesia assistant, and revised the definition of "the practice of medicine, surgery, or midwifery" to exclude, under certain conditions, the selection, delivery, or administration of anesthesia. **House Bill 1828 by Representative Townsend (vetoed).**

The legislature conferred equal professional status and privileges upon allopathic and osteopathic physicians, deleted references to a specific medical examination in favor of one to be determined by the board and paved the way for national reciprocity and licensure without passage of a local examination. **House Bill 1513 by Representative R. Alexander (Act 17).** The act includes allopathic and osteopathic practices within the definition of "practice of medicine" and their practitioners within the definition of "physician". The act aims to recognize and provide for acceptance of national medical examinations for licensure and permits to practice medicine by giving the board authority and discretion to develop licensure examinations including but without specifying certain national standards, and repealed the requirement for board maintenance of examinations.

Podiatrists, however, must provide proof that they have completed a post graduation training program accredited by the Council of Podiatric Medical Education of the American Podiatric Medical Association and approved by the board. **Senate Bill 389 by Senator Schedler (Act 195).**

Physicians may be certified as acupuncturists if they have completed 300 credit hours of continuing medical education. The legislation also provides for acupuncturist's assistants to be certified if they pass a national certification exam. **House Bill 819 by Representative McMains (Act 849).** The act adds as a requirement for certification as an acupuncturist's assistant, successful passage of the certification exam given by the National Certification Commission for Acupuncture and Oriental Medicine. It further clarifies that an acupuncturist's

assistant must work under the direction of a physician certified to practice acupuncture.

On and after August 15, 2001, it will no longer be necessary for medical licenses to be recorded with the clerk of court for each parish in which the licensed person practices. **House Bill No. 546 by Representative R. Alexander (Act 299).**

ASSESSORS

Certification requirements were adopted by **House Bill 1076 by Representative Hammett (Act 73)** removing the requirements of two years' experience for assessors to qualify for additional compensation (or four years experience as a deputy assessor).

CORONERS

House Bill 1468 by Representative Lancaster (Act 1177) requires prompt delivery of anatomical gifts by coroners if no autopsy is necessary. Protects coroners from civil suits and criminal prosecution for delivery of anatomical gifts. Allows donors to seek judicial enforcement of anatomical gifts.

Senate Bill 148 by Senator Ullo (Act 317) authorizes a coroner to make a medical pronouncement of death upon the announced opinion of a physician that the person has experienced an irreversible total cessation of brain function, and in such case death will have occurred at the time when the relevant functions ceased. Where the deceased's organs are to be used in a transplant, then an additional physician not a member of the transplant team must make the pronouncement of death.

The coroner may also base his pronouncement of death upon personal observation, information or statements from firsthand observations reported by emergency medical technicians or coroner investigators. of approved medical practice, the person has experienced an irreversible total cessation of brain function. Death will have occurred at the time when the relevant functions ceased. In any case when organs are to be used in a

transplant, then an additional physician, duly licensed in the state of Louisiana, not a member of the transplant team, must make the pronouncement of death.

Senate Bill 105 by Senator Ullo (Act 467) requires the court to fix fees and expenses for mental examinations prior to commitment. Specific fees and expenses are set by R.S. 33:1556 and include the following:

- (1) For every investigation, including issuing necessary papers and reports, \$50;
- (2) For attendance or testimony in any case in court in matters arising from his official duties, \$75 per day per case;
- (3) A fee of \$50 for papers issued in each interdiction case or commitment of mental or incompetent case;
- (4) The attending or assisting physicians in interdiction or commitment cases shall also receive a fee of \$50;
- (5) The coroner shall receive a reasonable fee or compensation, as agreed to by the coroner and the governing authority of the parish or municipality, for any physical or mental examination or investigation when requested by the district attorney, any judge, sheriff, chief of police, or by any responsible citizen or resident when acting in good faith in an emergency and in the furtherance of the public good and safety;
- (6) These amounts shall be in addition to any necessary expenses that may be incurred; and
- (7) Payment of fees for coroners' services related to admittance or commitment of patients or residents to any state-operated health care or treatment facility shall be made by a parish immediately upon such admittance or commitment at the option of the coroner rendering such services.

CORRECTIONAL OFFICERS

House Concurrent Resolution 190 by Representative John Smith (adopted) requests the Department of Public Safety and Corrections recognize, except at Louisiana State Penitentiary at Angola, the certification training and licensing of corrections officers who have received that training at the Louisiana Technical College, Oakdale campus.

JUDGES

Several new judgeships were created as follows:

3rd Judicial District Court, **Senate Bill 26 by Senator B. Jones (Act 190)**

19th Judicial District Court, **Senate Bill 561 by Senator C. Fields (Act 316)**

22nd Judicial District Court, **Senate Bill 822 by Senator Hainkel (Act 779)**

30th Judicial District Court, **House Bill 22 by Rep. J.R. Smith (Act 25)**

17th Judicial District Court, **House Bill 215 by Representative Pitre (Act 217)**

33rd Judicial District Court, **House Bill 663 by Representative Hill (Act 240)**

TEACHERS

House Bill 245 by Representative Baylor (Act 798) prohibits requiring any teacher or school employee to include or provide his social security number on any form or other written document unless required by any applicable state or federal law, or regulation or policy of BESE or for employment, retirement, application for leave, or an individualized education plan.

House Bill 1447 by Representative Crowe (Act 905) deletes the provisions requiring teachers (contingent upon salary increases) to work an additional three days for staff development.

Senate Bill 114 by Senator Theunissen (Act 312) allows school administrators who obtained National Board for Professional Teaching Standards national certification while teaching to also receive the \$5,000 salary adjustment as provided for teachers and extends the date for eligibility from July 1, 2002 to July 1, 2007.

Senate Bill 117 by Senator Theunissen (Act 314) requires the Bureau of Criminal Identification, upon receiving a request for a criminal review, to make available to the Dept. of Education and to the governing authority of any elementary and secondary school a record of all criminal convictions for 10 years prior to the date

of the request. Requires any recipient of such information to maintain confidentiality in accordance with federal and state law.

House Bill 192 by Representative Crane (Act 42) extends the deadline for teachers to obtain certificates from the National Board for Professional Teaching Standards from July 1, 2002 to July 1, 2007.

House Bill 482 by Representative Pratt (Act 58) requires each city, parish, and other local public school board shall adopt a policy establishing uniform procedures for the investigation of employees accused of irregularities or improprieties in the administration of standardized tests on or before January 1, 2002.

House Bill 651 by Representative Futrell (Act 125) creates the Critical Teacher Shortage Incentive Program to provide each newly certified elementary or secondary classroom teacher of mathematics, biology, chemistry, physics, or special education who agrees to practice his profession as a classroom teacher in the elementary or secondary schools of the state, three thousand dollars per year for the first four consecutive years for which the teacher practices his profession as provided in this Section.

REALTORS/APPRAISERS

House Bill 711 by Representative Clarkson (Act 833) moves the Louisiana Real Estate Appraisers State Board of Certification from within the Louisiana Real Estate Commission into the Dept. of Economic Development. *However, if House Bill 1448 of 2001 Regular Session, which transfers various boards and commissions from DED to the Governor's Office, becomes law, then such transfer will affect this board.*

Changes quorum requirement to five members rather than four, at least three of whom had to be general appraiser members.

House Bill 1232 by Representative Clarkson (Act 888) redefines "residential certificate" and adds that such certificate or certification is valid for appraising nonresidential property valued \$250,000 or less.

Requires continuing education hours to be in conformance with standard requirements. It also requires that certification be granted only to persons with good reputations and competency, and provides that an applicant who falsifies material information on his application may be refused certification. Changes from five years to two years the time within which an applicant who passes the examination must become certified.

House Bill 1742 by Representative Clarkson (Act 924) allows applicants for licensure as real estate brokers and sales persons to complete real estate course requirements with hours of courses or their equivalent, and allows the La. Real Estate Commission to procure errors and omissions insurance on certain licensees at a cost of \$500 or less or else the requirement of such insurance is void.

The legislature acted to prohibit solicitation of certain referral fees and interference with brokerage relationships by **House Bill 1281 by Representative Clarkson (Act 261)** Specifically the bill forbids the solicitation or request of a referral fee or similar payment for the referral of a buyer or seller unless the person seeking the referral fee has reasonable cause. Reasonable cause shall not exist unless conditions listed in the bill exist.

SURVEYORS

Senate Bill 1002 by Senator Hainkel (Act 495) provides that any person certified by the board as a land surveyor in training or a land surveyor intern on or before January 1, 1995 shall be deemed to satisfy the minimum requirements for licensure or certification by the board as a certified land surveyor intern under this act and shall be deemed to be a certified land surveyor intern.

MISCELLANEOUS

Electrologists

House Bill 103 by Representative Powell (Act 792) requires representation of an additional

electrologist group on the State Board of Electrolysis Examiners; permits the governor to appoint another electrologist to the board if no physician is nominated; requires four board meetings and examinations each year; prohibits payments in apprenticeship programs; deletes authorization of a waiver of educational requirements for out-of-state electrologists; and provides for renewals of licenses of electrolysis technicians.

Senate Bill 419 by Senator Schedler (Act 91) reduces that the minimum training period for electrologist instructors from five to two months and reduces the total number of hours from 500 to 225 hours as follows:

- (1) 100 hours of teaching skills.
- (2) 75 hours of facilitating/managing skills.
- (3) 50 hours of clinic-supervised practice teaching.

Sanitarians

The legislature established minimum continuing education requirements for licensure of sanitarians in **House Bill 357 by Representative M. Strain (Act 807)**. The act also increases present examination, license, and renewal fees and enacts and increases certain miscellaneous fees that were being assessed by rule of the State Board of Examiners for Sanitarians, and allows the board to establish, by rule, minimum continuing education requirements for renewal of a license, not to exceed eight annual contact hours as approved by the board.

Antique Dealers

House Bill by Representatives Murray, et al (Act 828), increases the maximum fine for anyone unlawfully acting as an antique dealer to \$500, and otherwise retains present law (minimum fine of \$250). The act also provides for suspension of an antique dealer's occupational license for a second offense and for revocation of such license for a third offense or conviction of selling stolen goods.

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PROPERTY

Contact: Heyward Jeffers (225) 342-2064

EXPROPRIATION

Senate Bill 321 by Senator Ellington (Act 4) authorizes foreign and domestic corporations created for the purpose of transmitting or distributing electricity or steam to expropriate private property when necessary. Generating plants already had expropriation power, this new law will give that power to plants that generate electricity and steam primarily for sale to out of state customers. There were also a large number of bills, most of which were local in nature, giving various parishes and municipalities, as well as fire and water districts, the authority to expropriate private property through a declaration of taking. Property owners kept all of their current property rights under the proposals and the bills merely set a procedure for such a taking which requires the taker to deposit in the registry of the court an amount equal to the estimated value of the taken property. Most of these bills were signed into law by the time the Legislature headed into the final week of session.

PRESCRIPTION

House Bill 113 by Representative Iles (pending House Committee) was an effort to repeal Louisiana's current provisions for acquisitive prescription on immovable property. The bill would have ended an individual's ability to obtain ownership of immovable property after 30 years of possession, even without just title to the land. This would have been a landmark change in Louisiana property law.

TAX ON TANGIBLE PROPERTY

There were several bills filed to grant tax relief to businesses. **Senate Bill 856 by Senator Fontenot (Senate referral)** would have phased in a reduction of the corporate franchise tax before repealing it altogether. **Senate Bill 915 by Senator Fontenot (Senate referral)** proposed a phased in reduction of the corporate income tax before repealing it altogether. **Senate Bill 923 by Senator Michot (withdrawn)** would have repealed

the state's current tax on inventory. All three of these bills never left the Senate.

AD VALOREM TAX

Senate Bill 161 by Senator Fontenot (Senate Committee) was a constitutional amendment to raise the homestead exemption from its current rate of \$75,000 to \$100,000. Another measure aimed at changing the homestead exemption, **Senate Bill 242 by Senator Michot (Senate Committee)** would have lowered the exemption from \$75,000 to \$25,000. **Senate Bill 167 by Senator Marionneaux (Senate Committee)** was a constitutional amendment to limit industrial tax exemption contracts to a single, five-year term. Currently, industrial tax exemption contracts can be renewed for a second, five-year term. Another attempt to curtail industrial tax exemptions, **Senate Bill 173 by Senator Johnson (Senate Committee)** was a constitutional amendment to require a two-thirds vote of the Legislature to enact exemptions and exclusions from local sales and use taxes. **Senate Bill 619 by Senator Hainkel (House Committee)** would have provided for privatized collection of delinquent ad valorem taxes owed the state. In order to pay for the privatized collections, the measure would impose a 30% penalty on all ad valorem taxes, along with interest and fines, due the state.

HISTORIC PRESERVATION

Senate Bill 1090 by Senator Smith (House calendar) sought to protect war monuments, memorials, plaques, markers, or historic flag displays on public, state property. The bill would have prevented the relocation, removal, disturbing or alteration of such monuments. It would have also prohibited the renaming or rededication of streets, parks, bridges, buildings, schools, preserves or other public state areas dedicated to the memory of or named for a historic figure from wars ranging from the Revolutionary War to the Persian Gulf War. The measure would also have required the secretary of state to catalogue such monuments. A similar proposal, **Senate Resolution 28 by Senator Barham (adopted)** requests the Governor's Military Advisory Board to study the

feasibility of creating a Louisiana Historic Monuments and Memorials Protection Act. Under the resolution, the board would catalogue monuments, memorials and remembrances of wars that Louisiana citizens have participated in. The board will report its findings to the Senate and Governmental Affairs Committee prior to the 2003 session.

PUBLIC BUILDINGS AND GROUNDS

Several bills were filled in the Senate and House to allow the transferring of rights to name the New Orleans Superdome and the New Orleans Arena. **Senate Bill 18 by Senator Hollis (Act 1215)** authorizes the Louisiana Stadium and Exposition District to sell or transfer the right to designate and use an alternative name for the Superdome. The bill also provides that all royalties and other payments in consideration of such naming rights be paid to the NFL franchise which leases the building. If the team should relocate, the naming rights would return to the Louisiana Stadium and Exposition District. Also required under the bill is the approval of any naming of the stadium by the Joint Legislative Committee on the Budget before any such name would become effective. The bill was on the House Callender as the session entered its final week but was finally approved before the June 18 adjournment. **Senate Bill 614 by Senator Bajoie (Senate floor)** would have provided for the sale of the rights to name the New Orleans Arena. All royalties and payments in consideration for such naming rights would go to the entity which is a majority lease holder of the arena from the Louisiana Stadium and Exposition District. Meanwhile, **House Bill 243 by Representative Scalise (Act 1219)** provides for the selling of the naming rights to Zephyr Field, subject to the approval of the Joint Legislative Committee on the Budget. The act requires that all proceeds obtained by the Louisiana Stadium and Exposition District be used exclusively for the purposes of the facility for which the naming rights were sold or transferred.

SEIZURES AND SALES

House Bill 518 by Representative Smith (Act 236) provides that firearms seized by the Department of Public Safety and Corrections, office of the state police, Department of Wildlife and Fisheries and local law enforcement agencies shall be returned to the owner if the weapon seized is not contraband. The firearm shall also be returned to the owner if the owner did not commit any violation of any federal or state law or local ordinance in which the firearm was involved. The owner also must be able to legally possess the seized or forfeited firearm. The above mentioned law enforcement agencies shall destroy or dispose of any firearm which is determined to be contraband.

PUBLIC OFFICIALS & EMPLOYEES

Contact: David Smith (225) 342-0626

Legislative Sessions

Senate Bill 4 by Senator Hines (Act 1231) proposes to amend the constitution to provide for consideration of matters during regular sessions of the legislature. The significant change offered by this amendment is to (1) change the convening day in odd-numbered years to the last Wednesday in March and the convening day in even-numbered years to the third Wednesday in April, (2) provide that in odd-numbered years the length of the regular session is not more than 60 legislative days during a period of 85 calendar days, (3) provide that in even-numbered years the length of the regular session is not more than 40 legislative days in a period of 50 consecutive calendar days, (4) provides that in regular sessions convening in odd-numbered years the deadline for the introduction of bills is 6 p.m. of the 23rd calendar day. The amendment would also change the prefiling deadline for bills to 5 p.m. on the Wednesday prior to the first day of a regular session and would provide that no regular session shall continue beyond June 30th of any year. Additionally legislative sessions in odd-numbered years shall be extended fifteen extra days. This would extend the session from thirty legislative days in a forty-five calendar day session to forty-five legislative days in a sixty calendar day session. The constitutional amendment would provide that in regular sessions convening in odd-numbered years, the deadline for consideration on third reading and final passage of matters intended to have the effect of law is midnight of the 57th legislative day (except by 2/3 vote of both houses). In addition to the requirement that all regular sessions convening in even-numbered years be restricted to the consideration of legislation which provides for the enactment of a general appropriations bill, implementation of a capital budget, making an appropriation, levying or authorizing a new tax, increasing an existing tax, legislating with regard to tax exemptions, exclusions, deductions, reductions, repeal, or credits, or issuing bonds and would additionally provide for the consideration in such sessions of legislation if its

object is to levy, authorize, increase, decrease, or repeal a fee, or to dedicate revenue, or to enact a local or special law, provided such local or special bills are required to be and has been advertised and is not otherwise prohibited local or special law. Additionally, the amendment would allow the consideration of five prefiled bills per member which are not within the subject matter jurisdiction for the session. This proposition will be submitted to the electors of the state at the statewide election to be held on November 5, 2002, and shall be the first ballot proposition for constitutional amendments to appear on the ballot for such election and if approved it shall become effective on January 1, 2004.

Legislation

Senate Bill 5 by Senator Campbell (pending House floor) is a constitutional amendment which would limit the number of bills introduced by a legislator to 15, with the following exceptions: (1) 10 additional bills could be introduced if requested by the executive branch departments, (2) an unlimited number of local or special bills could be introduced if properly advertised and (3) an unlimited number of bills may be introduced which repeal laws with the caveat that bills introduced which repeals a law cannot be amended to amend or enact law.

Legislators

Senate Bill 10 by Senator Hainkel (pending Senate Committee) would have repealed the current constitutional provision which have prohibited a person who has been elected to serve as a member of the Senate for more than 2-1/2 terms in three consecutive terms from being elected to the Senate for the succeeding term and which also prohibited a person who has been elected to serve as a member of the House of Representatives for more than 2-1/2 terms in three consecutive terms from being elected to the House of Representatives for the succeeding term. This limitation applied only when such service was during a term that began on or after January 8, 1996.

Ethics

Senate Bill 138 by Senator Ellington (pending House Committee) would have allowed an elected official to continue compensated services where they have a contractual, business, or financial relationship with his agency provided the contractual relationship had been in existence at least one year prior to taking office. The bill would have required that the elected official file a notice of the transaction and prohibits the official from participating in any transaction involving the governmental entity in which such a person has a substantial economic interest. **Senate Bill 138** was turned into **Senate Concurrent Resolution 157 (pending Senate Committee)**.

Gaming

Senate Bill 341 by Senator Dupre (pending House Committee) would have prohibited elected public officials from having a pecuniary interest exceeding 10% in any business or organization which holds a river boat gaming license or the casino operating contract or in any holding, intermediary, or subsidiary company of any such business or organization.

Election Offences

Senate Bill 514 by Senator Johnson (pending conference committee report) would have provided that any candidate, or his principal or subsidiary campaign committees may be reported to the Supervisory Committee on Campaign Finance Disclosure if they are alleged to be responsible for or engage in one or more of the following acts directed at another candidate, the candidate's employees or the candidate's immediate family:

- (1) Making harassing or threatening phone calls.
- (2) Making written or spoken accusations which de facto can be deemed baseless and without truth or substance or which may be determined to be slanderous.
- (3) Stalking or physically approaching while making threatening gestures or intimidating acts.

The bill further would have authorized any candidate or a candidate's relative or employee that had been stalked, received harassing or intimidating phone calls or had been physically accosted by any other candidate, or his committees to file a signed sworn complaint with the supervisory committee. Further, upon receipt of such complaint the committee would have been required to immediately initiate an investigation and provide for a 10 day notice of the allegations to the alleged perpetrator from receipt of the complaint. The bill would have required that a hearing be conducted at the next regular meeting of the Board of Ethics which hearing would have been exempt from the Open Meetings Act. Further, if the supervisory committee determined that a violation has occurred, the supervisory committee shall issue a letter of reprimand or censure. The bill would have authorized any candidate and his committees not engaged in such prohibited activities to have a civil action against an opposing candidate or his principal or subsidiary campaign committee for any violation. Additionally, any candidate who has filed a complaint with the supervisory committee would preserve the right to bring an action in the district court in any parish where the violation occurred, any time within ninety days after the general election. If any candidate or that candidate's principal campaign committee was found in violation through a civil action they would be jointly and severally liable for the payment of damages and attorney fees and if a candidate was held personally liable for any payment of damages or attorney fees, the candidate would be prohibited from using or being reimbursed by funds from the candidate's campaign committee.

PUBLIC SAFETY & LAW ENFORCEMENT

Contact: Joe Guillory (225) 342-0599

MOTOR VEHICLES

Senate Bill 20 by Senator McPherson (Act 1010) exempts used motor vehicle dealers licensed prior to 1/1/02 from certain educational seminar requirements and requires licensed used motor vehicle dealers to attend an educational seminar when found in violation of provisions of law.

Senate Bill 24 by Senator McPherson (Act 401) requires that a motor vehicle be removed to a safe shoulder in the case of an accident on an interstate or four-lane highway if the driver is not prevented by injury or the vehicle is not disabled by the accident or there was no serious injury or death to anyone.

Senate Bill 45 by Senator Fontenot (Act 400) provides that the surcharge levied, whenever a motor vehicle is towed, shall be based on the initial tow of the vehicle, which includes other related towing charges such as storage and administration fees.

Senate Bill 191 by Senator Michot (Act 680) authorizes an additional hang tag for mobility impaired person dependent on parents who are divorced and living in separate households.

Senate Bill 234 by Senator Fontenot (Act 469) exempts trailers, light trailers, and semitrailers from the additional \$3 safety inspection fee in non attainment parishes and municipalities.

Senate Bill 339 by Senator Dupre (Act 398) provides for a person , with a suspended license, to be permitted to operate a motor vehicle on certain streets at certain times, as specified by a judge, to allow him to obtain medical treatment for a debilitating condition.

Senate Bill 1044 by Senator Smith (Act 497) eliminates the regular motor vehicle license fee for all antique plates and provides that, beginning July 1, 2001, no additional payment of the regular motor vehicle registration license fee is necessary for an owner to permanently retain such plates after that date.

Senate Bill 1054 by Senator Theunissen (Act 787) provides that a load of dirt or sand being transported within certain municipalities at a speed exceeding 25 m.p.h. does not have to be covered.

House Bill 170 by Representative Faucheux (Act 38) increases the maximum fee authorized to be collected by municipalities and parishes for support of office of motor vehicles field offices from \$2 to \$3.

House Bill 246 by Representative Bowler (Act 48) prohibits the department from disclosing medical examination information to third parties without the written consent of or written waiver from the individual whose record is being reviewed or by a court order.

House Bill 256 by Representative Downer (Act 49) authorizes military personnel stationed in La. to drive with a valid out-of-state driver's license.

House Bill 563 by Representative Frith (Act 239) provides that every trailer hauling sugarcane shall be marked with reflecting tape, and further provides the Dept. of Transportation and Development may adopt rules requiring other reflective devices for the safety of motorists.

House Bill 786 by Representative Diez (Act 590) increases the maximum amount of the convenience fee public license tag agents are authorized to collect for certain transactions from \$10 to \$12.

House Bill 942 by Representative Diez (Act 371) reduces the reinstatement fee to \$25 per violation if the violation is for a period of 11-30 days, \$100 for violations of 31-90 days, and \$200 for violations exceeding 90 days. No reinstatement fee shall be imposed by the secretary for violations of 10 days or less, and provides that no person shall be required to pay more than \$500 in fees for reinstatement of driving privileges.

House Bill 962 by Representative Diez (Act 424) specifies that present law relative to the attachment of license plates to vehicles applies only to permanent plates.

House Bill 1050 by Representative Pinac (Act 139) requires that temporary registration license plates

be fastened in the rear of the vehicle or rear window of the assigned vehicle and that it be clearly visible. The plate must be kept free from foreign materials and in a clearly legible condition.

House Bill 1098 by Representative Diez (Act 427) authorizes an 18-year old or older sibling to accompany a learner's permit or intermediate license permit holder and authorizes members of the permittee's immediate family to ride in the vehicle and authorizes other passengers in an instructional setting.

House Bill 1551 by Representative Diez (Act 456) removes the requirement that a certified abstract of an operating record designate motor vehicles registered to a person, and specifies that the operating record of a person include any accident in which the driving privileges of the person are suspended for failure to provide liability security or proof of financial security. Makes the reporting of accidents in excess of \$500 optional. Repeals provision which authorizes local field offices to reinstate suspended driver's licenses when the requirements for reinstatement are proof of insurance and payment of the reinstatement fee. Provides that if an owner transfers ownership of the vehicle but has no copy of the transfer or a registration plate and registration certificate for the vehicle, the owner may furnish the commissioner with an affidavit stating that the vehicle with the suspended registration is no longer in use.

House Bill 1609 by Representative Diez (Act 626) requires the secretary of the office of motor vehicles to renew a hang tag for a mobility-impaired person whose impairment is permanent every four years, and to renew a hang tag for a mobility-impaired person whose impairment is temporary every two years. Defines "permanent" impairment as a total or lifelong condition of mobility impairment, and defines a "temporary" impairment as one which is not expected to last more than one year.

SPECIAL DISTRICTS

Senate Bill 647 by Senator Dupre (Act 102) provides that the board of commissioners of the Bayou

Blue Fire Protection District shall consist of seven members, if the Terrebonne Parish and Lafourche Parish governing authorities authorize extending the district into Lafourche Parish, three members from the part of the district in Terrebonne Parish and four from the part of the district in Lafourche Parish, appointed by the respective parish governing authorities. Requires that the members be electors and resident property taxpayers of the portion of the district in the respective parish from which they are appointed. Provides for the commissioners to elect the chairman. Provides for staggered two-year terms.

Senate Bill 930 by Senator Cravins (Act 110) provides with respect to members of the governing board of any fire protection district located wholly within a parish having a population of less than 88,000 but more than 80,000 persons, as of the most recent federal decennial census.

House Bill 692 by Representative Bruce (Act 365) prohibits diversion of funds of certain parish wide districts (ambulance service district and 911 communication district) in DeSoto Parish to other entities or purposes.

House Bill 1789 by Representative Doerge (Act 188) authorizes a parish or a group of parishes to create a fire and emergency services training district. Provides that the purpose of such district shall be to maintain and operate a well-equipped educational and training facility to teach and train fire fighting and emergency services personnel.

LAW ENFORCEMENT

Senate Bill 39 by Senator McPherson (Act 311) changes the chief of police of the town of Woodworth from an elective official to an appointive official, and further provides that the mayor and council members shall establish the duties, qualifications and responsibilities of the chief of police. The appointive position of police chief shall begin after the expiration of the current police chief 's term unless the office becomes vacant.

Senate Bill 267 by Senator B. Jones (Act 82) changes the chief of police of the city of Grambling from an elective official to an appointive official, provides that the mayor and council members shall establish the salary, working hours, duties, qualifications and responsibilities of the chief of police. The appointive position of police chief shall begin after the expiration of the current police chief 's term.

Senate Bill 325 by Senator Hainkel (Act 5) adds the chief of police for the city of Hammond to the list of persons included in the unclassified service, and provides that the change is prospective and not applicable to the individual occupying the position of the chief of police on the effective date of the Act.

House Bill 1183 by Representative Bruce (Act 376) authorizes the village of Longstreet to abolish the office of chief of police or make the office appointive, and if the office and the police department are abolished, to enter into a cooperative agreement for law enforcement services.

FIRE PROTECTION

Senate Bill 613 by Senator Fontenot (Act 393) prohibits the state fire marshal from imposing any new or additional requirements upon any open structure or process structure. Defines "open structure" as a structure that supports equipment and operations not enclosed within building walls, but which may include a roof or canopy, found in oil refining, chemical processing plants, power plants, pulp and paper mills. Defines "process structure" as a naturally ventilated structure enclosed within building walls whose primary function is to protect equipment from the environment in oil refining, chemical processing plants, power plants, pulp and paper mills, and which structure is normally not occupied. Requires that process structures shall conform to the requirements of the National Fire Protection Association's Life Safety Code, except that stairs, guard rails, and hand rails must comply with the applicable OSHA worker safety requirements.

Senate Bill 621 by Senator Hainkel (Act 708) increases per diem for governing board members of a fire protection district with a population of more than 100,000 persons.

House Bill 122 by Representative Townsend (Act 212) provides for certification by LSU of firemen who have completed the International Fire Service Accreditation Congress course.

GAMING

Senate Bill 698 by Senator Cravins (Act 106) relative to charitable raffles, bingo and keno licensing law, defines a "non-commercial lessor" as any bona fide nonprofit organization licensed under this law to conduct games of chance and who leases any building, structure, or premises to other organizations licensed under the provisions of this law for the purpose of conducting charitable games of chance. Allows the office of charitable gaming to examine the books, gaming account, parties involved, and records of organizations and associations exempt from licensure for the purpose of determining if the proceeds are devoted to charitable purposes. Requires commercial and non-commercial lessors to verify that lessees are properly licensed to conduct charitable games or games of chance authorized by the office of charitable gaming.

House Bill 207 by Representative Green (Act 216) provides that it shall be unlawful for any person who by any trick or sleight of hand performance, or by fraud or fraudulent scheme, cards, dice, or device, for himself or another, wins or attempts to win money or property or a combination thereof, or reduces a losing wager or attempts to reduce a losing wager, increases a winning wager or attempts to increase a winning wager in connection with gaming operations.

TRAFFIC

House Bill 164 by Representative Diez (Act 37) requires law enforcement officers to report to DPS&C information regarding traffic violations or motor vehicle accidents involving a driver who displays a license

issued by the U.S. Department of State or who claims diplomatic immunities or privileges. Further requires DPS&C to forward such information to the U.S. Department of State.

House Bill 388 by Representative Quezairé (Act 362) provides that any person driving a vehicle who races to reach the railroad crossing before the train causing danger to a railroad crew member, the general public, or damage to property in the vicinity of the railroad crossing shall be fined not more than \$1,000. Provides further that the person found in violation shall be required to attend a one-day safe driver's course designed by Operation Lifesaver within 180 days after the adjudication of the citation. Provides further that it shall be the responsibility of the violator to notify the appropriate court of jurisdiction of the successful completion of the Operation Lifesaver Course.

House Bill 610 by Representative Downer (Act 583) provides that when an authorized emergency vehicle is parked, the driver of every other vehicle shall proceed as follows:

- (1) When driving on a highway with two or more lanes traveling in the same direction as the emergency vehicle, slow to 25 m.p.h. until it is safe to proceed at the posted speed limit, and merge into the lane farthest from the emergency vehicle.
- (2) When driving on a two-lane road, slow to a speed of 25 m.p.h. or the posted speed limit, whichever is lower, until it is safe to proceed at the posted limit.

House Bill 628 by Representative Hudson (Act 585) prohibits any pedestrian from crossing a highway, and provides that upon conviction for any violation, a court may order, in lieu of the penalty provisions, that the offender perform three eight-hour days of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

House Bill 1170 by Representative Futrell (Act 256) allows a state agency, political subdivision, or law enforcement agency to transfer, disseminate, distribute, or communicate a record or other compilation of an individual's unpaid traffic and parking fines to any credit bureau or credit information agency. Also allows a state

agency, political subdivision, or law enforcement agency to enter into a contract to provide such a record or compilation to any credit bureau, credit information agency, or collection agency or firm.

RETIREMENT

Contact: Angela Lockett (225) 342-0661

ASSESSORS

Several bills were filed in connection with the Louisiana Assessors' Retirement Fund to improve member benefits. **Senate Bill 528 by Senator Boissiere (Act 97)** authorizes the payment of interest on DROP funds at the end of the plan period when a member remains employed. The DROP account shall not earn interest while a member is a participant in the plan, only after completion of DROP. Prior to Senate Bill 528, payment of interest on a member's DROP account was prohibited. Additionally, members of the fund will be able to retire with thirty years of service at any age with the passage of **Senate Bill 531 by Senator Boissiere (Act 100)**.

The accrual rate increased for the fund, as well as the employee and employer contribution rates. **Senate Bill 532 by Senator Boissiere (Act 703)**. **Senate Bill 530 by Senator Boissiere (Act 99)** provides a guaranteed return of accumulated employee contributions. Specifically, Senate Bill 530 requires any remaining accumulated employee contributions after the death of a retiree to be paid to the retiree's beneficiary. If there is no beneficiary, any sums remaining are to be paid to the retiree's estate.

A member of the fund who is receiving disability benefits will be allowed to receive his full vested regular retirement benefit upon attaining the normal vested retirement age. The disability benefits cease upon the commencement of regular retirement benefits. **Senate Bill 405 by Senator Boissiere (Act 89)**.

INSURANCE PREMIUM TAX FUND

House Bill 495 by Representative Schneider (Act 1160) provides funding of Firefighters, Municipal Police and Sheriff's Retirement Systems. Currently, the Louisiana Insurance Rating Commission (LIRC) levies an assessment against the gross direct premiums received by all insurers doing business in this state, less returned premiums, to pay the expenses of the LIRC organization and operation, and the salaries and expenses of its

members and employees, and to pay any other expenses which may be necessary in the conduct of its business. The amount of the assessment is limited to 1% of such premiums. Additionally, the LIRC is required to deposit an amount equal to 2 and 25/100 of 1% of such premiums in the preceding year; 2 and 37/100 of 1% in the year 2001; and 2 and 50/100 of 1% in the year 2003 and every year thereafter, to support the operations of the office of state examiner, Municipal Fire and Police Civil Service. All unexpended and unencumbered monies in the fund at the end of the fiscal year revert to the state general fund.

The LIRC is required to deposit an amount equal to 7/10 of 1%, for use by the Municipal Police Employees Retirement System, the Sheriffs' Pension and Relief Fund, and the Firefighters' Retirement System for the following purposes:

First, in meeting the remaining portion of the actuarially required contributions after receipt of the employee contributions, employer contributions, and all taxes and dedicated funds.

? Second, for funding of mergers of local retirement systems with the three covered statewide systems, with certain restrictions on the use of assessed funds, including prohibiting the use of more than 25% of the total assessment in any one year for such mergers.

The act also requires that the first 5% percent of the assessment be used for funding the annual actuarial cost incurred by the State Police Pension and Retirement System with regard to implementation of the Act which originated as HB 495 of the 2001 RS. The funding structure of mergers change from being positioned as the second purpose to being the first purpose for which the deposited funds are used on behalf of the systems, after funding of State Police Pension and Retirement System, but retains the limitations regarding the percentage of funds that can be used for mergers. Further changes include the requirement of meeting the remaining portion of the actuarially required contributions from being positioned as the first purpose to being the second purpose for which the deposited funds are used on behalf of the systems and adds the following allocation requirements if there

are any funds remaining for this second purpose:

- ? Any remaining funds are divided into three thirds and, then, a one-third portion is allocated separately to each of the three systems. Except as otherwise provided, each system cannot receive a greater portion than one-third.
- ? If any one system does not need the entire one-third portion that it receives each year to meet the remaining portion of its actuarially required contributions, then any unused allocated funds are reallocated to such other system or systems of the three systems that have a need for additional funds to meet the remaining portion of the actuarially required contributions.
- ? If one system does not need its total annual allocated portion, but two other systems do use their total annual allocated portions to meet the remaining portion of the actuarially required contributions and need additional funds for that purpose, then the unused allocated portion of the system that did not use its total annual allocated portion is divided equally between the two systems that need additional funds to meet the remaining portion of their actuarially required contributions, except that any funds not needed by either such system are reallocated to the other such system to meet the remaining portion of the actuarially required contributions. (Funds that are reallocated to a system pursuant to this provision are limited to the amount that is necessary to meet the remaining portion of the actuarially required contributions of the receiving system.)

The act requires that, after payment of the amounts established by the Public Retirement Systems' Actuarial Committee to the retirement systems, all remaining funds shall be remitted to the state general fund.

TEACHERS

There are a series of laws that apply when a retiree of the Teachers' Retirement System (TRS) becomes reemployed as a teacher. There are also limits placed on the amount of money that a retiree can earn without having a negative effect to his benefits, such as a suspension or reduction of his benefits. Benefits are also affected by the length of time the member has been retired. **House Bill 1340 by Representative Schneider (Act 1173)** repeals all such laws, but makes the repealer become effective on 07/01/02.

The act replaces all such reemployment laws with one law which allows for the reemployment of a retiree with full salary and full retirement benefits, provided such reemployment occurs after 12 months have lapsed from the effective date of the member's date of retirement. Reemployment during that 12-month waiting period still

results in a suspension of benefits for the duration of reemployment or the lapse of 12 months after retirement, whichever occurs first. The act provides that retired teachers who are reemployed on a full-time basis must be rehired based upon the salary schedule that applies to a teacher with similar years of experience and requires such teachers to be subject to the same rules, policies, procedures, and statutes that apply to all full-time employees.

REVENUE & TAXATION

Contact: Riley Boudreaux (225) 342-6155

The Legislature was limited in what it could accomplish in this odd-year session because the Louisiana Constitution prohibited it from enacting laws affecting state taxes. That is why its response to the possibility that federal tax refunds might be subject to Louisiana income tax was only the subject of a resolution. The Legislature adopted **House Concurrent Resolution 209 by Representative Alario** which requests the Secretary of Revenue to take all possible steps to see that federal income tax refunds are not subject to state tax.

During the interim, however, a joint Senate/House committee (The Select Committee on Tax Structures) and a House committee (The Select Committee on Fiscal Affairs) met and studied various tax issues. They both made several recommendations to provide the Department of Revenue with tools to collect taxes which are already on the books, especially from delinquent taxpayers - and especially the large amount of money written off as "uncollectible" by the department.

Those recommendations resulted in bills being introduced in both houses. For instance, **Senate Bill 1104 by Senator B. Jones (Act 763)** [see also **House Bill 986 by Representative Hammett (pending House committee)**] authorizes the Department of Revenue to offer delinquent accounts to the Attorney General for collection at a fee of 15% charged to the delinquent; those he does not accept may be offered to private collectors at a fee of 25%. **Senate Bill 904 by Senator Hainkel (failed House final)** would have increased the charge for attorney fees when Department of Revenue hires private counsel to collect delinquent taxes, interest and penalties as follows: up to 25% of the first \$250,000 per year; up to 15% between \$250,000 - \$1,000,000; up to 10% if over \$1,000,000 or if the amounts are paid under protest.

Some tougher measures were enacted to induce payment from delinquents in **House Bill 1105 by Representative Leblanc (Act 254)** and **Senate Bill 669 by Senator B. Jones (Act 202)** which provide for

a rule to cease business (in addition to the rule in present law for sales tax) for failure by a business to remit other taxes collected on behalf of the state (such as withholding tax). **Senate Bill 665 by Senator B. Jones (Act 1022)** [see also **Senate Bill 661 by Senator B. Jones (withdrawn)** and **Senate Bill 662 (pending Senate committee)**] includes within the criminal law concerning "worthless checks" those issued for amounts related to state taxes.

And even public pressure could be used. **House Bill 1172 by Representative Leblanc (Act 257)** authorizes disclosing the names of certain delinquent taxpayers in newspapers, magazines, or in electronic media such as television or the Internet after notice to the delinquent.

To preclude tax evaders who utilize some ambiguities in current tax law, the Legislature enacted **Senate Bill 659 by Senator B. Jones (Act 103)** [see also **House Bill 1103 by Representative Leblanc (Act 1167)**] which interrupts the running of prescription for failure to file any tax return, rather than just income and franchise tax returns. **House Bill 1103 by Representative Leblanc (Act 1167)** [see also **Senate Bill 658 by Senator B. Jones (withdrawn)** and **Senate Bill 660 by Senator B. Jones (withdrawn)**] also specifies that the filing of a "false or fraudulent return" means the filing with intent to evade taxes or with a wilful intent to defraud or evade.

Some other tools designed to increase tax collections are: **House Bill 987 by Representative Hammett (Act 1060)** which authorizes use of any collection procedure available to the Department of Revenue to recover rebates or refundable tax credits later disallowed. **House Bill 1402 by Representative Leblanc (Act 259)** authorizes any state agency to file an offset claim for any debts owed to it against an individual's income tax refund.

Senate Bill 675 by Senator B. Jones (Act 203) limits the requirement that estimated taxes be paid by persons who can reasonably be expected to have an income tax liability of \$1,000 (up from \$200 in present law)

with the understanding that the Department of Revenue will soon have the equipment to enable it to begin to collect such taxes.

The Legislature expanded tax clearances in **Senate Bill 678 by Senator B. Jones (Act 716)** which requires tax clearances for lottery license renewals and the awarding of lottery vendor contracts. However, the Legislature was reluctant to move further without more study, adopting **House Concurrent Resolution 46 by Representative Leblanc** directing the Department of Revenue and the Division of Administration to determine the feasibility of requiring businesses to obtain tax clearances prior to contracting with the state in the most efficient and effective manner and report prior to the 2002 Session. In a similar vein, **Senate Concurrent Resolution 68 by Senator B. Jones (adopted)** requests the tax committee of both houses to conduct a joint study of certain business inducements and tax credits and report its findings to the legislature.

Several bills make tax auditing easier, authorizing the Department of Revenue in **Senate Bill 668 by Senator B. Jones (Act 201)** to agree with a taxpayer to the projection of an assessment by the use of sampling procedures conforming to generally recognized sampling techniques; **Senate Bill 674 by Senator B. Jones (Act 104)** to require a taxpayer to make records available in machine-sensible format if the taxpayer keeps such records; and **House Bill 988 by Representative Hammett (Act 70)** to require electronic filing of tax returns or reports for certain taxpayers.

The loss of sales tax to mail order and Internet vendors and the competitive disadvantage to local vendors caused by the inability of the state to make such out-of-state vendors collect state tax caused the passage of **House Bill 994 by Representative Hammett (Act 72)** which enacts the Uniform Sales and Use Tax Administration Act, allowing the state to enter discussions with other states for the purpose of preparing and entering (after further consent of the legislature) the Streamlined Sales and Use tax Agreement to simplify tax

administration for sellers into out-of-[their] state locations. **Senate Concurrent Resolution 4 by Senator B. Jones (adopted)** memorializes Congress to enact federal legislation providing a method for a state to require out-of-state sellers to collect the state's sales tax on "remote sales".

Wary of the new authority conferred on the Department of Revenue and concerned that tax enforcement be fair, **Senate Bill 673 by Senator B. Jones (failed House final)** would have created a tax settlement oversight committee to approve proposed settlements of tax disputes of \$2 million or more, including interest and penalty.

Taxpayers in *bona fide* contests with the department over tax issues were given some relief. **Senate Bill 1086 by Senator Lentini (Act 788)** phases-down from January, 2006 to January, 2009, the interest rate charged on tax which is not the subject of a final judgement from 15% to three percentage points above the legal interest rate. **Senate Bill 193 by Senator Michot (Act 1140)** authorizes a court to allow a taxpayer to post a bond or other security in lieu of paying taxes under protest. **Senate Bill 694 by Senator Hoyt (Act 717)** authorizes all enrolled agents licensed by the U. S. Department of the Treasury to represent taxpayers in administrative matters.

Local governments received some attention. **House Bill 264 by Representative Hammett (Act 799)** authorizes local governments to contract with the Louisiana Municipal Advisory and Technical Services Bureau for the collection of the local insurance premium license tax. **Senate Bill 619 by Senator Hainkel (pending House reconsideration)** would have given the same authority to local governments to enter into collection contracts with collection agencies and attorneys to collect delinquent ad valorem taxes and to add a 30% penalty to offset the cost of such contracts [see also **House Bill 1434 by Representative Leblanc (pending House committee)**]. **Senate Bill 1046 by Senator Ellington (Act 1149)** requires public service companies to pay

protested property taxes in full in order to appeal certain decisions of the tax commission and authorizes the companies to choose either a credit against future taxes or a cash refund if they win.

Finally, House Bill 1391 by Representative Daniel (Act 1175) re-based the sales taxation of mobile telecommunications service on federal law concepts of place of "primary use".

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SOCIAL SERVICES

Contact: *Bobbie Hunter (225) 342-9785*

Welfare Reform

Several bills in the 2001 Regular Session addressed this subject with regard to the Temporary Aid to Needy Families (TANF) block grant established in 1996. Louisiana has a surplus of 169 million dollars in federal funds that must be utilized or the funding will be lost. **Senate Concurrent Resolution 67 by Senator Irons (adopted)** creates a special legislative committee to provide oversight over the use of federal TANF funds. The oversight committee's purpose is to ensure that these funds are expended appropriately, pursuant to authorization, and in an effective and efficient manner.

Additionally, **House Current Resolution 124 by Representative Winston (adopted)** requests the Departments of Education, Health and Hospitals, and Social Services to maximize available resources to expand child care assistance. This legislation is an attempt to utilize these federal resources to assist mothers with dependent children by providing access to affordable child care.

House Bill 1732 by Representative Leblanc (Act 1098) allows TANF funds to be deposited into Individual Development Accounts. This allows a recipient of TANF funds to establish an account in which the individual may save funds. These monies deposited into the account will be matched by TANF funds in an effort to move the individual off assistance. These monies may be used only for buying a home and business capitalization. If the individual ceases to receive TANF, the monies in the account may be used for any purpose, except those specified by nonprofit organizations or an individual contributor.

Mental Health

Senate Bill 150 by Senator Schedler (Act 192) addresses persons suffering from mental illness and substance abuse. This measure provides for the administration of medication in a psychiatric emergency to a patient

admitted to a treatment facility. The physician may administer medication, without the consent of the patient and against the wishes of the patient in a situation which the reasonable judgement of the physician perceives the patient or others to be at risk or damage of life or limb.

STATE GOVERNMENT & ELECTIONS

Contact: David Smith (225) 342-0626

Voters/Voting

Senate Bill 68 by Senator C. Fields (pending House Committee) would have provided that the registration of a person whose registration has been suspended by the registrar of voters for conviction of a felony would be reinstated when the person appears in the office of the registrar and provides documentation from the appropriate correction official showing that such person is no longer under an order of imprisonment. Further upon completion of a sentence for conviction of a felony, the Department of Public Safety and Corrections would give written notice to any person who has completed his sentence a letter stating that the person shall be restored to his rights of citizenship and restored to his right to vote and the letter shall also state the person must present the letter to his registrar of voters in order to register to vote.

Public Records

House Bill 825 by Representative Broome (pending Senate floor) would have added an exemption to the public records law for the audio recording of a 911 call or call to another public safety would have provided requesting service from a law enforcement, fire protection, or medical agency from the public records law. The bill provides for classes of persons who are not prohibited from having access to such a recording, which include (1) law enforcement agencies or public safety agencies or emergency services or (2) for use in a criminal or internal investigation or (3) when used for training of emergency communications officers or to be tabulated and included in a publication of statistical data for use for public education purposes, provided the calling party or his representative consents. Additionally, such 911 information may be released pursuant to a subpoena duces tecum issued by a civil or criminal court. Such 911 information shall be available to the caller, parents or guardians of a minor who is a caller, the succession representatives of the caller, or to the attorneys of the caller or succession

representatives.

Election Code

House Bill 93 by Representative Katz (pending Senate floor) would have made changes to election day poll hours and a create new absentee voting periods and locations, and would have allowed any qualified voter to vote absentee in person. Attempts were made to change the voting hours to a shorter period by opening later and closing earlier. However, the Senate rejected the concept and reverted the beginning and ending voting time back to the original time, in current law. The bill also would have extended the time that the polls would be open during absentee voting.

Electronics

Senate Bill 455 by Senator Michot (Act 772) establishes the office of information technology within the division of administration, to be headed by the chief information officer (CIO) and requires that the CIO be appointed by the governor and serve in the unclassified service and report to the commissioner of administration on information technology and information resources. The act provides that the office of information technology has authority over all information technology systems and services for agencies in the executive branch of state government, and that the office has no authority over the legislative or judicial branches of state government or agencies thereof. The office of information technology would consist of executive offices and staff as deemed necessary for effective information technology governance, including but not limited to the following two executive offices, each headed by an executive director who would (1) oversee and implement a state master information technology plan, (2) establish and direct implementation of information technology standards, architecture, and guidelines suitable for statewide application for hardware, software, services, contractual arrangements,

consolidation of systems and management of systems, (3) review, coordinate, and standardize information technology strategic business technology planning, information technology procurement, information technology budgeting, and information technology personnel and training, and (4) implement strategic information technology planning for the state, including the establishment and coordination of all telecommunications systems and telecommunication services affecting the management and operations of the executive branch of state government.

Legis Powers/Functions

Senate Bill 691 by Senator Cravins (pending Senate committee) and House Bill 1826 by Representative Penic (pending House floor) would have provided for the convening of a constitutional convention to convene at noon on January 7, 2002 to frame a new constitution for the state. Senator Cravins' bill would have had 303 delegates selected as follows:

- (a) 210 delegates to be elected from House of Representatives' districts.
- (b) 78 delegates to be elected from Senatorial districts.
- (c) 15 delegates appointed by the governor from the public at large.

Delegates would have been required to be electors of the state and residents of the district from which elected. Public officials, elected or appointed would have been eligible for election or appointment as delegates. Delegates and staff would be subject to the code of ethics, public bribery laws, and, in the case of elected delegates and candidates for delegate, the campaign finance laws. Election or service by a public official or public employee as a delegate or on the staff would not have been a violation of the dual office holding laws. The bill would have provided that the election for delegates would be held at the primary election on Saturday, October 20, 2001, and if a general election was necessary, on November 17, 2001. Candidates could qualify without regard to party affiliation and the elections would have to be in accordance with provisions for election of

candidates for public office in the Louisiana Election Code (election code). Further, voters could vote without regard to party affiliation. The bill would have provided that House and Senate staff designated by the presiding officers of the legislature, prior to the convention, would prepare rules of procedure for adoption by the convention, based on the 1973 convention rules, such rules to be subject to change and adoption by the convention. The bill would have required the staff to do research and prepare a preliminary draft of a new constitution by July 1, 2002 and that the delegates would reconvene July 9, 2002, to receive the staff report, hold hearings, and draft the proposed constitution with the final draft completed no later than January 1, 2003. The bill would have provided for election commissioners for the delegates' election and for costs to be paid as provided by law for elections in which constitutional amendments appear on the ballot. The bill provided for promulgation of the results of the election by the secretary of state, if the constitution was ratified and adopted by the people, it required the governor to proclaim the constitution, including alternative provisions adopted, to be the Constitution of Louisiana.

TRANSPORTATION & DEVELOPMENT

Contact: Linda Nugent (225) 342-8892

PRESTIGE LICENSE PLATES

There were 30 House and Senate bills relative to special prestige license plates that were introduced and acted on during the regular session, 24 of which create new prestige plates. With the addition of the new plates, the legislature will have authorized almost 140 prestige plates over the last several years. The various types of license plates represent the military, special organizations, special interest groups, state colleges and universities, public service sororities and fraternities, and high schools.

Prior law required a minimum of 100 orders to be placed before any new prestige plate is issued. In an attempt to slow the proliferation of the prestige plates because of safety concerns of various law enforcement agencies, **House Bill 1900 by Representative Katz (Act 1004)** increases the minimum number of orders for new prestige plates to 1,000.

MASS TRANSIT FUNDING

In an effort to stabilize mass transit funding for the state's smallest transit systems following last year's 25% funding reduction, the state's largest transit systems agreed to give up a small amount of money under **Senate Bill 835 by Senator Heitmeier (Act 780)**. The base amount for the systems in New Orleans, Kenner, Monroe, Alexandria, Lafayette, Lake Charles, Shreveport, and the parishes of Jefferson, East Baton Rouge, St. Bernard, St. Tammany, and Terrebonne will be increased from \$50,000 to \$75,000, which will result in a redistribution of the remainder of the funds for mass transit. In the future, if funding for mass transit in a year exceeds \$8.0 million, the base amount will increase to \$100,000, and if it exceeds \$10.0 million, the base will increase to \$125,000.

CHILD SAFETY

Two bills focused on child safety. **House Bill 81 by Representative Bruce (Act 447)** requires children under twelve years of age to wear a helmet while riding a bicycle on a public roadway, bicycle path, or right-of-way. The Senate deleted provisions which required civil penalties to be assessed against the parent or guardian of the child who did not wear a helmet.

Senate Bill 409 by Senator Dupre (House subject to call) would have required certain child passenger restraint systems for children under age 13 being transported in a motor vehicle. The bill identified the type of restraint system, including child safety seat, booster seat, or safety belt, that would be used for a child according to his age and weight; and if a child's age was in one category and his weight was in another category, the more restrictive restraint would have been required.

LOUISIANA TRANSPORTATION AUTHORITY

In an effort to address the state's growing transportation system needs and lack of sufficient revenues, **House Bill 2072 by Representative Diez (Act 1209)** creates a statewide Louisiana Transportation Authority within the Department of Transportation and Development. The authority's main focus is to pursue alternative and innovative funding sources, including public/private partnerships and tolls, to supplement public revenue sources. The authority will be governed by a nine-member board and can issue revenue bonds, subject to approval of the State Bond Commission.

DRIVER'S LICENSE

Current law provides that a driver whose license has been suspended due to a first-time DWI can apply for an economic hardship license. **Senate Bill 339 by Senator Dupre (Act 398)** also affords such an appeal for a person who is physically disabled and who must obtain medical treatment for his impairment. If the appeal is successful, the person will be permitted to drive only on specified streets and at specified times that will enable

him to obtain medical treatment for his disability.

MOTOR VEHICLES

Under the provisions of **Senate Bill 24 by Senator McPherson (Act 401)**, vehicles involved in an accident on any roadway must be moved to a safe shoulder of the road if the driver is not prevented by injury and the vehicle is not disabled by the accident, or if there is no serious injury or death to anyone. Prior law required only vehicles on an interstate or four-lane highway to be moved.

House Bill 942 by Representative Diez (Act 371) reduces the reinstatement fees for violations of the compulsory liability insurance law. Violations for failing to have insurance coverage on a vehicle will result in a reinstatement fee of \$25 if the violation is for a period of 11-30 days, \$100 for violations of 31-90 days, and \$200 for violations over 90 days, and a \$25 administrative fee. There will be no reinstatement fee if the violations is for 10 days or less. (Previously, the fees were \$25 for a first offense, \$200 for a second offense, and \$200 for third and subsequent offenses, plus a \$25 administrative fee on all violations.) The act also provides that if a person has more than one violation pending at the time of reinstatement, the total amount of fees he will have to pay will not be over \$500. According to the Office of Motor Vehicles, multiple reinstatement fees can mount up to such an extent that many persons cannot afford to pay them, and they are hopeful that lowering them will enable more people to pay their fees.

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UNITED STATES GOVERNMENT

Contact: Tom Tyler (225) 342-6156

Criminal Sentencing

Senate Resolution 75 by Senator C. D. Jones (adopted) requests Congress to repeal mandatory minimum sentences imposed on criminal defendants.

Federal Aid to Farmers

Because it is estimated that farmers across the nation will need an estimated \$9 billion above the projected federal budget baseline, **Senate Concurrent Resolution 64 by Senator Romero (adopted)** memorializes Congress to increase federal aid to Louisiana farmers who are experiencing disappointing crop yields due to drought as well as low commodity prices for their products.

Highways

House Concurrent Resolution 152 by Representative Diez (adopted) memorializes the Congress to enact legislation to allow states to option out of the federal-aid highway program.

Imported Crawfish & Catfish

House Concurrent Resolution 143 by Representative Baudoin (adopted) seeks assistance from the Federal Trade Commission to prevent the sale of crawfish and catfish imported from Asia and Spain at prices so low that Louisiana producers are unable to compete in the market.

Military Personnel

Senate Concurrent Resolution 9 by Senator Theunissen (adopted) memorializes Congress to recognize active duty military personnel as a special class of driver and to take other actions to reduce motor vehicle insurance rates charged these persons while serving in our nation's armed forces.

Milk

House Concurrent Resolution 93 by Representative Thompson (adopted) memorializes the Congress to adopt the Southern Dairy Compact.

National Energy Policy

As a major petroleum producer, Louisiana will have a major role in any policy on the national level designed to alleviate our energy problems. **Senate Concurrent Resolution 32 by Senator Lambert (adopted)** memorializes Congress to commission the United States Department of Energy to establish a national energy policy to develop a long-term remedy to our energy needs by providing incentives for immediate domestic natural gas exploration and production, and for opening untapped natural gas reserves in our nation.

In addition, **House Concurrent Resolution 43 by Representative Pierre (adopted)** also memorializes Congress to include in the national energy policy preparations for the future through comprehensive planning for development, production, delivery, conservation, and consumption of all manner of sources of energy and which includes economic growth and development for a better quality of life for all. This Resolution included strong support for Lease Sale 181 and reform of the Coastal Zone Management Act to reflect its original intent to encourage multiple-use and energy development in an environmentally responsible way.

House Concurrent Resolution 9 by Representative Thompson (adopted) memorializes Congress to strengthen the current federal safety rules for natural gas and liquid pipeline operations.

Presidential Elections

Senate Concurrent Resolution 95 by Senator Dupre (adopted) requests that a joint committee of the legislative governmental affairs committees study the manner of electing presidential electors in Louisiana. Requests that this study include a review and analysis of electing electors on a proportional basis by congressional districts as currently exists in the states of Maine and Nebraska.

Property Damage

Senate Concurrent Resolution 140 by Senator Irons (adopted) asks the Congress to study the feasibility of providing insurance coverage for any loss, damage, or diminution in value of property which is attributable to drought.

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WILDLIFE & FISHERIES

Contact: Arthur McEnany (225) 342-2414

Boats/Boating

Senate Bill 385 by Senator Michot (pending Senate Committee) would have required liability insurance on vessels and personal watercraft operating on Louisiana waters.

Senate Bill 677 by Senator McPherson and Senate Bill 773 by Senator Lentini (pending Senate Committee) would have created the Louisiana Boat and Motor Titling Act requiring the registering and titling of boats and boat motors.

House Bill 575 by Representative Nevers (failed Senate final) would have created the Louisiana Boat and Motor Titling Act that allows individuals to register and title their boats and boat motors if they desire to do so.

House Bill 1681 by Representative Heaton (pending House Committee) would have required a vessel operator's license to operate any motor -powered vessel on the waters of the state.

Fees/Licenses/Permits

Senate Bill 474 by Senator Smith (Act 324) allows out-of-state full-time college students to buy hunting and fishing licenses at the resident rate if their home state allows for reciprocity.

Senate Bill 950 by Senator Romero (Act 19) reduces the annual non-resident saltwater fishing license from \$50 to \$30 as part of a negotiated settlement with Mississippi.

House Bill 95 by Representative Ansardi (vetoed) would have provided for a lifetime senior fishing license at a very reduced rate and for this reason was vetoed by the governor.

House Bill 576 by Representative Nevers (pending Senate Committee) would have provided that the Wildlife and Fisheries Commission establish reciprocal hunting and fishing privileges with other states.

House Bill 875 by Representative Iles (pending Senate Committee) would have provided for the issuance of recreational fishing licenses at any time of the year.

Fish/Fishing

Senate Bill 328 by Senator Michot (pending Senate Committee) would have prohibited the use and possession of gill nets in fresh water.

Senate Bill 354 by Senator Michot (withdrawn) would have increased the daily creel limit on red drum to 8 fish per day and decreased the size limit from 16 inches to 14 inches.

Senate Bill 736 by Senator Ullo (pending Senate Committee) would have opened an annual commercial season on spotted sea trout by means of rod and reel.

Senate Bill 752 by Senator Michot (pending Senate Committee) and House Bill 1692 by Representative Triche (Act 165) would have designated the spotted sea trout as the official state saltwater fish.

Senate Bill 814 by Senator Dupre (pending Senate Committee) would have allowed the night time fishing of mullet using mullet strike nets.

Senate Bill 875 by Senator Michot and House Bill 1487 by Representative Triche (both withdrawn) would have designated the spotted sea trout as a recreational game fish.

Senate Bill 899 by Senator Michot (pending Senate Committee) and House Bill 1664 by Representative Triche (pending House Committee) would have prohibited the use and possession of gill nets in salt water.

Senate Bill 1062 by Senator Dean (pending Senate Committee) would have provided for the use of "consumer strike nets" to commercially take red drum, spotted sea trout, flounder and various other saltwater finfish.

House Bill 190 by Representative Odinet (House floor - subject to call) would have allowed the use of strike nets to harvest black drum.

Hunters/Hunting

Senate Bill 168 by Senator McPherson (pending House Committee) is a constitutional amendment that would have guaranteed the freedom to hunt, fish and trap in Louisiana.

Senate Concurrent Resolution 47 by Senator McPherson (adopted) requests the Wildlife and Fisheries Commission to study the feasibility of establishing a recreational season on nutria.

House Bill 281 by Representative Pitre (Act 226) provides for the department to establish a recreational hunting season on nutria.

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THE ISSUES POINT-BY-POINT

Contact: Brenda Hodge, (225) 342-9737

Education Dollars and Cents

Teacher Pay - The Minimum Foundation Program (MFP), which provides basic state aid to local schools, totals about \$2.4 billion and details a pay raise for teachers.

- ? **The formula includes a \$2060 annual pay raise for teachers and other “certified” personnel. The pay raise is funded with the \$70 million annual increase in the MFP and increased gaming revenue set aside for education pay. This latest raise increases the average teacher pay in Louisiana from \$33,109 to about \$35,200. In 1996, the average pay in Louisiana was only \$26,800 which means since that time, the average teacher salary has increased by almost \$9,000.**

- ? **The proposed MFP also requires that 50% of the new state money for the MFP in future years must be set aside for additional teacher pay raises - unless the legislature finds another funding source for such raises. The idea is to provide a way to give teachers pay raises on an annual basis to move more quickly to the SREB average. Since the MFP normal annual increase is about \$65 - \$70 million, every year at least \$32 million or more will support additional teacher pay hikes. That amounts to close to a \$500 raise every year.**

School Support Workers Pay -

- ? **There is money set aside in the supplemental appropriations bill, about \$12.5 million, to provide support workers a one time salary supplement of \$300 to \$400, depending on the number of workers eligible for the supplement. There are about 31,000 to 40,000 school support workers. About six years ago, support workers were also give a one time salary supplement.**

Accountability programs -

- ? **The 2001-02 state operating budget includes some \$26 million dollars more this year to support efforts connected with the state’s school accountability program and LEAP testing. Money is set aside for remediation programs, special help for under-performing schools and special rewards for achieving schools. The state budget now includes some \$48 million to support the state’s progressive accountability program.**

Adult education & drop-out prevention -

- ? **About \$14 million in Temporary Assistance to Needy Families (TANF) money is set aside to support adult education and pre-GED skills programs at local schools.**

Education Excellence Fund & the Sale of the Tobacco Settlement -

- ? **This spring, school systems across the state got their first checks from the Education**

Excellence Fund (EEF). The trust fund is financed with a portion of the money the state gets each year from the national settlement with tobacco companies. Interest from the trust fund goes to school systems to enhance classroom instruction - i.e. supplies, teaching materials, technology development, remediation, etc. It cannot be used for construction or teacher pay.

- ? **Lawmakers approved a bill to allow the sale of a portion of the state's tobacco settlement to get a large lump sum payment now rather than wait for the funds over a 25 year period. If the settlement is sold, the amount of money in EEF would grow dramatically and make available considerably more money to local schools through EEF.**

Education Policy & Programs - Legislators considered a wide range of measures dealing with educational policy and programs. Some of the more controversial measures such as proposed changes in teacher tenure; moves to make it easier to establish independent school systems and moves to allow school vouchers did not make it through the legislative process, but a number of far-reaching measures were approved.

? **Early childhood education**

- ? **Lawmakers approved a measure to begin a statewide early childhood education program in public schools. The proposed state budget sets aside some \$15 million in TANF money to begin the program. The measure encourages local schools systems to offer quality education programs for all four year olds in each school system by the state agreeing to pay for the "at-risk" students. State and national education experts agree that such early childhood education programs are critical to dealing with education and social problems in later years. It is estimated that some 14,000 four year olds in Louisiana - many of them from needy families - do not now attend any kind of pre-k program. If finally approved, state education officials will consider proposals from local systems to participate on a "first come, first serve" basis.**

- ? **The state budget also sets aside \$3 million specifically for Catholic Charities in New Orleans to make pre-k programs available to at-risk children in that area.**

- ? **Truancy Assessment Centers - The governor has signed a measure to expand and extend the time for development and evaluation of a series of pilot programs around the state to provide for early intervention and assistance for frequently absent students and their families. The proposal is to expand the pilot programs to include 11 judicial districts around the state. The programs operating in areas like East Baton Rouge, Caddo and Jefferson parishes have been very successful.**

- ? **Mandatory school attendance age - The legislature passed a measure that raises the mandatory school attendance age from 16 to 17. Students can leave school now at 16 with parental permission.**

- ? School discipline and violence**
- ? School discipline & bullying - The governor has signed a measure that tackles behavioral problems in schools by first giving school systems clear authority to charge problem students fines and fees for disciplinary classes and programs. It also requires local school boards to modify student conduct codes by August of this year to prohibit bullying by one student against another.**
 - ? Student support programs - Several measures approved by lawmakers at the session focus on trying to assist students with personal and/or behavioral problems. One measure takes steps to set up suicide prevention programs in local schools. Another authorizes elementary schools to develop programs on violence prevention and intervention to provide assistance to students who early on have behavioral problems.**
 - ? School crisis management - Under a measure signed by the governor, public schools must have a written crisis management and response plan in place by January of next year.**
 - ? Student criminal records - A new law awaiting the governor's signature requires courts and law enforcement agencies to notify schools when students, 12 years of age and older, are convicted of a crime, especially a crime involving a deadly weapon. There was a recent incident in the Monroe area at an alternative school where a student with a criminal record unknown to school officials attacked a school employee.**
 - ? Disclosure of education records to juvenile justice authorities - A new law requires school boards to adopt policies under which a school board and its employees, without parental consent, may disclose a student's educational records to law enforcement and others connected with the juvenile justice system.**
 - ? School employee criminal records - The governor has signed a measure to require the Bureau of Criminal Identification to provide the Department of Education and school employers a record of all criminal convictions of a school employee for a ten year period prior to the request for the information.**
- ? Teacher shortages and incentives - Louisiana has a growing problem with a shortage of certified teachers. The situation is particularly significant in rural areas and in certain subject areas. About 14% of the teachers in public schools are not certified to teach in their assigned subject area. To complicate matters, about one-third of education graduates from our colleges and universities opt to not teach in our public schools. Lawmakers approved a series of measures to try to deal with the problem and to provide incentives to teachers and other key school personnel to teach in public schools.**
- ? Critical Teacher Shortage Incentive Program - This program calls for a \$3,000 a year**

bonus for four years to newly certified teachers who teach math, biology, chemistry, physics or special education in public schools. There is no specific funding for the program which is estimated to cost about \$200,000.

? **National Certified Teachers -** Lawmakers expanded and extended the program that provides an extra \$5000 a year to those who earn certification from the National Board of Professional Teaching Standards. The program is expanded to include school administrators as well as teachers and is extended through 2007. The program was set to end in July of next year.

? **Re-employment of retired teachers -** Soon a retired teacher can return to work in a local school without a cut in retirement benefits, after 12 months of retirement. School systems are prohibited from entering into “pre-employment” agreements with soon-to-be retirees. Retirees who return to work have to contribute to the retirement system, but do not earn increased benefits through their re-employment. The new law repeals a number of restrictions and penalties on retired teachers returning to the classroom.

? **Out-of-state teacher certification -** Allows a teacher certified in another state to teach in Louisiana without a Louisiana teaching certificate for up to three years, rather than the one year limit in current law. Also certified teachers from other states who have at least four years teaching experience and teach in Louisiana public schools for one year do not have to take the teacher certification exam in Louisiana to be certified here.

? **School policies and operations**

? **Teacher training -** Lawmakers repealed a requirement instituted in 1997 to require additional staff development days for teachers as teacher pay increased. If the law had not been repealed, teachers would have had to participate in three additional training days next school year in exchange for their \$2060 a year raise.

? **Instructional time -** Instead of additional training days for teachers, lawmakers decided to increase the minimum number of teaching days in a school year from 175 to 177. That is still below the southern average of 180 days of instruction. Many schools in Louisiana are already meeting the higher minimum now. Others will probably be able to meet the additional time requirements by adding minutes to each teaching day.

? **Lost class time -** After a series of teacher sickouts this year that closed schools in some areas, legislators approved a measure that requires school systems to “make-up” days missed due to teacher absences shutting down schools.

? **Curriculum proposals**

? **Agriculture Education Advisory Committee -** The new panel will work with the Department of Education to develop non-mandatory instructional strategies for

integration of agricultural education into public schools.

- ? **Personal financial management - Allows for the development of personal financial management course work as part of existing courses.**
- ? **Bible as an elective course - Lawmakers approved a resolution to encourage local schools to offer the study of the Bible as an elective course focusing on the historical and literary impact.**

Higher Education Dollars & Policies

- ? **Faculty pay raises - About \$38.7 million is set aside for faculty pay raises from the revised gambling taxes approved during the 2001 special session. The funds will provide an average 5% raise, but the exact amount of the raise for college faculty will be determined by the various higher education governing boards. In determining the raises, the boards will consider merit evaluations and identify critical faculty needs in academic areas where there is a great deal of competition for quality faculty. On average, professors at Louisiana's colleges and universities are about 15% below the southern average in pay. The planned raises in the coming school year will help ease that problem.**
- ? **Endowed chairs and professorships - About \$23 million in new state money is set aside to match about \$35 million in private donations to support endowed chairs, which bring eminent scholars to our higher education institutions, and to support professorships by providing salary supplements as an incentive to hire specialized faculty.**
- ? **Higher Education Technology Initiative - Some \$22.5 million is earmarked for this initiative which is designed to increase the capacity of Louisiana's colleges and universities to train workers in technology and telecommunications through infrastructure development at the various institutions, focused research and staff development. This initiative is a key component of Governor Foster's Vision 2020 program that focuses on upgrading the role of higher education as a research and economic development tool.**
- ? **Tuition Increase Authority -**
 - ? **Lawmakers authorized state colleges and universities, with the approval of the Joint Budget Committee, to raise fees and tuition up to 3% a year beginning in January, 2002, with any approved increase actually taking effect the following fall semester. The tuition raising authority expires in July, 2005. Without the special tuition raising authority, colleges and universities must get approval for each planned tuition or fee increase with a two-thirds vote of the legislature.**
 - ? **If all universities raise tuition and fees by 3%, it will mean about \$12.8 million in additional funding for colleges and universities. Increased costs to students will range from \$4 a semester to \$36 a semester depending on the institution attended. On average,**

Louisiana college and university tuition is 28% below the southern average.

- ? **Authorize LSU Alexandria to offer four year degrees - After almost ten years of pushing for four year status, LSU-A supporters and CENLA officials won legislative approval of the measure that makes LSU-A a four year, baccalaureate degree granting institution. Citizens should have access to four year courses at LSU-A this fall. The Alexandria area has been the only major population center in the state without a four year university.**
- ? **START improvements - The Student Tuition Assistance and Revenue Trust Program (START) provides citizens with a program to save for college expenses with the state matching a certain portion of the investment. This session lawmakers approved changes in the program to encourage more participation in the program and to take advantage of changes in federal tax laws. Alternative investment options are also offered.**
- ? **Higher Education Learning Centers - In an effort to expand higher educational opportunities in Louisiana, lawmakers authorized the Board of Regents to establish learning centers in cooperation with local communities and existing post-secondary institutions to provide college courses and programs to areas of the state where higher education services are limited. Learning centers cannot be established in areas where community colleges already exist.**

TOPS Proposals - There were over 50 measures filed at the regular session relating to TOPS. In the final days of the session, work on the various proposals was “topsy-turvy” as proposals rejected by one chamber or the other were resurrected over and over again. In the end, lawmakers voted down moves to turn TOPS into a loan program, set income limits on participation in the college tuition program and require reimbursement to the state from students who dropped out of the program. Several important changes were approved.

? **TOPS Tech Award reform -**

? **Legislators agreed to change the eligibility requirements for the TOPS Tech Award which provides assistance to students seeking job training and technical skills. The changes are an effort to encourage students who might not be interested in pursuing a degree the opportunity to improve their quality of life by gaining job skills. The required ACT score for the award is lowered from 19 to 17 beginning with the fall semester this year. New alternatives to the current required curriculum, with courses more geared to preparation for technical training, take effect in the fall of 2002.**

? **Lawmakers also set up two special study committees to look at issues relating to the TOPS Tech Award and other incentives for students to seek job training in areas where there are shortages of trained workers.**

? **Core curriculum waivers - With some required courses still not available to students at some public schools, lawmakers decided to continue to waive certain course requirements for TOPS eligibility, when the courses are not available, through the 2002-03 school year.**

- ? **Early graduates eligibility - Allow students who graduate in less than 4 years to qualify for TOPS.**
- ? **Honor graduates & TOPS awards - Allow high school students who took at least 10 honors courses, graduate with at least a 3.0 grade point average and score at least a 24 on the ACT to qualify for the TOPS Performance Award. The grade point average now required for all students to get the higher performance reward is 3.5.**
- ? **TOPS studies -**
 - ? **The Board of Regents is now required to develop a uniform reporting system on TOPS to provide reliable information about the program. TOPS officials will also have to officially notify students and parents of TOPS when students reach the 8th grade, the time when they will be setting out their course study plan for high school.**
 - ? **The House and Senate Education Committees will work together in the coming months to study the costs associated with TOPS and the various eligibility issues. The committees will report back to the legislature with recommendations on needed changes in the program.**

Healthcare Issues

Lawmakers began the regular session facing a big hole in the state budget to support health care services. Devastating cuts and layoffs were avoided when state budget officials got new revenue estimates in May. Forecasters upped the revenue estimates for the 2001-02 budget year by some \$87 million. Most of that increase was set aside for health care services and, since much of the money the state spends on health care is matched with federal funds, the proposed cuts in health care services were avoided.

- ? **Medicaid drugs - With the cost of the Medicaid drug program now over \$500 million and growing by over \$100 million a year, lawmakers agreed to try to hold down the costs by setting up a new system to decide what drugs will be covered under the program. The Medicaid Pharmaceutical and Therapeutics Committee, made up of physicians, pharmacists and state medical officials will devise a list of covered medications. Doctors who want the state to pay for Medicaid patient drugs not on the approved list may seek special permission for coverage of the drug and the state must respond to the request within 24 hours. Medicaid patients awaiting word on coverage of a needed drug will be able to obtain a 72 hour emergency prescription. The new program should be in place early next year.**
- ? **LSU Health Sciences Center budget reform - Lawmakers agreed to change the way financing for the LSU Health Sciences Center and the 9 state hospitals the center oversees is handled. LSU officials asked for the change to allow them to keep some of the surplus the system generates and invest any surplus funds in facilities, staff improvements and cooperative programs with private facilities. The state hospital system has been plagued with lack of**

equipment and substandard facilities which have threatened medical education programs at the hospitals. At first, the Joint Budget Committee will have oversight of the new budget authority given to LSU.

- ? **LaCHIPS expansion** - The children's health insurance program, financed mostly with federal funds, now covers over 100,000 previously uninsured children in Louisiana. Lawmakers agreed to request permission from the federal government to expand the program to provide health insurance coverage to the parents of LaCHIPS children and pregnant women in families with children who qualify for LaCHIPS or Medicaid. The plan is to provide health coverage for parents whose family income is at the poverty level and for pregnant women whose family income is up to 200% of poverty level. State health officials hope to make health care services available to over 58,000 parents and over 3800 pregnant women through the effort. State funds necessary to expand the program are included in state budget plans.
- ? **Hospice Programs** - Lawmakers also agreed to allow state health officials to seek federal permission to expand the state's Medicaid program to include coverage of hospice services on a pilot basis.
- ? **Patient services** - Women will soon have easier access to mammography in Louisiana. Lawmakers agreed to allow women to obtain a mammography without a doctor's prescription. Legislators also created a special consumer task force to develop a plan to provide services and living options to the disabled, elderly and mentally ill in Louisiana. A 1999 U.S. Supreme Court decision requires states to develop alternatives to institutional care for such citizens.
- ? **Public Health policies** - To address potential public health problems, legislators gave state health officials powers to enforce the state's sanitary code and to license abortion facilities. Lawmakers also put new restrictions on late term abortions, requiring a second doctor to be present during the procedure and tests to determine the viability of the fetus.

Children & Family Issues

- ? **Child Support** - At the urging of the Louisiana Law Institute, lawmakers updated the guidelines used to determine the amount of child support owed. The guidelines have not been revised since 1972. Legislators also gave state officials more authority to collect overdue child support payments from parents. Parents who are 90 days past due on payments face the loss of various licenses - from driver's licenses to professional licenses.
- ? **Paternity issues** - Providing false information about the paternity of a child is now a crime with fines up to \$10,000 and five years in jail.

- ? **State issued ID's for children - Parents will soon have the option of getting a special identification card for children under 16 years of age. The state will issue the card, like a driver's license, for a \$3 fee.**
- ? **Bicycle helmets - To urge parents to make sure their children wear safety helmets when riding bicycles, lawmakers agreed to require the helmets for bike riders 12 years of age and under. Pushed as a safety education measure, the new law includes no penalties.**
- ? **Breast-feeding rights - Women in Louisiana now have an official right to breast-feed in public places.**

Corrections & Public Safety

- ? **Sentencing Reform & Alternatives to Incarceration - As the result of efforts in the State Senate over the past year, legislators approved and the governor signed a measure that eliminates mandatory minimum jail terms for certain non-violent crimes and returns to judges the discretion to order alternatives to incarceration for certain non-violent crimes, many of them low-level drug related offenses. The measure also establishes a Risk Review Panel which will make recommendations to the courts regarding release of certain inmates convicted of non-violent crimes to alternative programs such as drug courts, intensive parole, etc. The corrections reform measure is expected to save the state some \$60 million a year. Louisiana now has more people in prison than any other state and corrections costs are increasing at over a quarter of a billion dollars a year.**
- ? **Drug Courts & Other Sentencing Options - In conjunction with the sentencing reform measures, lawmakers agreed to expand funding for drug courts and other sentencing options. Over \$14.7 million is set aside to continue and expand drug courts which provide intensive intervention and treatment programs for non-violent drug related offenders. Another \$5 million is earmarked for other alternative programs that provide job training, literacy programs and support for convicted criminals placed on probation and/or parole. Additionally, legislators beefed up the state's probation and parole system with additional positions and funding to monitor and support the alternative sentencing programs.**
- ? **Home incarceration pilot program - Louisiana law now authorizes home incarceration as an alternative to prison for certain offenders, but the option has not really been used. Now, state corrections officials must implement a home incarceration pilot program using electronic monitoring devices by November of this year for non-violent offenders, with the participants picking up the tab for the home monitoring. The state hopes to save over \$6 million a year once the pilot program is fully implemented.**
- ? **Juvenile offender costs - To help local governments deal with the growing financial burden of taking care of juvenile offenders awaiting transfer to the state, lawmakers set aside about \$2 million to increase state payments to local and parish governments for the care of such**

offenders.

- ? **DNA testing -** Lawmakers approved a measure to set up a system in Louisiana that allows inmates to petition the courts for DNA testing to prove their claim of innocence. Allows inmates until the end of August 2005 to request the tests. The measure was adopted in response to concerns in Louisiana and across the nation of persons currently serving prison sentences and facing execution for crimes they did not commit.
- ? **Crimes of stalking & domestic violence -** Lawmakers approved several measures designed to give victims of stalking more protection by broadening the definition of stalking. They also approved changes in state law to expedite protection orders for dating partners who are victims of domestic violence.
- ? **Sexual abuse offenses -** After the kidnapping of a child in south Louisiana and reports of abuse, lawmakers approved a series of measures to address such problems including a new law to sentence those convicted of kidnapping a child under twelve to life with the option of a lesser sentence if the child is released unharmed; the creation of a Sex Offender Technology Fund financed with increased registration fees on sex offenders to purchase global positioning technology and other equipment to assist in the tracking of known sex offenders; a new prohibition on sexual offenders living less than 1000 feet from a school.
- ? **Elderly Crimes -** Those convicted of certain violent crimes against those 65 years of age or older will face an extra three years in jail in addition to the normal sentence for the offense. A new crime was also created to address the misuse or theft of assets needed to provide healthcare to an aged or disabled person.
- ? **Technology crimes -** Lawmakers approved a series of laws to deal with new crimes in connection with technology such as cyber-stalking, computer data damage or tampering, use of equipment to void anti-theft devices, use of bogus UPC labels to defraud and more.
- ? **Crime of aggravated robbery -** This is a new category of crime set up to close a gap in the state's criminal laws. Now there is the crime of armed robbery and the crime of simple robbery, but no way to adequately address a robbery crime where the victim is attacked and severely injured as occurred in a case in North Louisiana last year. The new aggravated robbery offense carries a penalty of 3 to 40 years in prison.
- ? **Vicious and dangerous dogs -** Lawmakers approved several measures to address growing concerns about dangerous and vicious dogs. One measure makes it a crime to own a vicious or dangerous dog. Other measures increase penalties for dog fighting and prohibit owning or training a dog for fighting matches.
- ? **Crimes of the times -** With the price of crawfish and gasoline rising, so are problems with crimes

associated with the pricey items. To deal with the situation, lawmakers increased penalties for crawfish theft and gasoline theft. A person caught filling up the tank and not paying, now faces the loss of their driver's license for a first offense.

Highway Safety Issues

- ? **Lower DWI threshold - After several years of discussion, legislators agreed to lower the blood alcohol level at which a person is considered intoxicated from .10 to .08. The lower level will take effect the end of September 2003, the deadline for all states to lower the DWI threshold to at least .08 or face loss of federal highway funds.**
- ? **Expand DWI laws to include a driver impaired by the use or abuse of over the counter drugs and certain prescription drugs.**
- ? **DWI offenders substance abuse treatment - In an effort to address problems with repeat drunk drivers, lawmakers agreed to set up new laws that allow the sentencing of 3rd and 4th DWI offenders to in-patient and out-patient substance abuse treatment along with intensive, supervised home incarceration. Some initial jail time will still have to be served. Offenders will bear the cost of the alternative sentencing program. Those who violate the requirements of the treatment and/or the home incarceration program will have to serve the prison time.**
- ? **Railroad crossing safety - Lawmakers could not agree on a series of measures to require installation of safety gates at certain crossings, but they did agree to set a \$1000 fine and require a driver safety course for drivers who try to beat trains at crossings. They also authorized train engineers and other railroad employees who witness crossing violations to notify law enforcement officials within 36 hours of the incident, providing a vehicle description, license plate information and other details.**
- ? **Driver Distractions Study - With all of the national attention on the use of cell phones by drivers, lawmakers agreed to set up a special study panel to investigate problems with driver distractions, like cell phones. The panel will submit a report to lawmakers no later than December 2002.**
- ? **Other highway safety matters - Current state law requires motorists to move vehicles involved in accidents from the roadway on interstates and four-lane highways. Lawmakers extended that to include all roads. And, if you decide to make a run for it across interstate traffic, be ready to pick up some litter. Pedestrians illegally crossing interstates now face fines and community service.**

Economic development & Infrastructure

- ? **Reorganization of the Department of Economic Development - Lawmakers at the regular session approved and the governor has signed changes in state law to refocus the state's economic development efforts as recommended by the Governor's Economic Development**

Reorganization Task Force.

- ? **The proposed state operating budget also calls for investment of state dollars in information technology development, higher education research and bio-medical advances.**
- ? **The Division of Administration, with the approval of the state legislature, is moving ahead with the implementation of a coordinated state plan for the use of technology in providing services, government operations and data collection. The legislature also approved a series of measures to allow expanded use of computer technology in the handling of state business and adopted the Uniform Electronic Transaction Act, a measure to set up a system of uniform electronic transactions allowing both government and private business to use electronic records, signatures and contracts in their operations.**
- ? **Saints initiatives - A plan to renegotiate the state's contract with the Saints has not yet been finalized. Lawmakers did approve a plan to improve facilities at Nicholls State University in connection with the Saints' use of the university for its training camp. A measure to allow for the sale of the Superdome name with the proceeds to go to the Saints as long as they are the NFL franchise in New Orleans was also approved. If necessary, other Saints related issues can be addressed later in the year at an anticipated special session of the legislature this fall.**
- ? **Louisiana Transportation Authority - This is a new entity in the State Department of Transportation with the power to impose tolls on certain road projects and use those tolls to pay off bonds sold to finance road and bridge projects. The authority will also be allowed to form partnerships with private companies to build transportation projects with the company paid with toll revenue. This authority is seen as an option for financing major transportation projects like the extension of I-49 and the proposed loop around Baton Rouge that are not expected to be financed within the existing state transportation program.**

State Finance Issues

- ? **2001-02 state operating budget - The state operating budget approved by lawmakers totals about \$15.2 billion. That is about \$1 billion more than the operating budget approved last June and about the same amount above the "existing operating budget" as of December, 2000 which is used as somewhat of a starting point in development of the governor's executive budget each year. Much of the increase is connected to increased federal funding for healthcare and programs relating to welfare reform. Almost \$200 million in new gambling revenue was raised earlier this year to pay for teacher and college faculty pay. The budget continues to focus state dollars on improving education, healthcare services and economic development.**
- ? **Sale of the Tobacco Settlement - Lawmakers agreed to authorize the sale of up to 60% of the state's expected revenue from the national settlement with tobacco companies. Louisiana now gets an annual payment from the settlement that is supposed to total over \$4 billion dollars in the next 25 years, but state officials are concerned that in future years the tobacco companies**

might go bankrupt or that the annual payments to the state may decline, since the payments are somewhat tied to tobacco sales. Selling the settlement will mean less total money to the state, but the state would realize a large up-front payment - as much as \$1.1 billion - from the sale of the settlement to investors. Since most of the lump sum money would go to the Millennium Trust Fund that supports local schools, TOPS and health care programs, the state would have a bigger pot of money now to earn more interest money to support education and healthcare services.

- ? **State employee group benefits program** - The program that provides health insurance to state workers and other government employees continues to have financial problems. Lawmakers put up an extra \$76 million this fiscal year to help pay off a recurring deficit in the program and approved a measure to put up another \$63 million in the 2001-02 fiscal year if additional revenues become available. Even with that, the program is ailing. So lawmakers approved a measure that, among other things, prevents employees nearing retirement from enrolling in the health insurance program at the last minute to get retirement health benefits. To encourage younger employers, with lower healthcare costs, to enroll in the program, the state is also increasing how much it puts up for a state worker's health insurance premium so that in 3 years, the state will be picking up 75% of the premium costs.
- ? **Supplemental pay** - At the urging of firefighters and local law enforcement officials, state lawmakers agreed to approve a proposed change in the state constitution to protect supplemental pay from budget cuts. If voters go along with the proposed change, the state could not reduce the monthly \$300 payment without a two-thirds vote of the legislature.
- ? **Fee increases** - This session lawmakers were bombarded with requests from local courts, state agencies and special groups to increase all sorts of fees to support one program or another. Concerned that the "fee" increases were really taxes in disguise, raising court costs in some parishes to hundreds of dollars for a parking ticket, the Senate halted consideration of the fee measures. Lawmakers intend to study the problem with rising court and local fees around the state over the next few months and decide how state officials should approach the problem.
- ? **Prestige License Plates** - Faced with a growing number of requests for prestige license plates that cost the state even when few purchase the plates, lawmakers decided to change state law to require at least 1000 requests for the plate before it is developed and sold.
- ? **State Energy Policy** - With energy costs skyrocketing, state lawmakers ordered the Division of Administration to move forward with an audit of energy use in state buildings and to establish energy conservation measures.
- ? **Revenue issues** - In this general session, lawmakers could not consider tax measures. They could, however, consider changes in state law to allow state agencies to do a better job of collecting taxes already on the books. Legislators approved a series of measures that give the Department of Revenue more tools to do their job including the use of collection agencies and

the attorney general's office to collect delinquent taxes; the authority to order a business to cease operation for failure to remit taxes collected for the state, like sales taxes; the authority to make the names of delinquent taxpayers public; technical changes in the law to make it easier for revenue officials to gather tax information from businesses and to conduct audits.

Government Reform

- ? **Legislative Budget Authority - A proposed change in the state constitution to be considered by the voters in a statewide election in November 2002 gives the state legislature more flexibility to deal with needed state budgets.**

- ? **Now over 64% of the state money to support citizen services and programs is protected from cuts through special dedications in the state constitution or state law. With most of the budget immune from cuts, the unprotected areas of state spending, such as higher education, health care and social service programs take the brunt of any cuts. Those kinds of cuts in state dollars cost the state hundreds of millions of dollars in federal matching funds, particularly in vital health care programs for the needy and elderly.**

- ? **The proposed change in the state constitution and a companion change in state law will give the state legislature more options in dealing with state finances and setting priorities for spending tax dollars during time of tight state finances. In certain circumstances during a budget year and during preparation for a next year budget, lawmakers could cut up to 5% in most all of the programs now protected from cuts. Cuts to the MFP would be limited to no more than 1% and could not affect instructional services.**

- ? **Eliminate the elected Commissioner of Elections and merge the office with the office of the Secretary of State, making the elections commissioner post an appointed position in the Secretary of State's office. The two offices will merge at the end of this term, which is January 2004, or earlier if the commissioner of elections post is vacated. A plan for the merger of the office will be submitted to lawmakers by January of next year for review. With the merger of the two offices, the elected secretary of state and all of the agency's employees will be prohibited from participating in political activities, except their own campaign.**

- ? **Proposed change in the way legislative sessions are now operated. Lawmakers approved a proposed change in the state constitution that will be considered by voters in the November statewide election 2002 to set new rules for legislative sessions. Legislators now meet in general sessions in odd numbered years, with shorter fiscal only sessions in even numbered years. The proposal is to move the fiscal sessions to even numbered years and the general sessions to odd numbered years. In fiscal sessions, lawmakers could introduce five non-fiscal bills and an unlimited number of so-called local bills, adding a few days to the length of the session to deal with the extra bills. Lawmakers have been frustrated with the current limits on the fiscal session that has lead to the need for repeated special sessions and regular sessions with thousands of**

bills introduced.

- ? Legal fees for acquitted public officials and government employees - Beginning this fall, a special panel will meet annually to set the hourly fee for attorneys who represent public officials and government employees who are tried and acquitted of wrong-doing. Now reimbursement for such legal fees is on a case-by-case basis.
- ? Lobbyist registration fee increase - \$10 fee raised to \$110 to cover the actual costs associated with the Board of Ethics maintaining and overseeing lobbyist registration matters.
- ? Campaign finance reforms - Several measures address candidates and others who violate campaign finance laws and do not pay the fines and fees associated with those violations. Ethics officials gain new powers to file claims against a person's individual income tax return for unpaid fines; and candidates cannot use campaign funds to pay fines if they intentionally violated the campaign finance laws.
- ? Open meetings - State law now requires the legislature and school boards to allow public comment at meetings. Now all public bodies must set up a procedure to make sure the public can have a say.

Consumer Related Issues

- ? Do Not Call List - Sets up a system for consumers to have their names placed on a do not call list maintained by the Public Service Commission to stop calls from telemarketers. Consumers pay \$5 for five years or \$1 a year to have name placed on list. Telemarketers must purchase the list and face fines for calling citizens on the list. The law requires the PSC to have the do not call list in place by January of next year.
- ? Generic drugs - A quirk in the state pharmacy code, revised by lawmakers a few years ago, left in question the authority of a pharmacist to fill a prescription with a generic drug without first calling a physician for permission. Lawmakers addressed the problem with a new standard prescription pad where physicians check a box to allow use of generics. Consumers will now have a clear option to get generic drugs.
- ? Mississippi-Louisiana hunting & fishing license fees - Louisiana finalized an agreement with Mississippi over out-of-state hunting and fishing license fees with the passage of several measures at the session. The governor has signed the measures into law that lower fees on certain out-of-state fishing licenses and address charter boat fishing licenses. Earlier this year, Mississippi took the necessary administrative steps to lower its out-of-state hunting license fees which had almost doubled when Louisiana raised fishing license fees last year to deal with budget cuts in the wildlife and fisheries department.

- ? **Limitation on information on credit card receipts - By January 2003, merchants in Louisiana using electronic cash registers will be required to issue cash register credit card receipts that only include the last five digits of the account number. The protection against credit card theft will not apply to “manual receipts”.**
- ? **Internet “name-jacking” - It is now against the law in Louisiana for someone to register a website in your name and then try to sell it back to you. A number of people, including public officials, have run into problems with so-called “cyber-squatting” or “name-jacking”. Under the law you can file suit or the attorney general can take action.**
- ? **Job discrimination & genetic testing - As genetic science and research evolves, lawmakers decided to make sure that citizens in Louisiana should not face discrimination on the job or when seeking employment because of genetic testing results that may reveal health problems.**

The Water Question

Early on in the session, the question of how best to develop a statewide water policy dominated discussions. In the end, lawmakers approved several measures relating to the issue.

- ? **Ground Water Management Commission & Ground Water Advisory Task Force - The commission, with input and participation from the task force, will define areas with critical groundwater needs and will be able to regulate withdrawals from those areas. The two groups are also charged with developing a comprehensive statewide water policy for consideration at the 2002 regular session.**
- ? **Chicot Aquifer study - The state operating budget sets aside \$160,000 to develop a model of the Chicot Aquifer Complex and to evaluate its status.**