

Final Edition of 2004 Session Highlights

Agriculture/Rural Development

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AGRICULTURAL PRODUCT DEVELOPMENT/SUPPORT

House Bill 1039 by Representative Montgomery and Senator Smith (Act 271) prohibits the state from limiting the ability of Louisiana agricultural firms to bid or do business in Louisiana. Additionally, it requires the Gaming Board to give preferential treatment to Louisiana agricultural firms regarding the procurement of resources and goods.

What began as a bill to address the financial difficulties faced by Louisiana's dairy farmers, and to create the Dairy Farmer Support Fund, **Senate Bill 42 by Senator Nevers (Act 58)** was eventually broadened to apply to all farmers. Specifically, it requires state agencies to assist the Department of Agriculture and Forestry, when requested by the department, in the development, registration, and licensing of a trademark or label for use in promoting Louisiana agricultural products. It authorizes the department to sell licenses for the use of such trademark or label, with monies derived to go into a new special fund, the Agricultural Product Support Fund. Monies in the fund can only be used for payments to Louisiana farmers for use in sustaining or expanding their operations in Louisiana. **Act 58** is effective only upon approval by the voters of a constitutional amendment provided for in **Act 928**.

Senate Bill 44 by Senator Nevers (Act 928), was introduced to create the Dairy Farmer Support Fund in the constitution. However, the bill was broadened to create the Agricultural and Seafood Products Support Fund in the constitution. The fund will consist of monies received by the state from licensing of trademarks or labels for use in promoting Louisiana agricultural and seafood products as well as grants, gifts, and donations received by the state for such purposes. The monies in this fund would be

subject to appropriation by the legislature solely for programs and purposes as required by the Department of Economic Development in providing assistance to Louisiana farmers and fishermen for the support and expansion of the farming and fishing industries. The proposed amendment will be submitted to the voters on November 2, 2004.

AQUACULTURE

Following last year's veto of legislation creating a Louisiana Aquaculture Coordinating Council, the idea re-surfaced with **House Bill 1192 by Representative Townsend and Senators Ellington and Smith (Act 865)**, which provides a regulatory framework for the orderly development and maintenance of a modern aquacultural segment of Louisiana's agriculture industry and for the promotion of aquaculture and aquacultural products. The Act creates the Louisiana Aquaculture Coordinating Council within the Department of Agriculture and Forestry and establishes a procedure for approving a species of finfish as suitable for aquaculture. It evolved into its present form after extensive talks and compromise between the Department of Agriculture and Forestry and the Department of Wildlife and Fisheries.

COCKFIGHTING

House Bill 681 by Representative K. Carter (involuntarily deferred, House Agriculture) would have prohibited the following: promoting or conducting an organized cockfight; possession of a fighting bird at a cockfight or the handling of a bird in a cockfight; possession of cockfighting weapons; amputation of the comb or the wattles from a rooster and the modification of the natural spur of a rooster to hold a cockfighting weapon; employment at a cockfight; attendance at a cockfight; breeding of fighting birds; and transportation of fighting birds on public roads or across parish lines.

DAIRY

In an effort to help Louisiana dairy farmers and aid in the promotion of Louisiana dairy products, **Senate Bill 43 by Senator Nevers (withdrawn)** would have required a retailer to have at least one area reserved solely for the sale of Louisiana dairy products. Faced with significant opposition to the bill, **Senate Concurrent Resolution 86 by Senator Nevers (enrolled)** was introduced to request retailers within the state to promote Louisiana dairy products. A similar resolution, **House Concurrent Resolution 201 by Representative Thompson (enrolled)**, requests retailers to promote Louisiana dairy products and value-added products within the Louisiana dairy industry.

Moreover, **House Bill 1269 by Representative Strain (pending House Agriculture)** and **House Bill 1318 by Representative Thompson and Senators Nevers and Cheek (pending House Agriculture)** would have established the Dairy Development Fund and assessed a 1.35% and 1% fee, respectively, on all milk and dairy products sold or offered for sale at the wholesaler or distributor level. Both bills provided that the fees would be deposited into the Dairy Development Fund and be used for paying the cost of and meeting the needs of dairy programs and for other dairy industry economic development programs.

House Concurrent Resolution 195 by Representative Strain and Senators Nevers and Smith (enrolled) memorializes Congress to oppose the Australian Free Trade Agreement (AUSFTA) and other free trade agreements which are harmful to American dairy producers.

FOOD LABELING

Currently, the law prohibits the sale or advertisement of food products as "Cajun" and "Louisiana Creole" unless the food qualifies for the 10% preference for products produced, processed, or manufactured in Louisiana under government public bidding provisions. **House Bill 891 by Representative Thompson and Senator Ellington (Act 9)** repealed a provision of law that provided such prohibition does not infringe upon rights acquired pursuant to any trademark or trade name legally registered with the state as of May 15, 2003.

FOOD SAFETY

House Concurrent Resolution 137 by Representative Odinet (enrolled) requests the Department of Agriculture and Forestry, the Department of Wildlife and Fisheries, and the Department of Health and Hospitals to form an interagency task force to examine agricultural commodities imported into Louisiana from California to confirm their compliance with public health and safety standards.

LANDSCAPE IRRIGATION CONTRACTORS

Landscape irrigation contractors will have to obtain a license under **House Bill 1399 by Representative Salter (Act 810)**. The legislation provides for the licensing of landscape irrigation contractors, upon passage of an exam, which will consist of a list of questions submitted by the Louisiana Irrigation Association and the Department of Agriculture and Forestry. It adds a licensed landscape irrigation contractor to the Horticulture Commission and authorizes landscape irrigation contractors to construct, install, connect, repair, maintain, improve, or alter any portion of a landscape irrigation system, including the required wiring within that system, and to install and connect the landscape irrigation system to the required power supply and to a public or private water supply system. However, it provides that a person who constructs, installs, connects, repairs, maintains, improves, or alters an irrigation system used for agricultural or forestry purposes or on property owned, managed, or leased by that person or his employer shall not be required to obtain a landscape irrigation contractor license.

LOUISIANA CENTER FOR RURAL INITIATIVES

House Bill 1220 by Representative Thompson and Senator Smith (Act 796) creates the Louisiana Center for Rural Initiatives as a consortium initiative between the Louisiana State University Agricultural Center and the Southern University Agricultural Research and Extension Center. It provides that the center will be charged with the mission to improve socioeconomic well-being in Louisiana's rural communities by facilitating rural development research, increasing awareness and understanding of rural development conditions, issues, and policies in Louisiana, and providing rural community stakeholders and policy makers with information necessary for public-policy decision making.

OFFICE OF RURAL AFFAIRS STUDY

Senate Concurrent Resolution 155 by Senator Smith (enrolled) requests the Senate and House committees on agriculture, forestry, aquaculture, and rural development to jointly study and make recommendations for the creation of a state office of rural affairs.

SUGAR

Sugar provisions in the Central American Free Trade Agreement (CAFTA) allow Central American countries to increase the current quota of sugar they can ship into the United States by 75% next year with an additional 2% increase per year over the next fifteen years. Large increases in sugar imports will likely drive the domestic raw sugar price down below break-even levels for a large percentage of Louisiana sugar cane producers and could destroy Louisiana's sugar industry. Thus, **House Concurrent Resolution 113 by Representative Baldone and Senators Smith and Nevers (enrolled)** memorializes Congress to oppose CAFTA and other free trade agreements which are harmful to American sugar producers.

TIMBER

Currently, a buyer who purchases timber from a co-owner or co-heir of land may not remove the timber without the consent of the co-owners or co-heirs representing at least 80% of the ownership interest in the land, provided the buyer has made reasonable effort to contact the co-owners or co-heirs who have not consented and, if contacted, has offered to contract with them on substantially the same basis that he has contracted with the other co-owners or co-heirs. **Senate Bill 753 by Senator Adley (pending Senate Agriculture)** would have changed the required consent to a majority of the ownership interest in the land in which the timber is located.

TURTLES

Senate Bill 161 by Senator B. Gautreaux (Act 913) creates the Louisiana Aquatic Chelonian Research and Promotion Board to promote the growth and development of Louisiana's aquatic chelonian industry and improve the quality and variety of Louisiana aquatic chelonians, through research, and increasing sales of Louisiana aquatic chelonians through advertising and marketing. An aquatic chelonian is defined as a turtle or terrapin.

WEIGHTS AND MEASURES

House Bill 478 by Representative Daniel and Senator Smith (Act 47) exempts fuel sold for seagoing vessels (commercial ships, vessels, or barges of greater than 50 tons) from a fee of 4/32 of 1 cent per gallon of petroleum products sold or distributed in the state, which is used for the enforcement of petroleum weights and measures regulations. It also removes the exemption for undyed diesel fuel sold for non-highway use. The Act repeals provisions requiring the labeling of gasohol and methanol pumps and containers. Additionally, it repeals a provision of law which provides for a civil penalty of up to \$5,000 for a violation of regulations applicable to petroleum weights and measures. This penalty was in contradiction to another provision setting forth a civil penalty of up to \$500 for violations of weights and

measures device regulations, which is still in place.

Capital Outlay
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CAPITAL OUTLAY

House Bill 2 by Representative Hammett (Act 1), provides for the comprehensive capital outlay budget, the development and expansion, for Fiscal Year 2004 - 2005, including funding from the following sources of monies:

(1)	State General Fund	\$ 17,525,250
(2)	Federal Funds	\$ 36,647,108
(3)	Federal Funds - TTF	\$ 537,000,000
(4)	Transportation Trust Fund (TTF)	\$ 163,866,000
(5)	TIME Funds	\$ 61,900,000
(6)	Interagency Funds	\$ 21,705,000
(7)	Fees and Self-Generated Funds	\$ 110,433,345
(8)	Other Statutory Dedications	\$ 8,540,000
(9)	Reappropriated Cash	\$ 6,161,207
(10)	Reappropriated Interest Earnings	\$ 623,796
(11)	Revenue Bonds	\$ 948,950,000

TOTAL CASH PORTION **\$1,913,351,706**

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

Priority 1	\$ 878,480,000
Priority 2	\$ 145,966,700
Priority 3	\$ 244,380,550
Priority 4	\$ 229,791,000
Priority 5	\$ 900,946,600

TOTAL GENERAL OBLIGATION BONDS **\$2,399,564,850**

Bonds NRP/RBP	\$ 4,531,732
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GRAND TOTAL ALL MEANS OF FINANCING **\$4,317,448,288**

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

Senate Concurrent Resolution 116 by Senator McPherson (enrolled) requests the commissioner of administration to study the feasibility of delegating the office's administrative responsibilities regarding capital outlay projects appropriated to non-state entities.

Senate Concurrent Resolution 154 by Senator Marionneaux (enrolled) requests the Joint Legislative Capital Outlay Committee, with input and assistance from the commissioner of administration, to develop recommendations for a new capital outlay budget process that encompasses a true priority system for capital projects.

Civil Law & Procedure

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CHILDREN

Adoption. **House Bill 372 by Representative Ansardi (pending Senate Judiciary A)**, which was introduced on the recommendation of Louisiana State law Institute, would have provided for certain changes to current adoption procedures and would have further provided for the release of information in adoption proceedings, under certain conditions, which is now considered confidential under certain conditions. Under the proposed provisions of **House Bill 372**, in addition to current information included in the statement of family history on adoption forms, the state would be required to include the child's immunization record, the child's illness history, and descriptive information about the parents. The bill would raise the maximum age for adoption of a child from 17 years to under 18 years and require a psychologist or psychiatrist to be licensed before conducting a preplacement home study.

The more controversial provisions of **House Bill 372** concern the ability of an adult adoptee to access identifying information of his biological parent. Currently an adopted child may file a petition for disclosure of information, but requires that there is a compelling necessity for the information by an allegation of inheritance rights which may be due, a medical necessity, a reasonable belief that his biological parents or sibling is registered with Department of Social Services, or a requirement of federal or state law that the information be released. The proposed provisions would change the present provisions and require the release of nonidentifying genetic or medical information from court records as a matter of right. **House Bill 372** would establish a procedure which would authorize the court to appoint a confidential intermediary to review confidential records and locate the biological parent when an adult adoptee petitions the court for identifying information. The intermediary would be required to conduct a discrete investigation and ascertain the wishes of the parent. Before the release of information and after an agreement is made with the biological parent to meet with the adoptee, each of the parties would be required to participate in not less than one hour of counseling with a counseling profession. If the intermediary is unable to locate the biological parent or if the parent objects to disclosure of the information, the court would be required to deny disclosure of the information. If both biological parent are deceased, the court would be required to grant the petition.

House Bill 372 would also authorize foster parents and parties to all adoptions, including private and intra family adoptions, to enter into continuing contact agreements.

Child abuse. Current law requires for the storage and accessibility of a child abuse investigatory report which is determined to be either inconclusive or false. Because any investigated incident can provide

a pattern for future abuse investigations, **Senate Bill 274 by Senator Lentini (Act 457)** was introduced to add reports which are determined to be not justified to those requirements. The Act will further require that any information of an inconclusive or not justified report be maintained for seven years for the date of the determination unless a subsequent inconclusive or not justified report is received during the period, in which case information from such reports would be maintained until the youngest child in the alleged victim's family attains the age of 18 years or seven years from the date of the latest determination, whichever is longer.

CLONING

Three bills were introduced relative to the prohibition and criminalization of cloning - **Senate Bill 74 by Senator Hines (subject to call - House floor)**, **House Bill 803 by Representative Beard (subject to call-Senate floor)**, and **Senate Bill 782 by Senator Lentini** which was reported by substitute from the Senate Committee on Judiciary A and became **Senate Bill 873 (pending conference committee)** and was declared a duplicate of **House Bill 803**.

Senate Bill 74 was introduced to extend the current cloning laws which were enacted in 1999 and will become void after July 1, 2003. The bill would continue the prohibition against cloning and would define cloning as the creation of or the attempt to create a human being by transferring the nucleus of a human cell into a human egg cell from which the nucleus has been removed (somatic cell nuclear transfer) for the purpose of using the resulting product to initiate a pregnancy that could result in the birth of a human being. The prohibition does not extend to the use of the resulting product for the purpose of extracting stem cells for scientific research or cell-based therapy. **Senate Bill 873** and **House Bill 803** also prohibit cloning, but define cloning as the process of human asexual production by somatic nuclear transfer and, thereby, prohibits the process of creating the product which is defined by the bill as an embryo.

All three bills would authorize administrative penalties for violation of the respective prohibitions which are proposed to be not more than \$10 million for a legal entity, not more than \$5 million for an individual, and if pecuniary gain is achieved through the violation a civil penalty of not more than an amount equal to the amount of the gross gain multiplied by two. Additionally violations would result in permanent revocation of medical licenses and would be the basis of disciplinary action as deemed appropriate by the Louisiana State Board of Medical examiners. All three bills further prohibit the use of prohibit state funds for cloning as defined in the respective bill but do not prohibit the use of state funds for scientific research or cell-based therapies which are not specifically prohibited by the bill.

FAMILIES

Custody. A current option for child custody agreements is "shared custody" which is a joint custody order in which each parent has physical custody of an approximately equal amount of time and which provides for proportionate calculation of the basic child support order based on the shared custody. **Senate Bill 600 by Senator Smith (pending Senate Committee)** would have required the court to direct the parents to develop a plan of 50/50 shared custody and would require the court to impose such

a plan if the parents were unable to agree on a plan of shared custody. The bill would have deleted provisions for the calculation of child support. There would have been a rebuttable presumption to the required shared custody if the parents had contracted an alternative agreement in the best interest of the child, if either or both parents had been found guilty of a violation bearing on the care or custody of the child, if a parent was found unfit for shared custody; or if the parent or parents had abandoned the children.

Child Support. There is currently a formula for the determination of each party's share of a total child support obligation with provisions that in joint custody the court shall consider the period of time spent by the child with the nondomiciliary party as a basis for adjustment of parent's share of custody and which authorize the court to order a credit to the obligation of child support if the child is in the parent's physical custody for more than 73 days. **Senate Bill 344 by Senator Smith (pending House Committee)** would have required that the authorization to order such a credit would be applicable if the nondomiciliary party has the child in his physical custody not less than 73 days and not more than 119 days, but would make such a credit mandatory if such custody exceeded 119 days. **House Bill 404 by Representative Bowler (Act 756)** requires that, in determining the amount of credit to be given to the nondomiciliary parent, the court consider the continuing expenses of the domiciliary parent in addition to the present consideration which is given to the amount of time the child spends with the nondomiciliary parent.

Senate Bill 861 by Senator N. Gautreaux (Act 319) adds the suspension of licenses for the operation of personal watercraft, motorboats, sailboats, or trailers of persons not in compliance with an order of child support to the current provisions for the authorized suspension of professional license, motor vehicle operation licenses, and sporting activity licenses.

Marriage. In response to the recent and continuing controversy created by the sanctioning of same sex marriages in certain states, **Senate Bill 166 by Senator Hainkel (subject to call) and House Bill 61 by Representative Scalise (Act 926)**, which was declared a duplicate of **Senate Bill 166**, were proposed as constitutional amendments to define marriage as the union of one man and one woman. **House Bill 61**, if approved by the voters in a statewide election to be held September 18, 2004, will prohibit official or courts from conferring marriage or the legal incidents upon any union other than the union of a man and a woman and would provide that a legal status similar to that of marriage is not valid or recognized for unmarried individuals. The provisions, if approved, will further prohibit the recognition of any court or official of a marriage contracted in another jurisdiction unless it is a union between one man and one woman.

HEIRSHIP/USUFRUCT

Under present provisions of law an individual is considered a forced heir if he is a descendent of the first degree and he is 23 years of age or who, at the time of the death of the decedent, is unable either to take care of himself or his estate due to mental incapacity or physical infirmity, or has an inherited, incurable disease which may render him incapable in the future. **Senate Bill 182 by Senator Lentini**

(subject to call -House floor) would change the conditions under which a person is a forced heir due to an incurable disease by removing the requirement that the disease be inherited and require that by clear and convincing evidence it has been shown that the disease or condition will render the person permanently incapable in the future of caring for himself or his estate.

House Bill 39 by Representative Bruneau (Act 231) clarifies the present provisions which prohibit the spouse of a legatee to witness any testament by providing that if the person is a spouse of the legatee at the time of the execution of the testament, the testament is not invalidated. The Act further provides that, if the legacy is invalid and if the legatee would be an heir in intestate, the legatee may receive the lesser of his intestate share in the testament and requires that any testamentary terms or restrictions placed on the legacy shall remain in effect. The provisions of the Act shall apply only to testaments executed on or after January 1, 2004.

Both **Senate Bill 339 by Senator Hainkel (subject to call - House floor) and House Bill 576 by Representative Bowler (Act 158)** address the issue of the requirement that, unless security is dispensed with, a usufructuary must give security that he will use the property subject to the usufruct as a prudent administrator and fulfill all obligations imposed on him. **House Bill 576**, which includes the same provisions as **Senate Bill 339** would have enacted, provides that if security is required, the court may order that the security be provided as authorized by present law which includes the execution of notes, mortgages or other documents as it deems necessary, or a mortgage or lien on community or separate property, whether immovable or movable.

House Bill 576 provides that security may be dispensed with by operation of law in the following circumstances:

1. When a person has a legal usufruct under provisions relative to a parent's usufruct over a minor's property or relative to a widow's \$1000 usufruct.
2. When a surviving spouse has a usufruct over the intestate decedent's share of community property, unless the naked owner is not a child of the marriage or is a forced heir.
3. When a parent has a legal usufruct over a deceased child's property unless the naked owner is not a child of the parent.
4. When a surviving spouse has a legal usufruct over the marital portion unless the naked owner is not a child of the marriage.

The new provisions repeal the authority of a successor, other than children of the marriage, to request security when surviving spouse who has usufruct over the decedent's property.

IMMOVABLE PROPERTY

Currently, homeowner's associations, which consist primarily of members who are lot owners in a residential community, may be created to manage or regulate the community. Such associations are authorized to mandate membership in the association, to require assessments by the members, and to establish restrictive covenant to govern the use and occupancy of the community. **Senate Bill 52 by Senator Ullo (Act 452)** requires that the property disclosure documentation required by present law include notification to the purchaser as to whether or not he is obligated to be a member of a homeowner's association as a result of his purchasing property in the community. **Senate Bill 52** further requires that the purchaser also receive a written statement informing him that the disclosure statement is summary, that governing documents of the association are a matter of public record, and where such documents can be obtained.

LIABILITY

Lockett v. the State of Louisiana, Department of Transportation and Development addressed the legal questions as to whether multiple \$500,000 caps are allowed under present law in wrongful death actions brought against the State. The Supreme Court found that the cap is to be applied "per plaintiff" for the wrongful death of any one person. **Senate Bill 168 by Senator Kostelka (pending Senate Committee on Judiciary A)** and **Senate Bill 719 by Senator Michot (pending Senate Committee on Judiciary A)** would clarify the original intent of present law which is contrary to the decision of the Supreme Court. **Senate Bill 168** and **Senate Bill 719** would both provide that in all suits for personal injury to a wrongful death of any one person, the total amount recoverable, including all derivative claims, exclusive of property damages, medical care and related benefits and loss of earning, and loss of future earnings, or loss of support shall not exceed a total of \$500,000.

LEGISLATIVE PROCEDURE

House Bill 1297 by Representative Townsend (subject to call - Senate floor) would provide direction as to the use and purpose of certain elements of a legislative bill, would define the extent to which these elements may be considered to determine legislative intent, while providing for other sources of legislative intent and would provide that titles, keywords, one-liners, abstracts, digests, and other words not contained in the sections following the enacting clause of a bill are not law. Additional provisions of **House Bill 1297** would provide that audio or video recordings or electronic images of the proceedings of either house of the legislature or one of its committees which are made self authenticating under Chapter 9 of the Louisiana Code of Evidence shall be prima facie proof of the existence and contents of the respective proceeding. Under the proposed provisions, the court would be required to consider legislative intent when the meaning of a law could not be ascertained by application of the Civil Code or the Louisiana Revised Statutes. Relative to the determination of intent, the bill would provide for the following determinations:

- (1) The text of a law is the best evidence of legislative intent.

- (2) The occasion and necessity for the law, the circumstances under which it was enacted, concepts of reasonableness, and contemporaneous legislative history, may also be considered in determining legislative intent.
- (3) The legislature may express the intended meaning of a law in a duly adopted concurrent resolution, adopted by the same vote and, except for gubernatorial veto, time limitation for introduction and third reading and final passage, according the same procedures and formalities required for enactment of the law, and while not controlling, such resolution may be persuasive in circumstances determined to be appropriate by the court.
- (4) The legislature is presumed to have enacted an article or statute in light of the preceding law involving the same subject matter and court decisions construing such law; where the new article or statute is worded differently, there is a rebuttable presumption that the legislature presumed to change the law.
- (5) That a bill introduced which does not become law is not competent evidence of legislative intent.
- (6) The keyword, one-liner, abstract, digest, and other words contained outside the sections of the bill following the enacting clause are solely to provide members of the legislature with general indicia of the content of the bill.
- (7) That the digest of a bill is an informal staff summary of the apparent context in which the subject matter of the bill may be discussed.
- (8) Fiscal and actuarial notes provide the legislature with an analysis of the potential fiscal impact of a bill, and committee minutes are summary reports of committee proceedings based on legislative staff's subjective determination of importance.

MEDICAL MALPRACTICE

Senate Resolution 14 of the 2001 Second Extraordinary Session established the Commission on Medical Professional Liability to study liability issues and insurance issues as they relate to health care professions, the private and state medical malpractice acts, the patient's compensation fund, and related medical-legal matters. Prior to the 2004 Regular Session, the commission considered several pieces of legislation for introduction and endorsed five - **Senate Bill 557 by Senator Lentini (pending Senate committee)**, **Senate Bill 370 by Senator Lentini (Act 311)**, **Senate Bill 382 by Senator Lentini (Act 183)**, **Senate Bill 302 by Senator Hines (Act 306)**, and **Senate Bill 381 by Senator Lentini (Act 181)**.

In Dumas v. State ex rel. Department of Culture, Recreation & Tourism, the Supreme Court

found 1996 legislative changes to the Louisiana Civil Code abolished solidary liability in cases involving negligent acts and, with it, abolished the action for contribution among joint tortfeasors. **Senate Bill 557 by Senator Lentini and Senate Bill 528 by Senator Holden (Pending Senate Committee on Judiciary A)** both would provide for an interpretation of the 1996 changes to explain the original intent of the Act which enacted the changes. The provisions of both would be intended to overrule the opinion of the Supreme Court and would provide for comparative fault in any action for damages in which it is alleged that the injury, death or loss was caused by the fault of a health care provider as a result of medical malpractice. Both bills would provide that the degree or percentage of fault of the health care provider would not be determined and there would be no reduction of damages recovered for a percentage of the fault unless the party seeking the determination had filed a claim against the health care providers, obtained a medical review panel and filed an incidental demand against the health care provider.

All medical malpractice claims, whether against a state health care provider or against a private health care providers, are required to be reviewed by a medical review panel, consisting of three health care providers and one attorney. A review panel is required to express its opinion as to whether or not the evidence supports the conclusion that medical malpractice was the cause of the claim. **Senate Bill 370 by Senator Lentini (Act 311)** allows the attorney for the plaintiff to appoint the attorney member if an attorney or representative of the health care professional named in the complaint has not made an appearance in the proceedings or contacted the plaintiff attorney within 45 days after the health care provider and insurer has been notified that the filing fee has been received by the patient's compensation board.

Senate Bill 382 by Senate Lentini (Act 382) establishes a procedure for setting a medical review panel when a malpractice claim for the same injury of death alleges liability of both a state health care provider and a private health care provider. In such a case, only one review panel shall be convened to review the claims which shall consist of a single attorney chairperson and three health care providers holding unlimited license to practice their respective professions in the state. The panel shall be considered a joint panel and its actions shall have the same force and effect as if a separate panel had met under the provisions for either a state or a private medical review panel. The sitting panel shall be governed by the law applicable under provisions relative to state and private medical review panels; but, if a procedural conflict occurs, the provisions governing private review panels shall prevail.

Presently when a medical review panel reports or when requests are made for a medical review panel, such report or request is reportable to various boards, credential agencies, clinics, hospitals, and health insurers even if there is found to be no justification for the claims made against the health care professional. **Senate Bill 302 by Senator Hines (Act 306)** makes such reports and requests non-reportable.

Senate Bill 381 by Senator Lentini (Act 182) authorizes coverage by the Patient's Compensation Fund of a student enrolled in a qualified emergency medical services education program

under the direct supervision of a license health care provider.

Two additional bills were introduced which were presented to the commission for review, but not endorsed - **Senate Bill 371 by Senator Lentini (Act 181)** and **Senate Bill 359 by Senator Hines (309)**.

As it relates to medical malpractice claims, a recoverable expense includes "future medical care and related benefits." **Senate Bill 371** defines such benefits to include care and benefits which are incurred after the date of the court's finding or response to the special interrogatory by the jury that the patient is in need of future medical care and related benefits

Senate Bill 359 removes the authority of the Insurance Rating Commission to reduce the surcharge paid by those persons covered by the fund when the fund exceeds the sum of \$15 million in any one calendar year. Currently the fund is required to be maintained to provide a surplus of 50% of the annual surcharge premiums, reserves for individual claims and for those incurred but not reported, and for expenses. The bill would lower the percentage to 30%.

A claimant in a malpractice claim now must file a \$100 fee per named defendant. **Senate Bill 359** requires that a \$100 fee be filed for each qualified defendant named in an amendment to the request for a review and would require that the fee be received within 45 days from the mailing of the confirmation of receipt of the request for a review of additional defendants. It also require that such a request be filed with the division of administration and that the division of administration forward the amendment to the board within five days of its receipt.

Finally, **Senate Bill 359** authorizes a non-physician to serve on a medical review panel. Additionally, the bill would require a physician serving on a panel to hold an unrestricted medical license issued by the La. State Board of Medical Examiners, Currently, a physician is required to hold a license to practice medicine in the state.

NOTARIES

Both **Senate Bill 143 by Senator Dupre (Act 62)** and **House Bill 405 by Representative Bowler (Senate floor-subject to call)** provide relative to the authority of clerks of court to reject certain acts which fail as to the required form. **Senate Bill 143**, which includes the provisions of **House Bill 405**, excepts acts which fail to meet the required form from the requirement of prompt recordation. The Act further authorizes the clerks to refuse to accept any act which lacks the required type or printed name of the notary and witness or the notary identification or bar roll number and provides for an exemption from liability for the rejection of any act which fails as to the required form. Additionally, no state office, agency, department, or political subdivision shall be authorized to accept, file, or record any documents notarized in this state after January 1, 2005 unless the document contains the required type or printed name of the notary and witness, and the notary identification or attorney bar roll number.

House Bill 363 by Representative Ansardi (Act 754) provides that, beginning in 2005, notary

examinations will be given on the second Monday of June, September, and December, and, thereafter, four times a year on the second Monday of March, June, September, and December and would require that, prior to the examination date, a candidate must satisfy all the commission requirements and not later than 60 days prior to the examination date must submit the required fee and register with the parish examining committee. The parish examining committee would be required to notify the secretary of state of the number of examination needed for the date of the examination and to submit the required fee and registration form not later than 45 days prior to the date of the examination. Additionally, a review of a failed examination shall be conducted by the secretary of state rather than by the parish examining committee as currently required.

Coastal Restoration

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2004 First Extraordinary Session

Senate Resolution 4 by Senator Hines (enrolled) creates the Senate Select Committee on Coastal Restoration and Flood Control, consisting of 7 members appointed by the president of the Senate. The select committee is to study all issues related to coastal restoration and flooding in coastal parishes, including matters relating to tidelands, construction, public works, improvements and maintenance of waterways, lakes, and streams in coastal parishes, and flood and drainage projects and levee districts in coastal parishes. Provides that the select committee shall meet as necessary and make written reports of its findings prior to each regular session, together with any specific proposals for legislation.

2004 Regular Session

Senate Bill 308 by Senator Dupre (Act 459) provides certain procedures and requirements relating to coastal management program guidelines, coastal use permitting, and mitigation of wetlands losses. Authorizes periodic review of guidelines. Provides that an application for a coastal use permit may be denied without prejudice, or withdrawn or placed on inactive status, if the applicant fails to respond within 60 days to a request from the permitting authority. Provides that the owner of the land on which a permitted activity is to occur shall have the option of requiring on-site or off-site compensatory mitigation on his property located in any jurisdictional area of the coastal zone or any area included in the Louisiana Coastal Wetlands Conservation Plan.

Senate Bill 310 by Senator Dupre (Act 633) authorizes the Department of Natural Resources to expropriate, by a declaration of taking, property in the coastal zone needed for barrier island preservation, restoration, or creation for coastal wetlands purposes. Defines "property" to mean a servitude, easement or right-of-way necessary to establish, maintain or operate a project for barrier island preservation, restoration, or creation for coastal wetlands purposes. Excludes from such expropriation ownership of the surface, subsurface and mineral rights. Provides that certain mineral rights are vested in the owner of the property relative to the existing coast or shore line of the property and emergent lands lying within the project area. Also provides that in the event subsequent erosion should cause any emergent lands to become part of the seabed, ownership of all mineral rights and mineral production therefrom shall be vested in the state. Provides that ownership of certain subsurface mineral rights by the owner of the property shall be deemed just and adequate compensation for the taking of the property, and no further compensation or damages shall be owed by the state. Provides procedures for expropriation process.

House Bill 429 by Representative Dove (Act 407) provides for a barrier island and shorelines stabilization and preservation program to be established within the Louisiana Coastal Wetlands Conservation and Restoration Program. As part of the program, provides that Dept. of Natural Resources shall require that all projects subject to public bid include appropriate dredges for use to stabilize and preserve barrier islands and shorelines. By Sept. 1st of each year, the governing authority of each parish with barrier islands and shorelines shall submit to the secretary a list of barrier islands and shorelines stabilization and preservation projects requested for that parish. The department shall review the projects and by Dec. 1 issue a list which prioritizes those requests. Provides for priority list to be promulgated, and to be subject to legislative oversight prior to Feb. 1 of each year. Provides that funding for projects shall be available from the Barrier Islands and Shorelines Stabilization and Fund and, in the event funding from such fund is not appropriated in a given year, that the program shall be suspended until funds are appropriated for the program.

NOTE: Section 2 of bill states that its provisions shall take effect and become operative if and when House Bill No. 1034 is enacted and becomes effective.

House Bill 620 by Representative Pierre (Act 217) provides that notwithstanding any other provision of law to the contrary, any person who has entered into an oyster lease with the state and who is claiming compensation pursuant to R.S. 49:213.10 (relative to compensation to be paid by the state or a political subdivision for property taken for public purposes related to coastal wetlands conservation, management, preservation, enhancement, creation, or restoration), arising out of or in any way related to the oyster lease granted by the state shall file such action only in the 19th Judicial District Court for the Parish of East Baton Rouge.

House Bill 788 by Representative Pierre (Act 386) provides that the secretary of the Dept. of Natural Resources shall take into consideration a permit applicant's history of compliance with the provisions of the Louisiana Coastal Resources Program prior to making a determination of whether to approve or deny the application for a coastal use permit. Provides for exceptions and for promulgation under the Administrative Procedure Act of guidelines for implementation. Further provides that the applicant shall be allowed to review and comment on his compliance record as compiled by the secretary.

House Bill 1034 by Representative Dove (Act 786) creates the Barrier Island Stabilization and Preservation Fund as a special fund in the state treasury. Funds are to be used exclusively by Dept. of Natural Resources to support barrier island stabilization and preservation program with the Louisiana Coastal Wetlands Conservation and Restoration Program.

House Bill 1266 by Representative Damico (Act 277) provides procedures for notification to multiple landowners of proposed activities under a coastal use permit. Also provides relative to the Coastal Mitigation Account that (a) monies may be used for projects in which permittees may pool funds

sufficient for compensatory mitigation required of each participating permittee, and removing requirement that there must not be an appropriate individual project or mitigation area available in the coastal zone; (b) authorizing secretary of Dept. of Natural Resources, when appropriate, to use monies in the account to fund, in whole or in part, wetland restoration projects developed or implemented by the department of a parish with an approved local coastal program; and (c) providing that payment to the account in lieu of compensatory mitigation is accepted only when a permittee is unable to provide mitigation through an appropriate individual project or through an appropriate mitigation bank or area located within the coastal zone or Coastal Wetlands Conservation Plan area. Provides for promulgation of regulations and that secretary shall ensure that any fees collected in lieu of compensatory mitigation are adequate to fully offset the cost of restoring the habitat value lost.

Senate Concurrent Resolution 75 by Senator N. Gautreaux (enrolled) memorializes Congress to authorize and fund the establishment of the Coastal Forest Reserve Program, and requests federal and state forest services and state schools to provide an inventory of coastal forests.

Senate Concurrent Resolution 159 by Senator Dupre (enrolled) memorializes Congress to review federal laws, rules and procedures affecting coastal wetlands activities and permitting in Louisiana.

House Concurrent Resolution 68 by Representative Odinet (enrolled) urges the prompt closure of the Mississippi River Gulf Outlet.

House Concurrent Resolution 80 by Representative Pierre (enrolled) approves the Coastal Wetlands Conservation and Restoration Plan for Fiscal Year 2004-2005.

House Concurrent Resolution 180 by Representative Dove (enrolled) urges Dept. of Natural Resources, Dept. of Wildlife and Fisheries, and Dept. of Environmental Quality to streamline permitting process for drilling permits and coastal use permits.

House Concurrent Resolution 265 by Representative Pitre (enrolled) requests the State Land Office to prioritize its surveying efforts so as to complete the coastal parishes first.

House Concurrent Resolution 291 by Representative Baldone (enrolled) urges secretary of Dept. of Natural Resources to update base mitigation costs used to calculate monetary contributions to the Coastal Mitigation Account of the Louisiana Wetlands Conservation and Restoration Fund.

Senate Bill 170 by Senator Dupre (Senate Natural Resources) would have provided relative to mitigation activities and the Coastal Mitigation Account.

Senate Bill 172 by Senator Dupre (Senate Natural Resources) would have provided relative to mitigation and coastal wetland losses and the Coastal Mitigation Account, and would have authorized certain self-mitigation by a public body.

House Bill 378 by Representative Baldone (House Natural Resources) would have required wetlands compensatory mitigation to be in the form of payments to the Coastal Mitigation Account.

House Bill 855 by Representative Pierre (House Natural Resources) would have provided relative to administrative fines or penalties when unauthorized activities caused damage in the coastal zone.

Commerce & Consumer Protection

by: Jeff Oblesbee
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The 2004 Regular Session proved to offer many historic changes in the area of Commerce and Consumer Protection. The legislature tackled such historically controversial issues such as the regulation of the Louisiana River Pilot system and self-help repossession. In addition to providing for these fundamental changes, the legislature also continued to enhance the state's economic development efforts through an expansion of the Louisiana Quality Jobs program to assist small business, as well as by providing the Department of Economic Development additional tools to assist in negotiations with out-of-state companies.

PILOTS

An issue which has been around for several sessions finally managed to find its way through the legislature in the final days of the 2004 Regular Session. Two competing pieces of legislation, **Senate Bill 472 by Senator Dardenne (pending House Commerce) and House Bill 1708 (Act 902)**, each took a dramatically different approach to regulating the pilotage industry in Louisiana, and following much discussion and debate by all parties involved, a compromise was finally reached which all sides can agree is true reform.

As the system is presently set up, each of the four pilotage groups in Louisiana which help guide foreign vessels along the Mississippi and the Calcasieu rivers (The Associated Branch Pilots for the Port of New Orleans, the River Port Pilots for the Port of New Orleans, the New Orleans-Baton Rouge Steamship Pilots Association, and the Associated Branch Pilots for the Port of Lake Charles) have a separate fee commission which has the exclusive authority to set pilotage fees and rates for that particular group. Each of these fee commissions is composed of four industry members and four pilot members. If (and when) the dispute cannot be determined at the fee commission level, the matter is then transferred to the La. Public Service Commission. Due to a variety of reasons, the fee commissions have not been utilized for several years, leaving the PSC with the sole authority (and responsibility) of setting pilotage fees and rates.

With the enactment of **House Bill 1708**, effective January 1, 2005, the current pilotage fee system will be replaced with a single pilot fee commission which will have the exclusive authority to set pilotage fees and rates. Following much discussion between all parties, the legislation provides that the commission will be composed of four industry members, four pilot members, and three at-large members appointed by the governor, with all decisions to be determined by a simple majority vote. Appeals of the fee commission will go through the judicial system, but only after a finding the commission's decision was either arbitrary or

capricious.

House Bill 1708 also establishes a board of pilot review and oversight, which will also be composed of four industry members, four pilot members, and three former judges. The board will be responsible in overseeing the examination procedures for pilots, review all discipline proceedings brought against pilots, as well as review any accidents involving state commissioned pilots.

Although the process to crafting this compromise legislation was sometimes as tricky and hazardous as traveling the Mississippi River, all parties agree that **House Bill 1708** provides true reform of a much criticized industry.

"REPO MAN" LEGISLATION

The legislature also tackled yet another annual controversial issue during the 2004 Regular Session. Characterized by many as the "repo man" bill **Senate Bill 768 by Senator Hollis (Act 191)** will transform the procedures a lender must utilize in order to repossess a motor vehicle following default by the borrower.

Presently, a lender must go through a lengthy and costly judicial procedure which will ultimately require the local sheriff to seize the borrower's vehicle. Placing Louisiana in line with the other forty-nine states, **Senate Bill 768** will allow the lender to use a licensed repossession agent to seize a borrowers vehicle if they have a payment that is more than 60 days past due, and only after receiving notice from the lender.

In an effort to educate the general public about the change in law, the effective date as been delayed until January 1, 2005 and all future financing agreements will provide the borrower with notice of the change in law. **House Bill 1489 by Representative Johns (Act 814)** provides additional notice by requiring the lender to file a "Notice of Repossession" with both the local clerk of court and the local law enforcement agency prior to seizing the motor vehicle.

Promoted yet another economic development tool, it is anticipated that by placing Louisiana in line with every other state additional secondary lenders will return to Louisiana which will not only add new jobs to our economy, but also provide an additional opportunity for Louisiana citizens to obtain financing for a motor vehicle.

ECONOMIC DEVELOPMENT

Following several sessions of legislation which sought to improve, streamline, and modernize the Louisiana Department of Economic Development, the 2004 Regular Session focused on a handful of issues to enhances DED's ability to operate. **House Bill 744 by Representative Lancaster (pending Senate Final Passage)** would allow the department to categorize certain records pertaining to ongoing, active negotiations with companies interested in locating to Louisiana to be classified as non-public until the negotiations are completed.

Although the legislation has yet to pass, Governor Blanco recently announced a major new business

relocating to the state. Dubbed "Project U" by the Department of Economic Development, Union Tank Car Co. has agreed to locate a rail car manufacturing to the state which will employ nearly 1,000 Louisiana citizens.

Building on past efforts to encourage research and development in the state, **Senate Bill 593 by Senator B. Gautreaux (Act 672)** allows for regional research and development parks to be developed and operated in order to promote, create, develop, and strengthen research and development activities in the state.

In an effort to extend the benefits of the state's Quality Jobs Program to small business, **House Bill 1674 by Representative Walsworth (Act 899) and Senate Bill 858 by Senator Kostelka (pending house committee)** will allow companies that employ 50 or fewer employees to participate in the program provided that they are (1) one of the Vision 2020 cluster industries, and (2) offer health insurance coverage to all their full-time employees and pay at least 50% of the health insurance premium. Participating companies will receive 50% of the benefit rate for every new direct job they create. Meanwhile, **House Bill 1478 by Representative White (VETOED) and Senate Bill 845 by Senator Fontenot (senate subject to call)** would have expanded the definition of a "new direct job" for purposes of the Quality Jobs Program. As proposed, a "new direct job" would also have included new jobs with a company with which an employer has a "facility management contract" under which another company agrees to operate all or part of the employer's manufacturing facility, although the company would only receive 80% of the benefit rate granted under the Quality Jobs program.

Finally, in an effort to provide some additional accountability for businesses which receive a direct equity investment from the state, **Senate Bill 819 by Senator Marionneaux (Senate subject to call)** would have required such business to post a bond or other security in an amount equal to the direct equity investment. In the event the business receiving the investment was not able to succeed, the bond or other security would be forfeited to the state in order to repay the investment.

"DO NOT CALL" PROGRAM

House Bill 189 by Representative Winston (Act 148) will provide additional exemptions from the provisions of the "Do Not Call" program to calls places by optometrists, dentists, and chiropractors to their patients, as well as by veterinarians who place calls to their clients.

In an effort to consolidate the Louisiana "Do Not Call" list with the "National Do Not Call" list, **House Bill 1030 by Rep. Pinac (Act 857)** requires the La. Public Service Commission to establish and maintain a single "do not call" list that will include Louisiana consumers who have already requested that their name appear on the "National Do Not Call" list. The measure will also provide an additional exemption to telephone solicitors if they are calling their friends, family, or acquaintances.

CONSUMER PROTECTION

During the 2004 Regular Session, the legislature considered, and passed numerous pieces of legislation in an effort to extend additional protections to the consumers of our state.

Senate Bill 295 by Senator N. Gautreaux (Act 69) prohibits any person or entity selling a gift certificate in Louisiana to contain an expiration date that is less than five years. Violators will be subject to any and all actions and penalties associated with the La. Unfair Trade Practices and Consumer Protection Law. The legislation place Louisiana in line with several other states who have prohibited, or severely limited, the use of expiration dates on gift certificates.

Under current law, any person who engages in false advertisement is subject to a civil fine of no more than \$500, or imprisoned for no more than six months for each violation. In an effort to continue to discourage such persons from engaging in false advertise, **House Bill 120 by Representative Walker (Act 364)** increases the civil fine from a maximum of \$500 to \$2,500.

In an effort to protect a consumer's dirty clothes from the hazards of a laundromat, **House Bill 1557 by Representative Marchand (Act 357)** will now require commercial laundromats to maintain a boiler which will ensure that hot water being provided to the washing machine will have a minimum temperature of at least 120 degrees.

Finally, in an effort to protect consumers from the certain junk mail, **Senate Bill 284 by Senator Marionneaux (pending Senate commerce)** would have prohibited a credit card company from mailing unsolicited credit card applications to Louisiana citizens.

BANKS/BANKING

In an effort to bring additional international banks to the state, **House Bill 911 by Representative Lancaster (Act 420)**, **Senate Bill 551 by Senator Duplessis (pending Senate Commerce)**, and **Senate Bill 573 by Senator Bajoie (pending Senate Commerce)** will authorize the creation of International Banks in Louisiana and allow such foreign banks to receive deposits, open offices, operate branches, and transact other business in Louisiana.

Numerous other pieces of legislation were also considered in order to clean-up various banking concerns brought forward on behalf of the office of financial institutions. The legislation includes **House Bill 332 by Representative Pinac (Act 151)** which extended certain exemptions from licensure and continuing education under the Residential Mortgage Lending Act, **House Bill 276 by Representative J. Smith (Act 370)** which eliminates certain antiquated requirement for posting a surety bond under the Louisiana Check-Cashing Law, and **Senate Bill 239 by Senator Hollis (Act 65)** which clarifies that a financial institution may impose a fee when an account is overdrawn when a payment is made by electronic means.

MISCELLANEOUS

Brought at the request of numerous college coaches, including LSU's Nick Saban and Southern's Pete Richardson, **House Bill 1408 by Representative Daniel (Act 351)** provides additional safeguards to student athletes before they are approached by an athletic agent. It will require the sports agent to contact, and receive permission, from the athlete's coach and parent prior to contact, and will create a cause of action for tortious interference with contract should the sports agent violate the provisions of this law.

House Bill 419 by Representative Pinac (Act 328) prohibits a horse owned by a member of the State Racing Commission from racing in a claiming race within the state. Meanwhile, House Concurrent Resolution 10 by Representative Townsend (**enrolled**) will amend portions of the state horse racing rules to allow for races by "paint" horses.

Finally, **Senate Concurrent Resolution 44 by Senator Duplessis (enrolled)** memorializes Congress to amend portions of the U.C.C. to allow a state or national bank to participate in a lottery for charitable purposes.

Constitutional Amendments

by: Tom Tyler
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MARRIAGE

The Louisiana Civil Code provides that “[M]arriage is a legal relationship between a man and a woman that is created by civil contract.” This concept will be placed in the Constitution of Louisiana under **House Bill 61 by Representative Scalise and Senator Hainkel (Act 926) (Duplicate of Senate Bill 166 by Senator Hainkel)**. The specific language to be placed in our constitution is that “[M]arriage in the state of Louisiana shall consist only of the union of one man and one woman.”

The proposed constitutional amendment further prohibits any official or court of the state from construing the state constitution or any state law to require that marriage or its legal incidents be conferred upon any member of a union other than the union of one man and one woman and also prohibits any official or court from recognizing a marriage contracted in any other jurisdiction that is not the union of one man and one woman.

In addition, the constitutional provision also provides that a legal status identical, or substantially similar, to that of marriage for unmarried individuals is not valid or recognized in our state.

HOMESTEAD EXEMPTION

Provisions regarding the homestead exemption available to homeowners are clarified and adjusted under **Senate Bill 806 by Senator Dupre (Act 929)**. The homestead exemption applies to state, parish, and special ad valorem taxes to the extent of \$7,500 of assessed valuation. The basic changes are reflected as follows:

- (1) The exemption applies to the bona fide homestead which meets the following criteria:
 - (a) It applies to a tract of land or two or more tracts of land, even if the land is assessed at use value, and there is a residence on one tract and a field with or without timber on it, pasture or a garden on the other tract or tracts.
 - (b) It cannot exceed 160 acres.
 - (c) It applies to buildings and appurtenances, whether rural or urban, owned and occupied by any person or persons owning the property in indivision.

- (d) It applies to the primary residence, including a mobile home, that serves as a bona fide home that is owned and occupied by any person or persons owning the property in indivision regardless of whether the homeowner owns the land upon which it is sited.

The exemption does not apply to land upon which a primary residence is sited if the homeowner does not own the land.

- (2) The exemption extends to and fully applies to a surviving spouse or a former spouse when the homestead is occupied by the surviving spouse or former spouse and title is in the name of (a) the surviving spouse as owner of any interest or either or both of the former spouses; (b) the surviving spouse as usufructuary; or (c) a testamentary trust established for the benefit of the surviving spouse and the descendants of the deceased spouse or surviving spouse,

This exemption does not extend to more than one homestead owned by either the husband or wife, or both.

- (3) Adds provisions that the exemption extends to property owned by an irrevocable trust when the principal beneficiary or beneficiaries of the trust are the settlor or settlors of the trust and were the immediate prior owners of the homestead, and the homestead is occupied as such by a principal beneficiary.

This applies only to property which immediately qualified for the exemption immediately prior to transfer, conveyance, or donation in trust, or which would have qualified for the exemption if the property were not owned in trust.

- (4) Adds provisions that the exemption extends to property where the usufruct of the property has been granted to no more than two usufructuaries who were the immediate prior owners of the homestead and the homestead is occupied as such by a usufructuary.

This applies only to property which qualified for the exemption immediately prior to the granting of such usufruct, or which would have qualified for the exemption if the usufruct had not been granted.

- (5) Adds provisions that the exemption extends only to a natural person or persons and to an irrevocable trust created by a natural person or persons, in which the beneficiaries of the trust are a natural person or persons provided that the other provisions in the constitution regarding homeowners are satisfied.
- (6) Adds provisions that the exemption extend to property owned in indivision, but it is limited to the pro rata ownership interest of the person or persons occupying the homestead.

- (7) Adds provision prohibiting granting a homestead exemption on bond for deed property.

Makes an exception for exemptions granted prior to June 20, 2003 on property occupied by a buyer under a bond for deed contract as long as the circumstances giving rise to the exemption at the time the exemption was granted remain applicable.

- (8) Adds provisions that prohibit extending or apply more than one exemption to any person in the state.
- (9) Retains the provision that the homestead exemption does not extend to municipal taxes but that the exemption applies (a) in Orleans Parish, to state, general city, school, levee, and levee district taxes and (b) to any municipal taxes levied for school purposes.

FISHING & HUNTING

The freedom to hunt, fish and trap wildlife will be protected in our constitution under **Senate Bill 2 by Senator McPherson (Act 927)**.

This proposal to the constitution states that the freedom to hunt, fish and trap wildlife, including all aquatic life, traditionally taken by hunters, trappers and anglers is a valued natural heritage of the people and requires that it be forever preserved for the people. The management and regulation of this right by the Louisiana Wildlife and Fisheries Commission is retained to protect, conserve and replenish the natural resources of the state.

The amendment stipulates that it will not alter the burden of proof for any challenge to a law or regulation pertaining to hunting, fishing, or trapping wildlife, including aquatic life. Private property will be protected in that the proposed amendment is not to be construed to authorize the use of private property to hunt, fish or trap without the consent of the property owner.

CIVIL SERVICE

A five-point preference is allowed to certain veteran's applying for civil service positions. Under **House Bill 261 by Representative Futrell and Senator Dardenne (Act 930)** this preference is available in the state and city civil service to persons honorably discharged in the armed forces of the United States who served for at least ninety days after September 11, 2001 for reasons other than training.

In addition, a five-point preference is available to persons in the state police civil service who were honorably discharged, or discharged under honorable conditions, from the armed forces who served during a war declared by the Congress; or for at least ninety days after September 11, 2001, for reasons other than training; or during war period dates or dates of armed conflicts provided by law enacted by 2/3 vote of the elected members of each house of the legislature.

AGRICULTURAL AND SEAFOOD PRODUCTS SUPPORT FUND

Funds may be available to Louisiana farmers and fishermen to assist them with support and expansion of their industries in the state of Louisiana from the Agricultural and Seafood Products Support Fund (**Senate Bill 44 by Senator Nevers and Representative Strain, Act 928**).

Monies received by the state from licensing of trademarks or labels for use in promoting Louisiana agricultural and seafood products as well as grants, gifts, and donations received by the state for such purposes are to be deposited into this Fund. The monies in this fund would be subject to appropriation by the legislature solely for programs and purposes as required by the Department of Economic Development in providing assistance to Louisiana farmers and fishermen for the support and expansion of the farming and fishing industries.

Corrections

by: *Dennis Weber*
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Senate Bill 781 by Senator Lentini (Act 720) establishes a procedure for evaluating the mental competency of a defendant who has been convicted of a capital offense and who has been sentenced to death. A person who is not competent to proceed to execution may not be executed. The defendant may file a petition alleging incompetence to proceed; his or her pleading must contain all of the following:

- (1) The name of the defendant.
- (2) The name of the custodian.
- (3) The docket number of the case and the date of the sentence.
- (4) A clear statement of facts that sets out the basis for the incompetence claim.
- (5) An affidavit of the evidence supporting the claim of incompetence.
- (6) Any information of past proceeding where the defendant's competency was at issue.

Based upon the information in the pleadings, the court may order an examination of the defendant. If the defendant is unrepresented, the court shall appoint legal counsel.

The members of the competency commission shall have free access to the defendant, however, no admissions made by the defendant will be allowed in any other proceeding. The commission must prepare a written report of its findings.

Both the defendant and the district attorney may seek a independent examination. Both parties to this matter have a right to all relevant information regardless of who developed that information.

The issue of the defendant's mental incompetence to proceed to execution shall be determined by the court in a contradictory hearing. After hearing all relevant evidence, the court must reach a decision on the competency issue by employing the "preponderance of the evidence" standard. If the defendant is found competent, the court shall issue a death warrant. If the defendant is found to be incompetent he shall be sentenced to life imprisonment. Any party against whom a decision is rendered, may make an appropriate application for review directly to the Louisiana Supreme Court.

Senate Bill 61 by Senator Fields (assigned to Judiciary B) would authorize a person who is serving a life sentence for a nonviolent offense, and who has served a minimum of twenty years, to apply for a parol hearing. This bill allows for a reapplication for a parol hearing every six years thereafter. However, the present law remains intact. Parole eligibility is denied to a person convicted of armed

robbery, persons serving a life sentence for a crime of violence, unless that sentence has been commuted to fixed term of years, and persons sentenced as serial sex offenders. Additionally, an inmate is not eligible for parole if there are charges pending against him for any crime suspected of having been committed by him while a prisoner.

Unchanged is the provision in law which requires a person convicted of a crime of violence and who is not ineligible for parole to serve at least 85 percent of the imposed sentence before being eligible for parole.

Senate Concurrent Resolution 106 by Senator Lentini and Representative Martiny (enrolled) urges the Department of Public Safety and Corrections to extend and expand the pilot program for home incarceration and electronic monitoring that was established by Act No. 1139 of the 2001 Regular Session. This program implementing home incarceration and active electronic monitoring as an alternative to incarceration. There are eighty-four offender participating in the pilot program. The offender is able to work and provide for his family.

The cost of home incarceration and electronic monitoring is seven dollars and forty cents compared to the average minimum daily cost of twenty three dollars for incarceration in a local jail facility.

The home incarceration and electronic monitoring pilot program can be used as a viable alternative to assist efforts involving juvenile justice reform.

House Bill 184 by Representative Gray (Act 484) revises the provisions of the Children's Code that required mandatory confinement of children adjudicated delinquent for first degree murder, second degree murder, aggravated rape, and aggravated kidnaping. Additionally, the Bill deletes the applicability of these provisions of the crime of treason.

The definition of "secured placement" is added to the Children's Code; this placement, characterized by a range of moderate to high security level facilities, is designed to restrict the movements and activities of the residents and are intended for treatment of children who have been adjudicated delinquent. Secured placements include but are not limited to secure correctional centers for children and community-based secure care.

The Act amends the Children's Code as follows:

- (1) Requires that a child must be 14 years or older at the time of the commission of the offense before he is subject to the provisions of mandatory confinement.
- (2) Deletes treason from the list of enumerated offenses.
- (3) Changes the nature of confinement from placement in a secure detention facility to confinement in secure placement.
- (4) Deletes the prohibitions against granting a furlough to such children.

- (5) Requires the department to prepare an individualized transitional plan at least six months prior to the release of the child to assist the child in a successful return to family and community.

House Bill 155 by Representative Martiny (Act 123) authorizes the sheriff or the governing authority of a parish to collect reimbursement from an inmate for the cost of room and board associated with that inmate's incarceration.

House Bill 355 by Representative Martiny (Act 43) authorizes the forfeiture of good time for inmate involved in an escape. An inmate who is sentenced to the custody of the Department of Public Safety and Corrections and who commits a simple or aggravated escape, as defined by R.S. 14:110 from any correctional facility, work release facility or from the lawful custody of any law enforcement officer or officer of the department, or, in the case of an inmate serving a sentence and participating in a work release program authorized by law, fails to report or return from his planned employment or other activity under the program may forfeit all good time earned on that portion of his sentence served prior to his escape.

Crimes/Criminal Procedure

by: *Tracy Sudduth*
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CRIMES

Senate Bill 341 by Senator Chaisson (Act 15) prohibits a passenger of a motor vehicle from possessing an open container while the motor vehicle is operated on a public highway or right-of-way. The penalties for the offense is a fine ranging from \$50 to \$100 and authorizes the collection of court costs. **Act 15** provides that an "open alcoholic beverage container" shall not mean any bottle, can, or other receptacle that contains a frozen alcoholic beverage unless the lid is removed, a straw protrudes therefrom, or the contents of said receptacle have been partially removed. Additionally, municipal or parish governing authorities may enact any code or ordinance that does not conflict with proposed law, except such code or ordinance may provide for the imposition and collection of fines and court costs for violations for amounts in excess of the amounts provided present law. **Act 15** specifically excludes the following areas from the open container law prohibition:

1. Possession of an open container of alcoholic beverage in the trunk of a motor vehicle.
2. If the motor vehicle is not equipped with a trunk, possession of an open container or alcoholic beverages in any of the following areas:
 - (a) In a locked glove or utility compartment.
 - (b) In an area of the vehicle not normally occupied by, and not readily accessible to the driver or passengers.

Senate Bill 523 by Senator Bajoie (Act 661) provides that whoever commits the crime of illegal carrying of weapons with any firearm used in the commission of a crime of violence, within one thousand feet of any parade, shall be fined not more than \$2,000, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both. Act 661 also states lack of knowledge shall not be a defense.

Senate Bill 633 by Senator Kostelka (Act 801) makes it a crime for any obligor to intentionally fail to pay a support obligation for any child who resides in this state, if such obligation has remained unpaid for a period longer than one year or is greater than \$5,000. Additionally, Act 801 contains a rebuttable presumption that the existence of the support obligation presumes the ability to pay.

Senate Bill 659 by Senator Ullo (Act 676) changes the name of the offense of aggravated sexual battery to second degree sexual battery.

House Bill 33 by Representative Farrar (Act 143) includes within the crime of cruelty to a juvenile, the intentional or criminally negligent exposure, by anyone seventeen years of age or older, of any child under the age of seventeen, or any unborn child to a clandestine laboratory operation.

Currently the crime of cruelty to juveniles is the intentional or criminally negligent mistreatment or neglect, by anyone over the age of seventeen, of any child under the age of seventeen whereby unjustifiable pain or suffering is caused to said child. There is also a provision stating lack of knowledge of the child's age shall not be a defense. The penalties for conviction of such crime shall be not more than \$1,000 or imprisonment with or without hard labor for not more than ten years, or both.

House Bill 42 by Representative Faucheux (Act 144) amends the definition of household member for the purpose of the crime of domestic abuse battery to include any minor children living in the same residence or living in the same residence within five years of the offense, or any biological minor child of the offender regardless of where the child resides.

House Bill 43 by Representative Faucheux (Act 145) adds the killing of a witness to the crime of first degree murder when the victim was a witness to a crime or was a member of the immediate family of a witness to a crime committed on a prior occasion and the killing was done to influence or prevent testimony or as retribution for the victim's prior testimony.

House Bill 109 by Representative Baudoin (Act 742) requires any person who operates or rides upon a motorcycle, motor-driven cycle, or motorized bicycle to wear a safety helmet.

House Bill 1244 by Representative Triche (Act 111) creates the crime for any person to organize or conduct any commercial or private event, wherein there is a display of combat or fighting among one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed. The Act prohibits any person to intentionally do any of the following for the purpose of organizing, conducting, or financially or materially supporting any hog and canine fighting event:

1. Finance, commercially advertise, supply materials, sell tickets of admission, or employ persons.
2. Own, manage, or operate any facility or property.
3. Supply, breed, train, or keep canines or hogs.
4. Knowingly purchase tickets of admission.

Additionally, **Act 111** shall not apply to any competitive event in which canines, which are trained for hunting or herding activities, are released in an enclosed area to locate and corner hogs, and in which competitive points are deducted if a hog is caught and held, unless by such actions it is reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed. **Act 111** further shall not apply to the use of canines for the management, farming, or herding of hogs which are livestock. **Act 111** creates an exception to the crime for "Uncle Earl's Hog Dog Trials," as defined in present law. **Act 111** creates another exception for hunting of hogs with canines. Penalties for this Act shall be not more than \$1,000 and imprisonment for not more than six months, or both.

House Concurrent Resolution 295 by Representative Triche (enrolled) requests state police to faithfully enforce state law and any violations of state law, including illegal gambling activities and cruelty to animals that may occur at hog and canine fighting events and to enforce the crime of hog and canine fighting (Act 111 of the 2004 R.S.) upon its effective date. This resolution also requests the attorney general, pursuant to the powers and duties conferred in the constitution of this state, in the interest of the state, ensure that the provisions of Act 111 are enforced and prosecuted.

Sexual offenders and sexually violent predators.

Senate Bill 164 by Senator N. Gautreaux (Act 178) provides that it is unlawful for a sexually violent predator to physically reside within one thousand feet of any public or private elementary or secondary school.

House Bill 137 by Representative Walker (Act 147) amends the definition of "aggravated offense" to require sex offenders who engage in sexual acts involving penetration with a victim under the age of fourteen to register as a sex offender for life.

House Bill 541 by Representative LaFleur (Act 408) creates the Louisiana Sexual Assault Task Force to study investigation issues, procedures used in obtaining and analyzing sexual assault evidence, training requirements for law enforcement officers and others in sexual assault cases.

House Bill 925 by Representative Jack Smith (Act 338) requires a sex offender who provides recreational instruction to persons under the age of seventeen years to post a notice in the building or facility where such instruction is being given.

Senate Bill 485 by Senator Mount (pending Senate committee) would have established procedures for the involuntary civil commitment of persons determined to be sexually violent predators.

Senate Concurrent Resolution 110 by Senator Chaisson (enrolled) extends the authority for the Forensic Strategic Task Force to study the feasibility of implementing the components of an effective comprehensive statewide system to address the demands of the increasing adult forensic population and its economic burden on health care service in the state. **Senate Concurrent Resolution 110** allows the Task Force to create a subcommittee, within the Forensic Strategic Task Force, to specifically study the issue of identification, commitment, and treatment of sexually violent predators, in order to develop and implement an effective comprehensive statewide system of control, monitoring, and treatment of this identified population.

House Concurrent Resolution 32 by Representative Walker (enrolled) requests the Louisiana State Police to increase public awareness regarding Louisiana's Sex Offender Registry through the use of public service announcements.

CRIMINAL PROCEDURE

Senate Bill 570 by Senator Chaisson (Act 694) provides that a statement is not hearsay if the declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement and the statement is inconsistent with his testimony and was given under oath at the accused's preliminary examination or the accused's prior trial and the witness was subject to the cross-examination by the accused. Additionally, Act 694 provides that a statement is not hearsay if the declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement and the statement in a criminal case, inconsistent with his testimony, provided that the proponent has first fairly directed the witness' attention to the statement and the witness has been given the opportunity to admit the fact.

Senate Bill 837 by Senator Cain (Act 470) authorizes the deputy secretary of public safety services to enter into reciprocity agreements with other states which have substantially the same or restrictive requirements for obtaining a concealed permit. This bill removes authority from the deputy secretary and provides that where an out-of-state resident has a valid concealed handgun permit from another state, that out-of-state permit shall be considered valid in Louisiana if that state recognizes Louisiana's concealed permits.

House Bill 134 by Representative Bruce (Act 241) expands the provisions of law which authorize the taking of testimony outside of the courtroom and the use of videotaped statements of all protected persons who may have been a witness to or a victim of a crime. "Protected persons" means any person who is a victim of a crime or a witness in a criminal or juvenile proceeding and who (1) is 14 years of age or younger, or (2) has a developmental disability or mental retardation. Act 241 requires that either the person conducting the interview or the person supervising the interview shall be present and available to testify.

House Bill 542 by Representative LaFleur (Act 379) creates a provision that if the offender is charged with the crime of first or second degree murder and it cannot be determined where the offense

or the elements of the offense occurred, the offense is deemed to have been committed in the parish where the body of the victim was found.

House Bill 663 by Representative Winston (Act 103) requires the Bureau of Criminal Identification and Information to make available to the Department of Social Services state and national criminal history record information on (1) parents of children who have been removed from their custody and placed in the custody of the department; (2) parents or caretakers involved in investigations of abuse or neglect; (3) potential caretakers of a child who is either in the custody of the department or is the subject of an investigation of abuse or neglect. **Act 103** adds a provision during an emergency situation when a child must be removed from his home due to exigent circumstances and placed in the home of an individual, the department may request that a criminal justice agency perform a national name-based criminal history record check of each adult residing in that home. The results of the name-based criminal history record check may be provided to the department, which shall then provide a complete set of each adult resident's fingerprints to the bureau for the immediate submission to the FBI within twelve calendar days from the date the name-based criminal history record check search was conducted. The bureau shall either positively identify the fingerprint subject or forward the fingerprints to the FBI within fifteen calendar days from the date the name-based criminal history record check search was conducted. **Act 103** further provides that the child shall be removed from the home immediately if any adult resident fails to provide such fingerprints or written permission to perform a federal criminal history record check when requested to do so.

Act 103 requires that when placement of a child in a home is denied as a result of a name-based criminal history record check of a resident and the resident contests that denial, each such resident shall, within five business days, submit to the department a complete set of the resident's fingerprints with written permission allowing the department to forward the fingerprints to the bureau for submission to the FBI.

House Bill 738 by Representative Martiny (Act 413) requires that if a judge orders a mistrial, upon motion of either the state or the defendant, the court shall order an automatic 24-hour stay of all proceedings in which either the state or the defendant may take an emergency writ application to the appropriate reviewing court. Act 413 also requires the jury shall not be released pending the stay unless both the state and defendant agree to release the jury.

House Bill 1458 by Representative LaFleur (Act 401) requires that if a written waiver of rights form is used during the acceptance of a guilty plea, the notice of the post-conviction relief prescriptive period may be included in the written waiver of rights.

House Bill 1697 by Representative Faucheux (Act 359) provides that a justice of the peace has criminal jurisdiction parish wide as a committing magistrate, the power to bail or discharge in cases not capital or necessarily punishable at hard labor, and the power to require bonds to keep the peace. Act 359 also authorizes a justice of the peace to retain original jurisdiction over a judgment, enforcement, and collection of garnishments, judgment debtor examinations, and the issuance of any writ to enforce its

judgment. Act 359 grants the constable of a justice of the peace court to have parish wide authority to enforce its judgments.

House Concurrent Resolution 90 by Representative Townsend (enrolled) requests the Louisiana Supreme Court to study and make recommendations for a uniform and streamlined procedure for expungement of criminal records. This resolution requests a report of the study be submitted to the legislature 120 days prior to the 2005 Regular Session.

Senate Bill 544 by Senator Holden (pending Senate passage- subject to call) pertained to the issue of mental retardation of a capital defendant which is determined prior to trial. The bill would have required the judge to select a panel consisting of two psychologists licensed by the Louisiana State Board of Examiners of Psychologists and approved by the Louisiana Office for Citizens with Developmental Disabilities and the Louisiana Psychological Association. In addition to the panel, the bill would have given the state and the defense the right to an independent psychological examination of the defendant for the determination of the issue of mental retardation of the defendant.

DWI

House Bill 549 by Representative Baldone (Act 762) requires an offender shall be placed on supervised probation after release from custody. Act 762 further requires the offender to submit and complete either of the following treatment plans:

1. A treatment plan recommended by the office for addictive disorders following evaluation, including inpatient substance abuse treatment for at least four weeks and the additional 12 months of treatment, or
2. Substance abuse treatment in an alcohol and drug abuse program provided by a drug court division.

Additionally, Act 762 provides any offender sentenced to home incarceration is on supervised probation and that his probation may be revoked if he violates any condition of probation, including conditions of home incarceration. Act 762 also contains provisions for monthly home visitation by personnel of the department occurring for the first six months, and thereafter, the department shall determine the level of supervision needed based upon a risk assessment instrument.

House Bill 918 by Representative Baldone (pending conference committee) was introduced with requirements for the court to mandate an ignition interlock device on any vehicle operated by a person charged with second or subsequent offense of driving while intoxicated, underage driving under the influence, vehicular homicide, vehicular negligent injuring, and first degree vehicular negligent injuring as a condition of release on bail. The bill provided penalties for failure to comply with the provisions which result in the revocation of bail and reincarceration of the defendant. Additionally, this bill would have allowed the

court to waive these provisions under exceptional circumstances.

House Bill 1710 by Representative Baldone (Act 903) requires that when the court imposes the use of an interlock device upon any person, the person must provide proof of installation within 30 days.

House Bill 1712 by Representative Baldone (Act 905) requires courts to order the installation of an ignition interlock device on any vehicles registered to persons whose driving privileges have been suspended because of a DWI-related offense. The ignition interlock device shall remain on the vehicle for a period of time not less than the remaining period of suspension, revocation, or cancellation. Act 905 further prohibits persons who are ordered to have an ignition interlock device installed after driving while under suspension for a DWI-related offense to apply for a hardship appeal.

Culture, Recreation & Tourism

CULTURE

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MUSEUMS

Senate Bill 855 by Senator Bajoie (Act 731) creates an advisory board for the Louisiana Civil Rights Museum, which is located in New Orleans and which serves as the official state civil rights museum. The Louisiana Civil Rights Museum Advisory Board is placed within the Department of Culture, Recreation and Tourism in the office of state museum (OSM). The advisory board is composed of 15 to 17 members who advises and cooperates with OSM on all matters relating to the operations of the civil rights museum.

House Bill 968 by Representative Fannin (Act 424) authorizes the governing authority of the parish of Jackson to create a museum board in order to establish, maintain, operate and support public museums and related facilities located within the territory of Jackson Parish. The board shall be a historical, cultural and educational entity with the primary purpose of encouraging research, collecting, preserving and presenting, as an education resource, objects of art, documents, artifacts and the like that reflect the history, art, and culture of the parish and the surrounding area.

House Bill 1197 by Representatives Baylor and K. Carter (died in conference committee) would have transferred appointing authority to the lieutenant governor regarding the following positions:

1. Membership to the Louisiana State Museum Board.
2. The director's position and term of office for the Louisiana State Museum.

MISCELLANEOUS

House Bill 27 by Representative Guillory (Act 406) specifies that "*Gumbo*" is the official state cuisine.

House Bill 1178 by Representative Pinac (Act 864) adds the parishes of St. Bernard, Plaquemines, Point Coupee, West Feliciana, East Feliciana, Concordia, Tensas, Madison, and East Carroll into the boundaries of the Mississippi River Road Commission. The commission preserves, enhances and promotes the Mississippi River Road as an historical, cultural, scenic, natural and economic resource of the state. The parishes of East Baton Rouge, West Baton Rouge, Iberville, Ascension, St. James, St. John the Baptist, St. Charles, Jefferson and Orleans are the only parishes currently within the scope of the commission. It further provides that the lieutenant governor shall appoint such members.

House Bill 1720 by Representative Broome (Act 908) establishes the "Neighborhood Enhancement Program" within the Department of Culture, Recreation and Tourism to assist municipalities in preparing and implementing a revitalization strategy for distressed neighborhood business districts through the establishment of neighborhood enhancement program districts and grants therefor. Administration of the program shall be in conjunction with the La. Main Street Program. Further provides that the program shall (1) provide an assessment of the applying municipality's needs and (2) provides various forms of grants for neighborhood enhancement activities.

RECREATION

*by: J.W. Wiley
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LICENSES

House Bill 595 by Representative Jack Smith (Act 94) provides that recreational gear license for trawls between sixteen feet and twenty-five feet length are not included in the Louisiana Sportsman's Paradise license.

House Bill 596 by Representative Jack Smith (Act 95) allows the transfer of a valid commercial gear license for temporary use to a person having a valid commercial fisherman's license and having the same residency status as on the commercial gear license. However, gear licenses that require qualification cannot be transferred. The commercial gear license may be revoked if used by anyone not having a commercial fisherman's license and using gear under the commercial fisherman's license.

House Bill 606 by Representative Jack Smith (Act 835) sets the fee for a combination lifetime license of fifty dollars for persons thirteen years of age or under until June 30, 2006, and fifty dollars for residents who are sixty years of age or older. Five dollars from the senior lifetime combination license would be credited to the conservation fund.

WATERWAY ACCESS

Senate Bill 333 by Senator B. Gautreaux (withdrawn from Senate files) would have allowed reasonable access to private waterways from a public waterway without charge for hook and line fishing. It excluded commercial fishing, waters or property set aside by the Department of Wildlife and Fisheries, and waters used by commercial fish hatcheries or other commercial aquaculture. Private waterways owners' liability would have been governed by existing law which provide limitations of liability for private landowners when their property is used for certain recreational purposes.

Senate Concurrent Resolution 24 by Senator McPherson (enrolled) requests the governor to support policies that ensure the public's right to access and use of naturally navigable waterways in the

state. The public waters of the state are held in trust for the public, and the state land office has not completed an inventory of state owned water bottoms of the coastal parishes.

House Bill 1525 by Representative Lambert (Involuntarily Deferred in House Natural Resources) would have made the issuance of any coastal use permit for creation or maintenance of a waterway more than three feet in depth connected to a navigable waterway conditioned upon the granting of a public use servitude. It would have not extended the servitude to the bed and banks of the waterways, and would have provided liability limitations.

House Concurrent Resolution 265 by Representative Pitre (enrolled) urges and requests the State Land Office to prioritize its surveying efforts to complete the coastal parishes first. The State Land Office is updating its maps and records to show what land and waterways are owned by the state and what land and waterways are owned by private individuals.

BOATING

House Bill 607 by Representative Jack Smith (failed House final passage) would have required children under the age of seventeen born after July 1, 1992, to wear a life jacket or preserver on a recreational motorboat. It excluded children between the ages of thirteen and seventeen if their parents were on board the boat and if their parents allowed them not to wear the life jacket or preserver.

COMMISSIONS

Senate Concurrent Resolution 107 by Senator Boasso (enrolled) would create a joint legislative commission on saltwater fisheries and an ad hoc saltwater fisheries advisory board which provides advice to the commission. The commission would study and make recommendations concerning specific conservation standards to protect the fish stock and a plan for the state's renewable saltwater natural resources.

House Bill 1167 by Representative Pinac (vetoed by governor) would have allowed the lieutenant governor to make the appointments to the Louisiana Tourism Development Commission instead of the governor.

GENERAL

Senate Bill 8 by Senator B. Gautreaux (Act 594) designates St. Mary Parish as the "Gateway to the Atchafalaya Basin, home of some of the best bass fishing tournaments in the world."

Senate Bill 187 by Senator Ullo (pending in House Natural Resources) would provide that the Department of Wildlife and Fisheries; the Department of Culture, Recreation, and Tourism; and the office of state parks to administer the property known as "Elmer's Island" if the state were to acquire the property.

House Bill 79 by Representative Hutter (Act 82) authorizes levee boards, and levee and drainage boards to construct bicycle paths and walkways along the top of the Mississippi River levees in

St. Bernard and Plaquemines parishes.

House Bill 170 by Representative Faucheux (pending House Administration of Criminal Justice) would allow certain convicted felons to carry a shotgun or rifle for hunting.

TOURISM

by: Tim Prather
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Tourism

Currently, the Department of Culture, Recreation and Tourism, through its offices and officers, is responsible for planning, developing, and implementing improved opportunities for the enjoyment of cultural and recreational activities by the people of the state and for greater development of their cultural and physical potential. The department is responsible for the development, maintenance, and operation of library, park, recreation, museum, and other cultural facilities; the statewide development and implementation of cultural, recreational, and tourism programs; and planning for the future leisure needs of the people. **House Bill 879 by Representative Pinac (pending in House committee)** would provide in addition to its existing duties, the department would be responsible for the promotion of creative industries.

Attempting to help promote Louisiana products and its culture, **House Bill 1035 by Representative Pinac (pending in House committee)** would remove the annual cap of \$17,500,000 of tax proceeds collected from the Louisiana Promotion District that can be used for media advertisement. The bill would also allow the use of those proceeds to fund in-state media advertisement.

In an effort to streamline government, **House Bill 1167 by Representative Pinac (vetoed by governor)** would provide for the appointment of members of the La. Tourism Development Commission and the board of directors of the La. Tourism Promotion District by the lieutenant governor to serve at his pleasure. The two organizations would be organized in the following manner.

The La. Tourism Development Commission would be composed of 21 members as follows:

- (1) Ex officio members shall be as follows:
 - (a) The lieutenant governor or his designee.
 - (b) The secretary of state or his designee.

- (2) The following organizations would each submit a list of four names to the governor, from which the governor would appoint one individual from each organization for membership on the commission:
 - (a) The Louisiana Association of Fairs and Festivals.
 - (b) The Louisiana Campground Owners Association.
 - (c) The Louisiana Association of Convention and Visitor Bureaus.
 - (d) The Louisiana Preservation Alliance, Inc.
 - (e) The Louisiana Association of Museums.
 - (f) The Louisiana Bed and Breakfast Association.
 - (g) The Louisiana Travel Promotion Association.
 - (h) The Louisiana Attractions Association.
 - (i) The Louisiana Business League.
- (3) The following organizations would each submit a list of eight names to the governor, from which the governor would appoint two individuals from each organization for membership on the commission:
 - (a) Louisiana Restaurant Association.
 - (b) Louisiana Hotel-Motel Association.
- (4) Six at-large members would be appointed directly by the governor.

The La. Tourism Promotion District would be composed of five members appointed by the governor as follows:

- (1) One member appointed from a list of three names supplied by the Louisiana Hotel-Motel Association.
- (2) One member appointed from a list of three names supplied by the Louisiana Restaurant Association.
- (3) One member appointed from a list of three names supplied by the Louisiana Retailers Association.
- (4) One member appointed from a list of three names supplied by the Louisiana Travel Promotion Association.
- (5) One member from a list of three names supplied by other tourist-related organizations.

The bill would provide that all members appointed by the governor would instead be appointed by the lieutenant governor, either directly or from a list of names submitted to the lieutenant governor rather than the governor.

K-12 Education

by: *Diane Burkhart*
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EDUCATION DEPARTMENT

The changes made in the law effecting the operations of the state Department of Education were largely technical and mainly in the area of special education. **House Bill 213 by Representative Crane (Act 198)** changes the appointing authority and the advisory authority of the panel that advises regarding the special education of children from the department to BESE. The bill also changes references from "children with exceptionalities" to "children with disabilities".

House Bill 258 by Representative Crane (Act 492) makes revisions to the law providing for Special School District No. 1 [SSD#1] which is a special school district to provide special education and related services to children with exceptionalities who are enrolled in state-operated programs, and to provide appropriate educational services to eligible children enrolled in state-operated mental health facilities. The bill clarifies that children receiving educational services through SSD #1 must be residents of the facilities where they are enrolled and it changes references to state-operated "facility" instead of "program." The bill also authorizes SSD#1 to enter into interagency agreements with other state agencies to provide appropriate educational services to eligible children who are not residents of state-operated facilities but are in the care or custody of a public or private department, agency, or institution and to eligible individuals regardless of age enrolled in state-operated facilities as residents, but provides that SSD#1 retains full financial responsibility for all education programs administered by the special school district.

PRIVATE SCHOOLS

Although the bills did not make much progress in the session, in the early days of the session, **Senate Bill 50 by Senator Hainkel (pending Senate committee) and Senate Bill 220 by Senator Dardenne (pending Senate subject to call)** were highly controversial and much discussed.

Senate Bill 50 would have established a voucher program called the La. Parental Choice in Primary Education Program as a program for payment of the tuition and mandatory attendance costs for children who live in a family subsisting at or lower than 200% of the federal poverty guidelines for four-year-old early childhood education classes or kindergarten through third grade in participating private schools. The program as proposed would have operated as a pilot permitting the participation of no more than 1,500 students who were those students who participated in 2003-2004 four-year-old early childhood education classes funded with money appropriated by the state legislature who reside with their parent or legal guardian in Caddo, Calcasieu, East Baton Rouge, Jefferson, Lafayette, Lafourche, Ouachita, Orleans,

Terrebonne, St. John, and St. Bernard parish to participate.

Senate Bill 50 would have permitted participation for any private school that is academically approved by BESE and approved by the U.S. Dept. of Justice pursuant to *Brumfield v. Dodd* which has sent notice to the state Dept. of Education of intent to participate. Further, it would have provided a voucher for each student equal to the per pupil state MFP amount for the local public school system in the area where the private school is located or the actual amount of tuition and required attendance fees, whichever is less.

Senate Bill 220 would have established a program of pre-kindergarten early childhood education that is provided by approved private schools, called NP 4 classes funded by the state on behalf of participating children who, to be eligible, must live in families subsisting on 200% or less of federal poverty guidelines. This bill would have placed into the statutes the program that has been operating on state appropriated funding for the last three years.

SCHOOLS AND SCHOOL SYSTEMS

Leadership

Attracting, retaining, and empowering school leaders was the goal of a variety of bills. **Senate Bill 773 by Senator Cleo Fields (indefinitely postponed in House committee)** would have added an exception, similar to the exception provided in law for certain higher education employees, to a prohibition in the ethics law that prohibits a public employee from receiving payment from private sources for doing his public job. The proposed exception was offered in order to allow the receipt of supplementary compensation or benefits for a superintendent of any local school system from a community foundation as approved by the policy of the school board.

The major bill which altered the balance of power in troubled school systems was **House Bill 1659 by Representative Carter (Act 193)**. The law empowers the local superintendent of any school system which is academically in crisis to act without his board's approval in most areas by transferring to him sole and exclusive authority as to all matters regarding policy for and operation of and management of the local system, except for those authorities reserved to the local board. The law also limits the authority of the local board to terminate the superintendent by requiring a two-thirds vote of the elected members of the board. The status of a system being academically in crisis remains until the academic performance of the students in the system has improved sufficiently to improve the school performance sufficiently that the system is no longer defined as academically in crisis and all audit findings are corrected.

"Academically in crisis" means any local system in which more than 30 schools are academically unacceptable or more than 50% of its students attend schools that are academically unacceptable and provides that "academically unacceptable" means that a school is academically unacceptable pursuant to the accountability program.

Under the circumstances of a local school system being academically in crisis, this law reserves to the local board the authority to: incur debt, issue bonds, pay debt, and meet other financial obligations required by contract entered into prior to the system being notified of its status as academically in crisis or by vote of the electorate; sue or be sued and provide for the interests of the system in response to any litigation; respond to the recommendations of the superintendent for employee discipline or termination as to employees who are tenured; approve or disapprove with recommendation the annual budget for the expenses and operation of the local system; acquire property; dispose of immovable property; enter into a collectively bargained contract with employees; and reapportion themselves.

The law limits the superintendent's authority to enter into contracts to contracts which do not exceed five years in duration. The law also requires the local superintendent to: submit a monthly report to the local board on the status of all newly executed or renewed contracts; develop a structured system improvement plan for approval of the state board or an independent evaluator; provide notice to local board members and post for public notice copies of any RFP or RFQ that goes out and requires that same type of notice and posting of all proposed contracts at least 30 days before they are entered into. The local board is authorized to prohibit the superintendent from entering into any contract by a two-thirds vote of the elected members.

In addition to the revision of the balance of authority between the local superintendent and the local board, the law also requires that when a system is academically in crisis the local board must select and contract with an independent licensed certified public accountant from a list of not less than three such accountants submitted to the board by the superintendent to conduct an audit of the finances and financial practices of the local system. It requires that the engagement agreement describing the scope of the audit be submitted to the legislative auditor for his review and comment to the local board prior to the execution of the agreement. The superintendent is required to address each audit finding and report on the correction made to the legislative auditor.

The law authorizes the legislative auditor to: 1) conduct an independent audit of the finances and financial practices of the local board; 2) investigate the response of the local board to the audit conducted by the independent licensed certified public accountant; and, 3) require that the local board contract with a licensed certified public accountant, other than the one who did the audit, from a list of not less than three such accountants submitted to the board by the superintendent to direct the changes in the local system financial practices necessary to address each audit finding.

The law requires the state superintendent to provide a team of distinguished educators to provide expertise, direction, and support to the local system.

Charter schools

Charter schools have been in existence for a number of years. **Senate Bill 874 by Senator Irons**

(Act 735) provides that a charter school that has completed its initial five-year charter and has been renewed for an additional ten-year period after thorough review by the approving chartering authority of the school's operations and compliance with charter requirements would receive priority in funding. The bill mandates full funding of type 2 charters that have been renewed for a ten-year period by requiring full funding of such type 2 charters prior to the allocation of state funding to any other charter school funded by the state, including the cost of any authorized increase in the number of students enrolled in such school.

Security

Many school systems and many schools receive extra security on school grounds from local law enforcement officers detailed to the schools. **House Bill 1163 by Representative LaFleur (Act 547)** authorizes any city, parish, or other local public school system and any nonpublic school to enter into agreements with a local law enforcement agency to provide for such assistance. The bill calls these officers "school resource officers" and requires that such officers be certified by a nationally accredited school resource officer program or a state school resource officer training program certified by the Council on Peace Officer Standards and Training.

SPECIAL EDUCATION

The changes made in the law effecting the operations of the state Department of Education were largely technical and mainly in the area of special education. **House Bill 213 by Representative Crane (Act 198)** changes the appointing authority and the advisory authority of the panel that advises regarding the special education of children from the department to BESE. The bill also changes references from "children with exceptionalities" to "children with disabilities".

House Bill 258 by Representative Crane (Act 492) makes revisions to the law providing for Special School District No. 1 [SSD#1] which is a special school district to provide special education and related services to children with exceptionalities who are enrolled in state-operated programs, and to provide appropriate educational services to eligible children enrolled in state-operated mental health facilities. The bill clarifies that children receiving educational services through SSD #1 must be residents of the facilities where they are enrolled and it changes references to state-operated "facility" instead of "program." The bill also authorizes SSD#1 to enter into interagency agreements with other state agencies to provide appropriate educational services to eligible children who are not residents of state-operated facilities but are in the care or custody of a public or private department, agency, or institution and to eligible individuals regardless of age enrolled in state-operated facilities as residents, but provides that SSD#1 retains full financial responsibility for all education programs administered by the special school district.

STUDENTS

Academics

As it relates to supporting the academic curriculum, **Senate Bill 11 by Senator Theunissen (Act 596)** establishes the Louisiana Commission on Civic Education to support the education of students on the importance of citizen involvement in a representative democracy, and to promote communication and collaboration among organizations in the state that conduct civic education programs. The commission would be composed of 19 members to serve without compensation for their services, but provides that such members may receive reasonable actual and travel expenses, and provides that staffing is to be provided out of the existing resources of the legislature.

Pilot programs were offered to try out some ideas for improving student school readiness and for improving student health and fitness. **Senator Holden** offered **Senate Bill 301 (Act 632)** to establish a pilot program provided funds are available, beginning in the 2005-2006 school year, of eight classes of kindergarten which begin two months early, called Kindergarten Plus classes. The state Dept. of Education would choose one class in each of the eight regional service districts from among systems offering proposals. Participating students, to be eligible, need to be able to attend kindergarten in the local school system in the Fall and need to be documented as eligible for the federal free and reduced lunch program.

Representative Wayne Waddell made a case that was convincing to the legislature, but not to the governor, that students who complete all high school graduation requirements, but fail to pass the Graduation Exit Exam, need to have a state issued certificate attesting to the completion of the requirements to present to potential employers. **House Bill 740 (vetoed)** which provided for the awarding of certificates by BESE was vetoed by the governor on July 8, 2004.

Behavior

Considerable concern regarding providing a civil and safe environment for students resulted in a number of bills being introduced that address the issue of hazing or bullying. **Senate Bill 16 by Senator B. Gautreaux (Act 599)** prohibits hazing in any public elementary and secondary school and requires every local school board to adopt and enforce such prohibition and to prevent its occurrence. Senate Bill 16 defines hazing as any knowing behavior, whether by commission or omission, of any student to encourage, direct, order, or participate in any activity which subjects another student to potential physical, mental, or psychological harm for the purpose of initiation or admission into, affiliation with, continued membership in, or acceptance by existing members of any organization or extracurricular activity at a public elementary or secondary school, whether such behavior is planned or occurs on or off school property, including any school bus and school bus stop. The bill specifically excludes any adult-directed and school-sanctioned athletic program practice or event or military training program.

Senator Irons introduced **Senate Bill 872 (pending Senate subject to call)** to require that not later than January 1, 2005, each city, parish, and other local public school board amend its student code of conduct relative to their anti-harassment policies to incorporate gestures or written, verbal, or physical acts that are intentional and prohibited in the student code, and to require that such policy include school

property, school-sponsored functions, or on a school bus. The bill would have prohibited any person from engaging in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of harassment. The bill would have required a school employee, student or volunteer who has witnessed, or has reliable information that a student has been subject to harassment to report the incident to the appropriate school official.

The bill also would have required BESE to develop and disseminate a model policy applicable to grades K-12 by August 1, 2004, and to assist local school boards in developing such local policies.

Field trips

Realizing there was no requirement protecting students when it comes to arrangements for field trips, **Senator Holden** offered **Senate Bill 57 (Act 605)** which would require each city, parish or other public local school board in the state to develop rules and procedures which will establish criteria and set limits for those individuals, organizations or entities which plan, organize or promote field trips or extracurricular activities which involve travel or lodging expenses. The bill requires that such rules and procedures at a minimum provide that any travel agent or booking agent which provides or arranges for transportation and lodging for excursions be required to provide proof of adequate insurance and sufficient bond capacity to provide full recovery of all monetary advances for nonperformance. The principal of the school where the student is in attendance must approve any field trip or extracurricular activity unless such is in accordance with school board policies and procedures which provide for bonding and insurance terms and limits.

Fitness

Senate Bill 871 by Senator Irons (Act 734) is concerned with improving students fitness. It does several things. First it provides for 30 minutes each school day of quality moderate to vigorous physical activity for students in schools that includes grades kindergarten through the sixth grade. The bill also requires each elementary school to report to its school board on compliance with such requirement by Sept. 1 of each school year, and requires the school board to report to BESE by Oct. 1. Suitably adapted physical activity is to be included as part of the IEP for students with chronic health problems, other disabling conditions, or other special needs that preclude participation in regular physical activity. Further, it encourages students not enrolled in a physical education course at a public secondary school to participate in moderate to vigorous physical activity for a minimum of 30 minutes per day.

The bill also provide for the development of an outreach and communication plan consisting of current information and research on health, nutrition, and physical education and fitness issues by collaborative efforts of certain agencies and entities is to be established and disseminated to each local school board and made available to parents and students.

Beginning with the 2004-2005 school year and annually thereafter, the bill provides for a fitness award program for school with outstanding programs.

Finally the bill provides for the establishment of a 3-year pilot program, beginning with the 2005-2006 school year, which is randomized, controlled, four-group repeated measures study consisting of an assessment that measures aspects of health-related fitness, an assessment of the changes in weight status of students, and a collection of individual baseline and longitudinal data to measure the improvement of each individual student.

TOPS

Twenty-eight instruments indexed as "TOPS" bills were introduced. The following chart highlights those bills that procedurally proceeded past a committee in the bill's house of origin.

SEE TOPS CHART ON NEXT PAGE

TOPS LEGISLATION (Only highlights)

Instrument & Status	Author	Summary
SB 209 (Act 804)	Senator Adley	Extends the alternate establishment of residency for a dependent student who is a La. school graduate whose parent lives in an adjoining state for the purpose of TOPS eligibility under certain circumstances to add those who graduated in the 2002-2003 school year, but limits the location of the parents' residence to require that it be in a county that adjoins a parish with a population greater than 41,600 and less than 42,400.
SB 224 (Act 804)	Senator Malone	Allows an award recipient to use his award for any "cost of attendance" in accordance with regulations governing the award of federal student aid.
SB283 (pending House committee)	Senator Dardenne	Regarding required core courses, reduces the number of units of required computer courses <u>from</u> one and one-half units <u>to</u> one-half unit and deletes the increase in required total units <u>from</u> 16 ½ units <u>to</u> 17 1/2.
SB 424 (indefinitely postponed in House committee)	Senator N. Gautreaux	Creates a new award as part of the TOPS program for students who applied, but were ineligible for an Opportunity Award because they scored too low on the ACT based on their freshman year work combined with certain other minimums. Provides an award equal in amount to an Opportunity Award for a total of not more than six semesters to eligible students who complete their freshman year in college. Requires students receiving such an award to meet the same continuation requirements as are required under <u>present law</u> for students with an Opportunity Award.

SB 435 (Act 800)	Senator Theunissen	Adds Agriscience I and II as an option among the list of science core courses from which a student must select core science courses to qualify for TOPS.
HB 32 (Act 472)	Representative Martiny	Allows students to substitute from among other core courses for the one and one-half unit of computer courses required beginning in 2007-2008.
HB 487 (Act 507)	Representative Powell	Provides for a TOPS award for a student who meets the residency requirements, meets ACT or SAT score requirements, has successfully completed 12 credit hours of college work and is enrolled in an eligible institution full time, and has not met other initial eligibility requirements, but has scored at a specified level on specified intelligence tests that demonstrates the student is uniquely gifted.
HCR 266 (enrolled)	Representative Futrell	Requests the Board of Regents to study and report on the effects on TOPS of increasing, for the Opportunity Award, the required minimum ACT composite score to 21 for certain students beginning in the 2007-2008 school year.

Postsecondary Education

by: *David Smith*
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Community and Technical Colleges/Management Boards

One of the topics of interest this session concerned the manner in which the Community and Technical College System administers the technical colleges. It was suggested that the system had not responded well to the needs of the technical colleges. Since the merger of the vocational technical colleges with the community colleges some felt that technical colleges have suffered from lack of necessary supplies as well as unnecessary cuts in instructional personnel. **Senate Bill 192 by Senator N. Gautreaux (deferred, Senate committee) and Senate Bill 287 by Senator N. Gautreaux (deferred, Senate committee)** were constitutional amendments and companion enabling legislation which would have separated the technical colleges from the community colleges and created two new systems and corresponding boards by placing vocational-technical training under a Board of Supervisors of Technical Colleges and limiting the Board of Supervisors of Community Colleges to offering two-year degree programs. **Senate Resolution 135 by Senator Adley (enrolled)** requested the Louisiana Community and Technical College System to withhold any actions designed to modify or reduce summer schools or modify pay scales until the Board of Regents had reviewed any such plans and issued a report to the legislature. **Senate Concurrent Resolution 163 by Senator N. Gautreaux (enrolled)** requested the Board of Regents to study and report to the legislature prior the 2005 Regular Session as to the feasibility and need to separate the technical colleges from the community colleges and create two new systems with corresponding boards. In addition to discussions of problems relative to the Louisiana Community and Technical College System, **House Bill 887 by Representative Downs (failed, House floor)** attempted to abolish the Board of Regents and the four postsecondary education management boards and provide instead for a single board for the governance, management and supervision of all postsecondary education. Given the fact that no study has been conducted by the board since implementation of the current governance structure for public postsecondary education, **House Concurrent Resolution 263 by Representative Downs (enrolled)** requests the Board of Regents to study the need and feasibility of establishing a single board to govern all public postsecondary education and report back to the legislature.

Planning and Guidelines

Current law requires that the Board of Supervisors of Community and Technical Colleges make annual and unannounced audits of each school in order to generate certain information which can be utilized for annual planning and policy development through the year. **Senate Bill 238 by Senator Dardenne (Act 628)** changed the current audit parameters from one of computing "student contact" to one reflecting "credit" hours and eliminated the surprise annual audit visitations due to the problem that such unannounced

visits often resulted in having to rescheduled the audits due to necessary personnel being on leave or out sick. The bill also limited the audit frequency to an annual audit of one-third of the campuses each year to include all campuses within a four year period.

Senate Bill 542 by Senator Ullo (Act 462) grants BESE the authority and flexibility to develop guide lines setting forth the number of semester hours necessary for undergraduate teacher education programs to qualify for certain certifications. This grants the board the ability to establish criteria as necessary to provide levels of certification as may be required in the future to accomplish the goals of BESE.

Advertisement

Advertisement by public bodies has traditionally been restricted by the legislature. Consequently, the Board of Regents was limited in its advertisement expenditures only to increase the number of other race students to enroll in public institutions of higher learning and to increase the percentage of black high school graduates that pursue a higher education. **Senate Bill 629 by Senator Ullo (Act 35)** expanded that authority to permit advertisement to promote the goals of the Master Plan for Public Postsecondary Education along with the ability to promote the services and programs offered by learning centers. Also to be contained in the Master Plan for Public Postsecondary Education is the requirement set out in **Senate Bill 617 by Senator Ullo (Act 695)** to include a comprehensive state financial aid plan which would contain all sources of financial aid available to students attending or seeking to attend postsecondary educations in the state.

Scholarships/Admissions

To provide for educational opportunities **Senate Bill 641 by Senator Malone (Act 697)** authorized scholarships for the disabled firefighters and spouses of firefighters killed or disabled by providing for payment of any fees, tuition, or other charges including room and board. Additionally, the scholarship includes two hundred fifty dollars per semester as an allowance for books. Educational opportunities for certain workers were also provided through funds derived from the Incumbent Worker Training Program through **Senate Bill 851 by Senator Nevers (House Floor)** in an amount not to exceed one million dollars. The program is to be conducted by the Department of Labor which is authorized to promulgate rules and regulations to established a tuition assistance program for qualified workers to pay for one semester's tuition and books at any of Louisiana's technical or community colleges.

Fees and Tuition

House Bill 993 by Representative Crane (House Floor) extended by one year the time period in which public postsecondary education management boards could adjust tuition and mandatory fees by three percent. The annual adjustment was an attempt to spread tuition and fee increases over a period of

three years from 2002 to 2005 in lieu of imposing the cost all at one time. Additionally, because of a budgetary short fall the bill also authorized the assessment of an operational fee by each management board not to exceed four percent of the total mandatory tuition fee in effect for each institution on August 15, 2004. The operational fee would not be a cost payable under the Tuition Opportunity Program for Students neither could any excess revenue generated by the imposition of the fee be applied to the pay the salary of any university or university system administrator.

To insure that the four percent assessment of an operational fee increase placed on **House Bill 993 by Representative Crane** was able to successfully get through the legislature, **House Bill 1062 by Representative Salter (Act 788)**, which also provides for specific tuition and fee increases for students attending LSU Health Sciences Centers, was successfully amended on the Senate Floor.

In keeping with the need to generate more money for education, **House Bill 1474 by Representative by Dove (Act 288)** authorizes an attendance fee increase by the Board of Supervisors of Community and Technical Colleges affecting the students enrolled in L.E. Fletcher Technical-Community College and Sowela Technical-Community College. However, the fee shall not exceed the median amount of tuition and mandatory attendance fees applicable to students enrolled in other Louisiana public colleges and universities offering academic undergraduate degrees at the associate degree level but not baccalaureate degrees.

In order to insure that Louisiana is being competitive with nonresident fees, **House Concurrent Resolution 298 by Representative Crane (Enrolled)** requests public postsecondary educational management boards to establish not later than the 2005-2006 academic year tuition and mandatory attendance fees that are at least equal to the average amount of tuition and attendance fees applicable to students in states comprising the Southern Regional Education Board (SREB), excluding Louisiana which are in the same category as established by SREB.

To entice medical doctors to engage in the general practice of medicine in the rural or medically disadvantaged areas of the state, **House Bill 1652 by Representative Thompson (Act 894)** offers full tuition and room and board to ten applicants per year at the Louisiana State University Health Sciences Center and five applicants per year at the Tulane University School of Medicine. The applicants must enter into a contract to commit to practice in rural or medically disadvantaged areas of the state for at least five consecutive years after completion of their medical education and upon becoming licensed, practicing physicians. Should the applicant fail to abide with the terms of the contract the applicant shall be responsible for full and immediate payment in an amount equal to double the amount of any tuition paid on their behalf.

Articulation

In response to either real or perceived inability of students to transfer credits and courses from one college to another, **House Bill 664 by Representative Hutter (deferred, Senate committee)** would

have, by constitutional amendment, required the Board of Regents to develop and implement a common course designation and numbering system for all public postsecondary education institutions. The requirement would have applied to those courses included in the Statewide Transfer Guide and Articulation System developed and maintained by the board and would have required full implementation by the system not later than the beginning of the 2005-2006 academic year. Additionally, each public postsecondary education institution would be required to award to any student who transfers to such institution the same credit and recognition for every common course satisfactorily completed by the student at any public postsecondary education institution in the state previously attended and such credit and recognition would be awarded for all purposes as awarded by the institution at which the course was completed. Failure to comply would have resulted in an institution being penalized by having its funding reduced as provided by statute.

Elections

by: *Tabitha Irvin-Gray*
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PUBLIC RECORDS

Senate Bill 579 by Senator Charles Jones (Act 669) was a part of the governor's package that the bill temporarily protects records in the custody of DED pertaining to an active negotiation by DED with a person for the purpose of retaining, expanding, or attracting economic or business development in this state. An active negotiation concludes when either DED or the person with whom DED is negotiating decides to no longer actively pursue the retention, expansion, or location of such business in this state, or when a proposal affecting the negotiation is submitted to a public body in a public meeting, whichever occurs first. Before records may be granted a temporary exemption from the public records law, a person must request confidentiality in writing and the secretary must make a determination of confidentiality if he finds that the release of information would be detrimental to the negotiation. A request for confidentiality include reasons for such request and an assertion that the negotiation is conditioned in whole or in part on the maintenance of such confidentiality. The expense records of the department related to the negotiation are public and subject to review. The secretary may redact information from the department's expense records that he determines would identify or lead to the identification of the person with whom the department is negotiating and provides that such information will be confidential until the negotiations are concluded. A 12-month limit on the protection of information pertaining to the negotiation is assessed, unless the negotiation remains active and the secretary makes a new determination of confidentiality and gives notice. No information shall remain confidential for more than 24 months from the date of the secretary's initial determination. The legislation does not apply to an application for a license or permit or to any record or negotiations concerning any hazardous waste or waste site. A sunset provision was added that eliminates exemption from the public records law as to any negotiations.

ELECTION CODE

Senate Bill 55 by Senator Charles Jones (Act 604) requires a candidate qualifying for a state or local primary election to pay a qualifying fee when submitting the notice of candidacy. The qualifying fee is to be paid in cash or by certified or cashier's check on a state bank, national bank or credit union or by a United States postal money order or money order issued by a state bank or national bank or credit union. A candidate for president to pay a qualifying fee, as by the party, of \$750 and any additional fee needed or to obtain a nominating petition of not less than one thousand voters signatures associated with the party from each congressional district. The required qualifying fee is to be paid in cash or by certified or cashier's check on a state bank, national bank, or credit union or by a United States postal money order or money order issued by a state bank, national bank or credit union.

House Bill 548 by Representative Charles Lancaster (Act 517) creates a elections

compliance unit within the Secretary of State's Office. This unit is to initiate independent inquiries and conduct independent investigations into allegations of election irregularities in any municipality or parish; to respond to complaints or notifications alleging election irregularities; review notices and reports of election irregularities and conduct investigations of any incidents that it determines require further investigation. The election compliance unit shall have authority to issue subpoenas to compel the production of records and other documents from the registrar of voters and receive sworn statements. The election compliance unit is to turn over its findings to the appropriate prosecutorial agency if it determines that there may be a violation of any criminal law or provision of the Louisiana Election Code.

Senate Bill 121 by Senator Charles Jones (pending House Appropriations) would have increased the pay for commissioners-in-charge from \$175 to \$200 and for commissioners who receive a course of instruction for commissioner-in-charge from \$125 to \$150.

REVENUE DEPARTMENT

Senate Bill 171 by Senator Reggie Dupre (withdrawn from the files of the Senate) would have provided that the membership of the Louisiana Tax Commission be comprised of 7 persons. The seven members are to be appointed, one resident from each congressional district, and be representative of the state's population as nearly as practicable. The governor is to appoint four additional members by August 1, 2004. The governor is required to replace members on the commission if more than one member resides in the same congressional district.

Environment

by: *Cathy Wells*
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Air Quality

House Bill 377 by Representative Damico (Act 584), effective July 1, 2004, increases the fee for motor vehicle emission inspections from \$3.00 to \$8.00 on motor vehicle models 1980 and newer in the five parish (Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) ozone nonattainment area. The secretary of the Department of Environmental Quality (DEQ) is authorized to exempt vehicles of the current model year and vehicles from prior model years from the on-board diagnostic (OBD II) testing; however, these vehicles will be subject to the emissions testing including the antitampering and automated gas cap testing. This fee increase will give DEQ an additional \$1.00 for a total of \$2.00 per test. The station owners who conduct the required emission tests will receive an additional \$4.00 for a total of \$6.00 per test. This five parish area emission test does not impact the current statewide \$10.00 vehicle safety inspection fee.

Environmental Cleanup Revolving Loan Funds

Senate Bill 468 by Senator Fontenot (Act 655), establishes the Brownfields Cleanup Revolving Loan Fund. The fund will be used to provide loans to political subdivisions, public trusts, quasi governmental organizations, and eligible nonprofit or private entities to remediate eligible brownfields properties. Persons responsible for the discharge or disposal of a hazardous substance or hazardous waste are not eligible to apply or receive loans from the fund.

Environmental Quality

Senate Bill 464 by Senator Fontenot (Act 72), modifies the public hearing process on environmental assessment statements and proposed permits to authorize a state legislator to speak at anytime during the hearing. In addition, DEQ may, when a facility is situated in two parishes, hold one hearing at a place convenient to affected persons of both parishes.

House Bill 838 by Representative Damico (Act 52), increases the maximum civil penalty from not more than \$27,500 to not more than \$32,500 for each day of violation.

House Bill 885 by Representative Beard (Vetoed), would have authorized any person or entity to utilize an available reclaimed water source which originates from a municipal wastewater treatment facility to irrigate by spray application without being required to obtain any type of discharge permit for such use.

Solid Waste

House Bill 303 by Representative R. Carter (Act 150), prohibits the secretary of DEQ from registering or permitting a solid waste disposal facility in St. Helena Parish. Act 150 allows those facilities which dispose or process non-industrial waste or wood waste and those facilities which dispose or process non-industrial waste that is generated and disposed of on site of the facility. Act 150 requires, that if, St. Helena Parish sites and permits its own solid waste disposal facility, it must accept and dispose of any and all residential, commercial, and industrial solid waste produced in the parish. Although this legislation is limited to St. Helena Parish, it removes the ultimate authority of the secretary of DEQ to site and register landfills in the state. This is the first enactment to remove such authority.

Water Quality

Senate Bill 38 by Senator McPherson (Senate Committee), attempted to prohibit residences who use new and reconditioned sewage treatment systems to discharge sewage or treated wastewater onto another landowner's property or where the effluent is likely to run off to another landowner's property or ditch without a permit.

Ethics

by: *Tabitha Irvin-Gray*
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CAMPAIGN FINANCE / ETHICS

As part of the Governor's agenda **House Bill 530 by Representative Charles Lancaster (Act 115) and companion bill Senate Bill 580 by Senator Charles Jones (pending S&GA)** prohibits a person making a campaign contribution in the name of another person. A penalty of the amount of the contribution plus 10% is imposed for a person who unknowingly violates the prohibition, and for a penalty of twice the amount of the contribution for any person who knowingly and willfully violates the prohibition. The definition of knowing and willful for purposes of this bill means any conduct which could have been avoided through the exercise of due diligence.

House Bill 1015 by Representative Charles Lancaster(Act 783) was encouraged by the governor to promote good government which prohibits legislators and the governor from accepting and depositing certain campaign contributions, campaign loans, or transfers of funds during a regular session, to prevent the appearance of undue influence on decision-making by certain persons who may have a particular substantial economic interest in legislation. Any campaign contributions, campaign loans, or transfer of funds received during a regular session must be returned within 10 days after its receipt. A legislator or the governor may obtain a loan by a financial institution or certain depository institutions for his own campaign during a regular session if the official is the sole endorser and guarantor. If a legislator or the governor seeks election to an office other than the office he currently holds and accepts and deposits campaign contributions, loans, or transfer of funds during a regular session, the official must return all monies raised but not expended or otherwise encumbered for election to the office if he withdraws from the election. The money is permitted to reduce the balance of or pay off a loan obtained for the official's campaign. A legislator or the governor who is a candidate for U.S. Congress or an office to be filled by an election occurring during the regular session or within 60 days after such regular session adjourns or an office other than the office held by the official. The acceptance and deposit of campaign contributions is prohibited in the regular session of the legislature occurring in the year of the regular legislative or gubernatorial election.

From the perspective of ethics and good government, Governor Blanco supported **House Bill 1126 by Representative Edwin Murray (Act 862)** which required persons who make independent expenditures in support or opposition to a candidate to the same reporting standard required for candidates and political committees participating in the election of a candidate. Candidates and political committees participating in the election of a candidate is required to file 48-hour reports of contributions and expenditures in excess of certain amounts in the 20 days prior to the election. Persons making independent

expenditures or who accept contributions other than to or from a candidate or political committee file regularly scheduled campaign finance reports of such expenditures and contributions exceed \$500. Persons who make independent expenditures in support or opposition to a candidate to file 48-hour reports in the 20 days prior to an election if the independent expenditures are in excess of \$1,000 for major office; \$500 for district office; and \$500 for any other office.

Finance

by: *Linda Nugent*
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Mineral Revenue Cap Increased

Senate Bill 8 by Senator Heitmeier of the First Extraordinary Session of 2004 (Act 11) increased the base amount of mineral revenues to be deposited in Budget Stabilization Fund from \$750 million to \$850 million. Created in the state Constitutions in 1990, the "Rainy Day" fund receives 25% of any nonrecurring revenue and any mineral revenue in excess of \$750 million. The Constitution also provides that the base figure of \$750 million may be increased every ten years by a 2/3 vote of the legislature; however, the increase cannot exceed 50% of the CPI increase for the previous ten years. The Revenue Estimating Conference forecast a significant increase in mineral revenue this past spring, and the provisions of Act 11 allowed approximately \$100 million additional revenues to flow into the State General Fund instead of the Rainy Day fund, helping the state to deal with a projected budget shortfall in FY 2004-05.

Social Security/Medicare Elections

Recent federal legislation, requested by the legislature in 2003, added Louisiana as a "named state", which, under the Social Security Act, gives state and local government employees the opportunity to hold divided or majority rule referendums for Medicare only or Social Security coverage. **HB 1295 by Representative Alario (Act 280)** will authorize local governments to request a referendum. It is predicted that the most likely outcome will be that a number of such entities may hold referendums on having Medicare only. Whereas previously the majority ruled, now the employee who votes "yes" would begin paying the Medicare tax. If the tax is paid in for the required 40 quarters, or ten years, then that employee will be eligible for Medicare benefits.

Performance-Based Energy Efficiency Contracts

House Bill 1256 by Representative Alario (Act 869) made several changes relative to performance-based energy efficiency contracts. It requires that the guarantee of energy savings contained in such contract ensure, at a minimum, a total annual savings sufficient to fully fund any financing arrangement entered into to fund the contract. The bill also requires proposers to "unbundle", or itemize, costs in their bids. Additionally, the bill restructures the way responses to RFPs are evaluated in that the initial evaluation is completed by the originating agency before the responses are sent to the Department of Natural Resources. It reserves the award of any contract to the commissioner of administration, who is also authorized to hire a third-party evaluation consultant. To fund the cost associated with this process, a proposer must pay 2-1/2% of the value of a contract at the time the contract is executed. The bill

"grandfathers" is companies and contracts already in the process and further requires a payment of only one percent.

Claims Against the State

Senate Bill 41 by Senator McPherson (Vetoed) would have required the state and any of its departments and agencies to provide prior written notification to the Joint Legislative Committee on the Budget when compromising or settling a claim in which the state has an interest that equals or exceeds \$2,500,000. (It excludes claims covered by the Office of Risk Management.) Similarly, **Senate Bill 72 by Senator McPherson (Vetoed)** would have required the state and any of its departments and agencies to provide written notice to Budget Committee of any pending claim against the state that may equal or exceed \$2,500,000.

APPROPRIATIONS

The General Appropriation bill (**House Bill 1 by Representative Alario - Act 1**) provides for the ordinary operating expenses of state government for Fiscal Year 2004-05. The bill contains \$6.8 billion in State General Fund and total means of financing of \$17.5 billion. (*Highlights and details of HB 1 as it passed the Legislature, will be forthcoming from Senate Fiscal Services Staff shortly.*)

A Supplemental Appropriation bill is necessary to provide for certain unmet and/or unanticipated needs during the current fiscal year. **House Bill 1628 by Representative Alario (Act 446)** contains supplemental appropriations for FY 2003-04 in the amount of \$259.3 million, of which \$235 million is State General Fund. The bill contains appropriations for additional expenditures, such as \$3.7 million for the MFP, \$4.4 million for sheriff's housing of state inmates, and \$12 million for the payment of final judgments. The bill also serves as a mechanism to deposit \$222.6 million in State General Fund available as a result of the increase in the FY 2003-04 Official Revenue Forecast. The deposit of almost \$209 million of state general fund into the Louisiana Medical Assistance Trust Fund for use as state matching funds for the Medicaid program in FY 2004-05 is also contained in the bill.

The Judicial Expense bill (**House Bill 1482 by Representative Alario - Act 5**), which provides funding for the state Supreme Court, Courts of Appeal, District Courts, and other statutory and non-statutory courts, totals approximately \$112 million. Although it initially included \$2 million for a pay raise for the state's judges, the pay increase was eliminated because other legislation which authorized the raise was deferred. The bill also includes approximately \$5 million in Temporary Assistance to Needy Families (TANF) funding added to state funds to continue funding the Drug Court program.

Gaming

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GAMING

Senate Bill 400 by Senator Marionneaux (Act 16) provides that of the members appointed by the governor one of the at large members of the board of directors of the Louisiana Lottery Corporation shall be selected from a list of five potential candidates to be submitted to the governor by the Louisiana Oil Marketers and Convenience Store Association.

Senate Bill 859 by Senator Romero (Act 924) permits the continued operation of a gaming activity licensed in good faith based in part on a certified but mistaken survey. The Act shall only apply to licenses issued to conduct gaming prior to July 1, 2004. Additionally, the Act provides that regardless of any change in boundaries, there shall be no change in the distribution of any proceeds attributable to the licensed activity.

House Bill 190 by Representative Dewitt (Act 486) requires each holder of a riverboat gaming license, a slots at the tracks license, and the casino gaming operator to submit to the board a report naming each individual, corporation, firm, partnership, association, or other legal entity that furnishes professional services to the license holder or the casino gaming operator and further requires that the report be submitted quarterly by certified mail no later than twenty days after the end of each quarter.

House Bill 263 by Representative Martiny (Act 324) creates the crime of the use of a counterfeit or unlawful wagering instrument, which includes any chip, token, coin, voucher, electronic card, or other wagering instrument not approved by the board, creates the crime of unlawful possession of devices intended for violations of the Louisiana Gaming Control Law and creates the crime of the manufacture, sale, or distribution of gaming materials intended for illegal use and provides for penalties for such crimes.

House Bill 356 by Representative Martiny (Act 828) provides that it is unlawful for any person under twenty-one years of age to play casino games, gaming devices, or slot machines, and for any person under twenty-one years of age to enter the designated gaming area of a riverboat, the land-based casino, or the designated slot machine gaming area of a pari-mutuel wagering facility which offers live horse racing and provides a penalty of a fine of not more than \$500 or imprisonment for not more than six months, or both.

House Bill 358 by Representative Martiny (Act 753) removes the requirement that the failure to be current on filing federal tax returns or paying federal taxes is a disqualification for suitability purposes and further provides that when awarding a license, permit, casino operating contract, or other approval the board and division may consider that the person is not current in filing all applicable tax returns and in the payment of all taxes, penalties, and interest owed the Internal Revenue Service, excluding items under formal appeal.

House Bill 896 by Representative Martiny (Act 336) provides that all electronic gaming devices located on riverboats and slots at track facilities be linked by telecommunication to a central computer system for purposes of monitoring and reading device activities and further provides that the Department of Public Safety and Corrections, office of state police shall impose and collect an annual fee not in excess of fifty dollars on each electronic gaming device. The purpose of the fee is to defray the costs to the state of acquiring, implementing, and maintaining the central computer system. These provisions of law do not apply to the land-based casino.

Video Poker

Senate Bill 342 by Representative Chaisson (Act 31) permits rather than requires a video draw poker device to accept coins in the amount of the minimum wager offered by that device and deletes provision that provided that video draw poker devices shall provide one game for each coin of that denomination deposited in that machine. Video draw poker devices may accept coins or currency of denominations of multiples of the minimum wager but the devices shall also provide one game for each amount of the minimum wager deposited in that video draw poker device. These provisions of law shall not affect the limitations on the amount of money played and the limitation on the value of prizes established in present law.

Senate Bill 345 by Representative Chaisson (Act 637) specifies and limits the features that a restaurant must have to meet the requirements for a truck stop to qualify as a truck stop licensed to operate video draw poker machines and adds as an additional mandatory feature that the restaurant operate a fully equipped kitchen for the preparation of foods for on-premises or immediate consumption, whether or not the food is uncooked.

Senate Bill 616 by Representative Chaisson (Act 918) provides that if, after a qualified truck stop facility is licensed and a determination has been made to authorize the placement and operation of devices at the facility based upon the average of the fuel sales reports for three months, the qualified truck stop facility thereafter becomes unable to sell a sufficient number of gallons of fuel to permit the minimum number of devices to be operated at the facility, for reasons of force majeure or due to other non-commercial circumstances, such as road or other governmental construction projects contiguous to or otherwise directly affecting the fuel sales of the qualified truck stop facility, the facility shall continue to be authorized to place and operate the number of devices based upon the last average calculation of monthly fuel sales reports prior to the interruption in the fuel sales. Requires the division to use the next three months

of monthly fuel sales reports to determine the number of devices authorized to be placed and operated.

Under present law qualified truck stop facilities are required to have certain amenities but, this bill provides for an exception in the case of force majeure affecting the ability to maintain the amenities for a reasonable period of time as determined by the division following the interruption of such ability.

Additionally, Act 918 was amended in conference to do the following:

1. To provide that an owner or lessor of a qualified truck stop facility may lease or sublease a fuel facility located on the premises of the qualified truck stop facility and it further repeals the prohibition on the leasing or subleasing of a fuel facility by the owner of the truck stop facility.
2. To provide that new owner applicants for a video draw poker license who are currently licensed are exempt from the 180-day time limitation from the submission of the application to the division. However, if the applicant fails to provide the requested information to the division in a timely manner, the devices may be disabled after 180 days have elapsed.
3. To provide for an exception in the case of suitability criteria for certified technician level two employees in that a certified technician level two employee may be issued a video draw poker employee permit even though 10 years have not elapsed since the successful completion or service of any sentence, deferred adjudication, or period of probation or parole if the certified technician level two employee has been employed for 10 or more years by a video draw poker licensee and the certified technician level two employee has had no further convictions during the ten year period of employment.
4. To provide that a licensed establishment located at a public or private golf course licensed to operate video draw poker devices prior to January 1, 2004, and issued a Class A-Restaurant-Conditional retail permit for consumption of alcohol on the premises shall be authorized to continue to operate video draw poker devices provided that the licensee of such a licensed establishment maintains continuous suitability and meets all other required licensing criteria.
5. To provide that a retail establishment located at a public or private golf course licensed to operate video draw poker devices prior to January 1, 2004, may be issued a Class A-Restaurant-Conditional permit regardless of the amount or the percentage of food or food items sold at that establishment provided the establishment meets all other required licensing criteria.

House Bill 1425 by Representative Martiny (Act 353) authorizes the Department of Public Safety and Corrections to enter into a multiyear contract not to exceed ten years when contracting for the Video Gaming Monitoring System for the monitoring of video draw poker devices.

House Bill 1105 by Representative Wooton (Act 427) provides that sanctions shall not be imposed on video draw poker licensees for the failure to disclose all criminal charges in any misdemeanor convictions provided that the person has not previously been cited for the same nondisclosure regulatory offense within a one-year period prior to the current regulatory offense and that the failure to disclose all charges resulting in a misdemeanor conviction may be considered for purposes of suitability.

House Bill 196 by Representative Martiny (Senate final passage-subject to call) authorizes an owner or lessor of a qualified truck stop facility to lease or sublease any fuel facility located on the premises of the licensed facility. This bill was amended into Act 918.

Charitable Gaming

House Bill 1417 by Representative Toomy (Act 874) authorizes the use of other approved bingo paper rather than just disposable paper when using electronic dabber devices and requires the office of charitable gaming to adopt any additional rules and regulations necessary to govern the specifications, use, and operation of electronic dabber devices and to establish a list of manufacturers, distributors, and suppliers authorized to provide electronic dabber devices or a list of acceptable models of the devices, acceptable serial numbers on such models, or manufacturers, distributors, or suppliers.

Health & Hospitals

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Much of the focus in health care issues this session came from topics raised at the governor's health care summit, held in early March, 2004, and on the general issues of improving both health care and the access of citizens to quality health care. Another key guideline was an article included in the March, 2004 issue of *Governing* magazine, entitled *Medicaid-Ten Fixes That Work*. These fixes are intended to help states to improve Medicaid services while reigning in the spiraling increases in Medicaid spending. Each of the fixes suggested has been successful in one, or several, states.

HEALTH CARE SUMMIT ISSUES

Sessions of the health care summit included discussions of access to primary care, expanding access, especially in rural areas of the state, and improving the quality of health care in Louisiana. Addressing the issues of access and primary care, **Act 10 (HB 1140 by Representative Durand declared a duplicate of SB 674 by Senator Hines)** permits physician assistants to prescribe certain drugs and medical devices to the extent delegated by the supervising physician. Certain criteria must be met by the physician assistant. The ability to prescribe enhances the role of these valuable physician extenders.

Focusing on the needs of both primary care and rural access issues, **Act 36 (SB 690 by Senator Hines)** provides that DHH, in conjunction with the Louisiana Primary Care Association, the Louisiana Rural Health Association, and the Louisiana Rural Hospital Coalition develop a long term plan for the expansion of existing Federally Qualified Health Centers (FQHC's) and Rural Health Clinics (RHC's) and for the creation of new FQHC's and RHC's throughout Louisiana.

One of the successful aspects of the governor's health care summit of 2004 was the involvement of regional health care summits that brought both issues and possible solutions to the attention of the national and statewide participants in the summit. **Senate Concurrent Resolution 95 by Senator McPherson (enrolled)** provides a mechanism for making permanent the regional structure that provided grass-roots input for the governor's health care summit. This resolution, the result of substantial discussions with the governor and her staff and DHH, provides that each DHH region's legislative delegation shall name participants for that region's health care consortium. The resolution designates the types of interests that should take part in each region, but allows each region to develop a consortium that is reflective of the health care issues in that area of the state. Such consortiums are to operate in accordance with open meetings laws, will report to the annual statewide health care summit, and are to remain engaged in the process of improving health care access and health outcomes in Louisiana.

Act 187 (Senate Bill 484 by Senator Hines) creates the Interagency Task Force on the Future of Family Medicine, the members of which the secretary of DHH shall appoint. The task force is charged with examining the issues of increasing financial support for family medicine residency programs, emphasizing the importance of family practice to those affiliated with the medical schools in the state, and proposing tax credits, loan forgiveness programs, tuition and housing support for those entering family medicine and practicing in underserved areas of the state.

MEDICAID "FIXES"

One of the fixes-*Reform Long Term Care*-includes the idea of moving to more community-based services rather than institutional long term care. Federal preferences for community-based services have been a focus of the Department of Health and Hospitals. In an effort to address this trend toward community-based services, and in an effort to maintain some control over the number of assisted living beds that might be available for Medicaid funding, at such time as the state offers a Medicaid assisted living benefit, **Act 184 (Senate Bill 392 by Senator McPherson)** provides for inclusion of assisted living beds in the facility need review program. This is a program to determine the need for certain services in an area before a Medicaid-participating facility is allowed to be opened.

Another of the *Medicaid-Ten Fixes That Work* is to ensure that Medicaid remains the payer of last resort. One way to ensure this is to require Medicaid nursing home beds to be dually-certified for Medicare. In limited circumstances, primarily after hospitalizations, Medicare will pay for a specific number of days of nursing facility care which reduces the burden on Medicaid. **Act 317 (Senate Bill 711 by Senator McPherson)** requires that all Medicaid-participating nursing home providers also be certified as Medicare providers.

Electronic records, eligibility verification, payment, data collection and analysis systems are another of the suggested fixes which have resulted in reductions in the growth of the cost of state Medicaid programs. **Senate Concurrent Resolution 46 by Senator McPherson (enrolled)** requests that DHH study the use of both electronic prescribing and electronic medical records. In addition to the possibility that this could lead to cost savings, such systems could also improve both the quality and the safety of health care in Louisiana.

Emphasizing prevention is another of the suggested fixes for Medicaid. Focusing on newborns, **Act 278 (HB 1285 by Representative Jefferson)** requires DHH to increase the number of tests for genetic conditions it requires to be performed on newborns. DHH is to consult with geneticists at the state's medical schools to determine and promulgate appropriate rules regarding what additional tests should be performed. **Act 893 (House Bill 1627 by Representative Marchand)** tackles the problem of early detection of lead poisoning in children in areas of the state designated as high-risk areas for lead poisoning. It requires the office of public health to identify and designate areas of high-risk for lead poisoning and to then adopt rules mandating blood screening for children in these areas.

IMPROVING THE QUALITY OF HEALTH CARE

Act 248 (House Bill 272 by Representatives Durand, Thompson, and Salter which was declared a duplicate of Senate Bill 235 by Senators McPherson, Hines, Schedler, Barham, and Jones) creates the Louisiana Emergency Response Network, to develop a coordinated statewide system for access to regional trauma care throughout the state. This system is intended to link health care services to establish an improved level of care for victims of trauma and time-sensitive illnesses statewide. Over the last year, a task force of providers, especially physicians and the emergency response providers, legislators; government employees; interested citizens; and a wide range of health care professionals came together as the result of an executive order by former governor Foster, to investigate what system might prove effective for the state to provide improved trauma care for its citizens. This legislation provides for a statewide board to supervise the establishment of the system. National health care experts, at the Governor's Health Care Reform Panel's initial meeting in June, 2004, cited this legislation as a sign of Louisiana's determination and commitment to reforming health care in the state.

The Board of Certified Employee Assistance Professionals was created and placed in the Department of Health and Hospitals by **Act 920 (Senate Bill 815 by Senator Schedler)**. The legislation provides definitions for certified employee assistance professional and other pertinent terms, provides for the board and provides specific authority and duties for the board. The purpose of this legislation is to improve these services provided to Louisiana's workers and to regulate the provision of such services.

The Women's Health Commission was also created and placed in DHH by **Act 644 (Senate Bill 408 by Senator Bajoie)**. The focus of this commission is to study issues relating to educating women on health issues and to concentrate on the delivery of and access to health and social services for women in the state. Additionally, the commission is encouraged to promote wellness and preventive efforts and to identify methods for communities to foster good health in women. This legislation addresses the issue of improving health outcomes, especially among women in Louisiana.

Act 659 (Senate Bill 492 by Senator Schedler) creates the Nursing Home Quality and Efficiency Board to develop recommendations for programs designed to promote quality care and increase efficiency in nursing homes in Louisiana. The board may propose programs and rules subject to the review and approval of the secretary of DHH and rules will be promulgated in accordance with the APA.

The Louisiana Diabetes Initiatives Council is provided for by **Act 726 (Senate Bill 821 by Senator Bajoie)**. The Council is authorized to accept and expend grants and private donations from any source to assist in carrying out its duties. It is also charged with promoting the development and implementation of programs of professional education, specialized care, and clinical research in diabetes and its complications, including the establishment of a diabetes center of excellence.

THE DEPARTMENT OF HEALTH AND HOSPITALS

Licensing

In order to offset some of the expense of licensing and regulating various health care facilities, **House Bill 726 by Representative Walker (Act 332)** included in those facilities paying licensing fees, psychiatric residential treatment facilities, children's respite care centers, additionally allowing for facilities to be added by subsequent law.

Mental Health, Developmental Disabilities and Addictive Disorders

Several actions focused on serving some of the state's most vulnerable, those dealing with mental health issues, developmental disabilities, and addictive disorders. **Act 28 (Senate Bill 193 by Senator Bajoie)** calls for a pilot program for a system of care for the delivery of children's mental health services. **House Bill 1217 by Representative Durand (Act 432)** provided for licensure of pediatric day health care facilities for children with substantial mental health and developmental disabilities to be cared for in a setting that allows them to live at home.

An entirely overhauled system for licensing substance abuse counselors, including a designated career path for encouraging professionals engaged in treating those with addictive disorders, was the focus of **Senate Bill 875 by Senator McPherson (Act 803)**. The current licensing board is disbanded by this legislation and DHH, office for addictive disorders will take over the licensing duties for these new categories of professionals, for a limited period of time. This legislation is intended to encourage the growth of the professions engaged in treating those with addictive disorders.

Homeland Security Military Affairs

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CIVIL AIR PATROL

Benefits. **Senator Theunissen**, in an effort to bring services for medical treatment and survivor benefits for Civil Air Patrol members injured or killed during official duties in line with benefits provided for other military services, authored **Senate Bill 743 (Act 712)** that expands the circumstances under which the state would provide such benefits. The bill provides for medical services for Civil Air Patrol members injured or made ill during the performance of their duties and not just during disasters, search and rescue missions or disaster training. The measure would also remove requirements for U.S. Air Force authorization before a surviving spouse or children of a Civil Air Patrol member killed during the performance of their duty would receive required survivor benefits. The bill was signed into law by the governor after the 2004 Regular Legislative Session adjourned.

EMERGENCY PREPAREDNESS

First Responders' Employment Benefits. **Senate Bill 692** by **Senator Barham (Act 316)** will require that after a state of homeland security emergency has been declared, employers of all first responders, including but not limited to medical personnel, emergency medical technicians, volunteer firemen, auxiliary law enforcement officers, Civil Air Patrol, law enforcement personnel and fire protection personnel to maintain the employment, pay rate levels, pensions, and benefits for those first responders during homeland security emergencies. Currently, such benefits are only available when a national disaster or emergency has been declared. The bill also requires any person released from duty or recovered from disease or injury after service with the office of homeland security and emergency preparedness be reinstated to the same or comparable vacant position of employment. Any person so restored to such a position must maintain the status of employment that the person would have enjoyed if they had continued employment without interruption. The proposal also gives the Department of Labor or the director of the Department of Civil Service the authority to render aid and assistance in the reinstatement of persons when an employer fails to comply with the provisions of reemployment. Leaves of absence would be excluded as a break in employment for purposes of employee benefits, seniority or length of service. The bill also allows an employer to consider participation in activities of the office of homeland security and emergency preparedness as unpaid leave. The employer has the option of paying an employee on leave. An employee may, upon agreement with the employer, use any accrued leave, vacation, sick leave or compensatory leave to his credit during his term of service. First responders would be required to give notice to employers of their call to service as soon as practical, including the date of departure and the expected length of service. The bill was signed into law by the governor after legislators wrapped up their work and finally adjourned the 2004 Regular Legislative Session.

HEALTH CARE/TRAUMA RESPONSE

Louisiana Emergency Response Network. **House Bill 272 by Representative Durand (Act 248)** creates the Louisiana Emergency Response Network. Also created is the Louisiana Emergency Response Network Board and placed within the Department of Health and Hospitals. Board members will be appointed by the governor, subject to senate approval. The board will be responsible for establishing nine regional commissions and entering into any necessary contracts to assure continuity of care during emergencies. The board shall also submit an annual report to the House and Senate Committees on Health and Welfare. The board may also receive grants, donations, gifts of money, or services from public or private organizations. The main thrust of the legislation is to establish a network between strategically located health care centers for treatment of trauma casualties resulting from an emergency event. **Senator McPherson** introduced a duplicate bill in the senate which passed the upper chamber but died in the house.

DOMESTIC TERRORISM

Unauthorized Entry of a Critical Infrastructure. **House Bill 561 by Representative Walsworth (Act 157)** provides that the unauthorized entry of a critical infrastructure is the intentional entry by a person without authority into any structure or onto any premises, belonging to another, that constitutes in whole or in part a critical infrastructure that is completely enclosed by any type of physical barrier including but not limited to chemical manufacturing facilities, refineries, electrical power generating facilities, water intake structures and water treatment facilities, natural gas transmission compressor stations, natural gas terminals and storage facilities and transportation facilities such as ports, railroad switching yards and trucking terminals. Persons convicted of the crime shall be subject to a fine of not more than \$1,000 or imprisonment with or without hard labor for not more than six years, or both.

Security Sensitive Information. **House Bill 794 by Representative Walsworth** would have authorized the classification of security sensitive information and personal identification information as confidential and would have prohibited distribution of such information via the Internet. It would have authorized the secretary of the Department of Environmental Quality to classify and protect information that he determines in regulations would assist any third party seeking to cause damage or injure property or personnel at a facility or in the surrounding area. The proposal would have provided protection from release of social security numbers, home addresses, dates of birth, and other personal identification information. The measure provided that an employee of the Department of Environmental Quality or any former employee or any authorized contractor acting as a representative of the secretary of the department who is convicted of intentional disclosure or conspiracy to disclose trade secrets or other information which has been determined to be confidential shall be punished by a fine of not more than \$1,000, imprisonment for up to one year, or both. The bill eventually died in the House Committee On Governmental Affairs.

MILITARY ECONOMIC DEVELOPMENT

Military funding. **House Bill 1278 by Representative Tucker** would have created the Military Economic Development and Transportation Fund in the state treasury. Monies in the fund would have been

used for the purposes of infrastructure, improvements, and construction related to military installation and base realignment and closures. The bill was passed by the house but later died in the Senate Finance Committee.

Human Resources

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EMPLOYMENT

Wage Discrimination

House Bill 324 by Representative Richmond (referred to the Committee on Labor and Industrial Relations) would have provided with respect to equal pay; prohibits an employer from paying different wages to employees based on certain protected classifications (gender) and prohibit retaliation against employees who oppose act or practice in violation of them.

House Bill 1054 by Representative Richmond (referred to the Committee on Labor and Industrial Relations) would have created a civil cause of action for basing wages upon and employee's gender or race; prohibits an employer from paying different wages to employees based on certain protected classifications (gender and race) and prohibited retaliation against employees who oppose act or practice in violation of them.

Senate Bill 33 by Senator Fields (referred to the Committee on Labor and Industrial Relations) would have provided for equal pay to employees; prohibit an employer from paying different wages to employees based on certain protected classifications (gender, race, and national origin) and prohibited retaliation against employees who oppose act or practice in violation of them. Also requires covered employers to provide each employee with a written statement informing him of his job title, wage rate, and the manner in which his wages are calculated. Also required the employer to preserve indefinitely all documents relating to the payment of employees' wages and the method, system, calculations, and criteria used to establish, adjust, and determine them.

Sexual Orientation/Gender Identification Discrimination

House Bill 845 by Representative Carter (involuntarily deferred in Committee) would have created the Louisiana Non-Discrimination Act and would make it unlawful for covered employers to discriminate against applicants or employees because of their sexual orientation of gender identity. Gender identity is defined as "a person's gender-related identity, appearance, or expression, whether or not that identity, appearance or expression is the same from that traditionally associated with the person's assigned sex at birth." Sexual orientation is defined as "being, or perceived as being, heterosexual, homosexual, or bisexual. Included a provision permitting the employer to require employees to adhere to reasonable

workplace appearance, grooming, and dress standards, “provided that an employer must allow an employee to appear and dress consistently with the employee’s gender identity.”

House Bill 1229 by Representative Murray (failed to pass, motion to reconsider tabled) provides relative to employment discrimination in state government. Prohibited the state, state would have agencies, boards and commissions from employment discrimination because of a person’s sexual orientation.

House Bill 1174 by Representative Richmond (referred to the Committee on Labor and Industrial Relations) would have prohibited denial of employment solely on basis that applicant is a convicted felon. The bill did not apply to someone seeking to work with children of security services.

WAGE ISSUES

House Bill 195 by Representative Richmond (referred to the Committee on Labor and Industrial Relations) would repeal prohibition of establishing local minimum wage.

Senate Bill 37 by Senator Holden (Act 601) provides relative to designating paydays under the Department of Labor. Requires employers to pay employees who are exempt from overtime under the Fair Labor Standards Act at least once a month. Also modifies the final paycheck rule, requiring employers to pay all wages owed to a discharged employee no later than six days after he’s discharged and all other employees who are separated from employment no later than the next regularly scheduled payday. Contains provisions regulating the payment of commissions and bonuses, the manner of wage payment, deductions from wages, and providing for civil action, damages and penalties fro violations.

Senate Bill 162 by Senator Holden (referred to the Committee on Labor and Industrial Relations) would have provided relative to designating paydays under the Department of Labor. Required employers to pay employees who are exempt from overtime under the Fair Labor Standards Act at least once a month. Also modified the final paycheck rule, requiring employers to pay all wages owed to a discharged employee no later than six days after he’s discharged and all other employees who are separated from employment no later than the next regularly scheduled payday. Contained provisions regulating the payment of commissions and bonuses, the manner of wage payment, deductions from wages, and providing for civil action, damages and penalties fro violations.

Senate Bill 32 by Senator Fields (recommitted to the Committee on Finance) would have provided that the minimum wage in Louisiana be equal to the federal minimum wage plus one dollar.

EMPLOYEE BENEFITS

House Bill 516 by Representative Shepherd (referred to the Committee on Labor and Industrial Relations) would have required six months of severance pay for employees whose jobs were lost to corporate consolidation or relocation of employer. Companies with 100 or more employees pay

workers six months of severance pay if they were discharged because of a corporate consolidation, downsizing, layoff, or company relocation.

Senate Bill 217 by Senator Fields (withdrawn from the files of the Senate) would have provided for employees to use employer-granted leave to care for family members with serious medical conditions. Required employers to permit employees to use earned sick leave or other paid time off to care for a child with a health condition requiring medical treatment or medical supervision, or a spouse, parent, parent-in-law, or grandparent who has a serious health condition or emergency condition.

House Bill 242 by Representative Richmond (referred to the Committee on Labor and Industrial Relations) would have created the Victims' Domestic Violence and Economic Security Act. Required employers to permit employees who are victims of domestic or sexual violence to take up to six weeks of unpaid leave a year to deal with their problems.

WORKERS' COMPENSATION

House Bill 191 by Representative Faucheux (failed to pass, motion to reconsider tabled) would have required that misrepresentation in workers' compensation cases be material and relevant to the injury in order to constitute grounds for denial of claim.

House Bill 776 by Representative Hunter (referred to the Committee on Labor and Industrial Relations) would have provided that immunity from civil liability under workers' compensation law shall not extend to situations where an employer fails to provide adequate security.

House Bill 780 by Representative Hunter (referred to the Committee on Labor and Industrial Relations) would have provided that immunity from civil liability under workers' compensation law shall not extend to situations where an employer removes adequate safeguards.

Senate Bill 402 by Senator Marionneaux (referred to the Committee on Labor and Industrial Relations) would have provided that immunity from civil liability under workers' compensation law shall not extend to situations where an employer fails to provide adequate security.

Senate Bill 671 by Senator Holden (returned to the calendar subject to call) would have provided that immunity from civil liability under workers' compensation law shall not extend to situations where an employer fails to provide adequate security.

Senate Bill 672 by Senator Holden (returned to the calendar subject to call) would have provided that immunity from civil liability under workers' compensation law shall not extend to situations where an employer removes adequate safeguards.

Senate Bill 703 by Senator Jones (referred to the Committee on Labor and Industrial Relations) would have provided that immunity from civil liability under workers' compensation law shall

not extend to situations where an employer fails to provide adequate security.

JOB PROTECTION

Senate Bill 692 by Senator Barham (Act 316) requires employers of first responders to homeland security emergencies to maintain the employment, pay rate levels, pensions, and benefits for those first responders. Provides that leave for homeland security and emergency preparedness shall be unpaid, but employees are entitled to reinstatement to the same or an equivalent position, pay, and benefits upon their return except in very limited circumstances.

EMPLOYMENT OF MINORS

House Bill 691 by Representative Johns (Act 524) provides relative to the employment of minors; to provide work hours for minors; to provide for written parental consent; to define "school day"; to provide for minors with equivalency diplomas; and to provide for related matters.

LOUISIANA WORKER ADJUSTMENT & RETRAINING NOTIFICATION ACT (LAWARN)

House Bill 325 by Representative Richmond (referred to the Committee on Labor and Industrial Relations) would have adopted the Federal Worker Adjustment and Retraining Notification Act (WARN) relative to labor; to require written notice of layoff; to provide for the failure to give notice; to allow the reduction of liability; and to provide for related matters. Required employers to provide written notice 60 days before a mass layoff, relocation, or termination at any industrial or commercial facility that has employed 100 or more people within the preceding 12 months. The written notice must be provided to affected workers who have been employed for at least six months, the Louisiana Department of Labor, and the chief elected official of each city and local government within which the layoffs will occur.

UNEMPLOYMENT COMPENSATION BENEFITS

House Bill 1048 by Representative Gray (5/17 became House Bill 1707) would have provided unemployment compensation benefits to victims of domestic violence.

House Bill 1379 by Representative Hunter (referred to the Committee on Labor and Industrial Relations) would have provided relative to benefits eligibility of victims of domestic abuse. An unemployed person is eligible for benefits if he's discharged or otherwise unable to continue employment because of domestic abuse.

Senate Bill 9 by Senator Dupre (referred to the Committee on Labor and Industrial Relations) would have allowed seasonal workers who are collecting Social Security Retirement benefits to be eligible for unemployment benefits.

Information Technology

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ADMINISTRATION DIVISION

Senate Bill 509 by Senator Heitmeier (Act 23) requires compensation payable to all state of Louisiana employees through the Integrated Statewide Information System (ISIS) shall be paid through electronic fund transfer for those employees hired on or after July 1, 2002.

AIRCRAFT/AVIATION

Senate Bill 13 by Senator Theunissen (Act 57) provides for a notice of the proposed construction of and for the marking of certain wireless communication facilities that are taller than 100 feet but not more than 200 feet.

ANIMALS

House Bill 1319 by Representative Triche (withdrawn from files of the House) would have prohibited the importation and private ownership of certain animals (e.g., exotic big cats, venomous snakes, nonhuman primates), and would have required the Department of Wildlife and Fisheries to promulgate rules prohibiting the purchase of such animals, including Internet purchases.

APPROPRIATIONS

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

Louisiana Optical Network Initiative—an initiative of U.S. research universities and private-sector technology companies to provide a nationwide infrastructure in networking technologies and applications—\$3,200,000 (HB 2 an additional \$8,500,000).

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

Governor's Information Technology Initiative—an initiative to conduct research and develop new technologies to advance information technology—\$17,500,000.

BANKS/BANKING

House Bill 1463 by Representative Pinac (pending House Commerce committee) would have created the Nonpropriety Electronic Financial Terminal Act, and would have prohibited any person from operating a nonproprietary electronic financial terminal in the state without having obtained a license from the commissioner of the Office of Financial Institutions.

CHILDREN/SUPPORT

House Bill 498 by Representative Triche (Act 510) provides for the electronic transmission of notices for child support income assignment orders.

CIVIL/GARNISHMENT

House Bill 108 by Representative Faucheux (Act 741) requires that a notice of the filing of the garnishment petition be mailed or sent by electronic means to the judgment debtor.

COMMITTEE STUDIES

Senate Resolution 149 by Senator Michot (enrolled) requests the Senate Select Committee on Consumer Affairs and Technology to study the conflict of laws relative to the choice of law and forum for computer information agreements and the Uniform Computer Information Transaction Act (UCITA).

CONGRESS

Senate Concurrent Resolution 47 by Senator Hainkel (enrolled) memorializes Congress to support and expand the operations of the National Finance Center in New Orleans, which provides consolidated payroll, personnel, and voucher and invoice payment systems and services to numerous government agencies.

CONSUMERS/PROTECTION

Senate Bill 652 by Senator Jackson (pending Senate Commerce committee) would have created the "Consumer Debt Management Services Act," and would have provided a debt management service provider may deliver debt management services via the Internet if the provider complied with certain restrictions.

House Bill 623 by Representative Jefferson (Act 766) allows credit reporting agencies to develop procedures that allow a consumer to request a temporary lift on a credit report freeze of his records by use of the Internet or electronic media.

CRIMINAL/VICTIMS

House Bill 242 by Representative Richmond (pending House Labor committee) would have created the Victims' Domestic Violence and Economic Security Act, which would have allowed victims to take unpaid leave, and included communications via computers and e-mail in the definition of types of violence.

DWI

Senate Bill 556 by Senator Dupre (Act 666) creates the impaired driver tracking system to assist law enforcement and DPS in effectively investigating, prosecuting and disposing of impaired driving cases, effective upon written notice from the Louisiana Commission on Law Enforcement and Administration of Criminal Justice of the successful completion and implementation of the Integrated

Criminal Justice Information System (ICJIS) project.

Senate Bill 565 by Senator Dardenne (pending Senate Judiciary C committee) would have created the Integrated Criminal Justice Information System to provide the tracking of the complete life cycle of a criminal case involving impaired driving.

House Bill 1156 by Representative Futrell (pending House final passage) would have created the impaired driver tracking system to assist law enforcement and DPS in effectively investigating, prosecuting and disposing of impaired driving cases.

ECONOMIC DEVELOPMENT

Senate Bill 593 by Senator Butch Gautreaux (Act 672) authorizes and provides for regional research and development parks to promote the development of high technology industries and research in a region of the state.

GAMBLING

House Bill 896 by Representative Martiny (Act 336) requires electronic gaming devices located at certain gaming facilities be linked to a central computer monitoring system for the purposes of monitoring and recording device activities.

GOVERNMENTAL REGULATIONS

Senate Bill 417 by Senator Michot (pending Senate Commerce committee) would have required businesses to notify customers of a breach of security of their computerized data.

HEALTH/HOSPITALS DEPARTMENT

Senate Concurrent Resolution 46 by Senator McPherson (enrolled) creates the Louisiana Task Force on Electronic Medical Records to study electronic prescribing and electronic medical records to improve the quality and safety of health care in this state.

HOSPITALS

Senate Bill 481 by Senator Cravins (pending Senate Health & Welfare committee) would have required hospitals to report and disclose statistical quality data to the public, and would have allowed the Internet to be used for such disclosure.

Senate Bill 649 by Senator Boissiere (pending Senate Health & Welfare committee) would have required hospitals to report and disclose statistical quality data to the public, and would have allowed the Internet to be used for such disclosure.

Senate Bill 656 by Senator Hainkel (pending Senate Health & Welfare committee) would have provided for Hospital Payor Rights, and would have required hospitals to disclose a uniform schedule of charges, and to publish such charges on the Internet if the hospital had an Internet web site.

House Bill 863 by Representative Richmond (pending House Health & Welfare committee) would have created the Hospital Consumer Information Reporting Act, and would have provided that if a hospital had an Internet web site on which it posts charges for health care, the hospital must provide the requestor with its web site address.

House Bill 1148 by Representative Flavin (pending House Health & Welfare committee) would have required hospitals to report and disclose statistical quality data to the public, and would have allowed the Internet to be used for such disclosure.

INSURANCE/HEALTH

House Bill 1210 by Representative Tucker (pending House Insurance committee) would have revised various provisions of state law relative to prompt payment of health insurance claims, and would have provided for electronic claim submission.

INSURANCE/POLICIES

House Bill 398 by Representative Johns (Act 44) defines "delivered" for purposes of notice of cancellation of mortgages to include electronic transmittal.

INSURERS

Senate Bill 856 by Senator Hines (pending Senate Insurance committee) would have provided procedures for payments to health care providers by health insurance companies, and would have defined electronic claim, and permitted the submission of claims electronically.

INTERNET

Senate Bill 116 by Senator McPherson (pending Senate Commerce committee) would have created a "no junk mail" database for residential and business electronic mail subscribers.

LEGISLATIVE POWERS/FUNCTIONS

Senate Concurrent Resolution 84 by Senator McPherson (enrolled) requests that DHH study the issue of the health care delivery system in Louisiana, and the establishment of a more integrated delivery system statewide.

House Resolution 1 2004 1ES by Representative Crowe (enrolled) grants the Speaker of the House of Representatives the authority to establish a Select Committee on Technology.

LEGISLATIVE AUDITOR

Senate Bill 69 by Senator Michot (pending Senate & Governmental Affairs committee) would have required agencies to report annually to the legislative auditor on the agency's progress in providing electronic reports to members of the legislature.

LOCAL GOVERNMENT

House Bill 1118 by Representative Badon (pending House final passage) would have authorized the governing authority of any parish or municipality to create, by ordinance, an office of information technology within the parish or municipality, and would have provided for the appointment of a Chief Technology Officer.

MEDICAID

Senate Concurrent Resolution 43 by Senator Nick Gautreaux (enrolled) requests DHH to adopt by rule a procedure for an expedited Medicaid application process, and allows an application to be transferred by e-mail.

House Bill 1017 by Representative Durand (pending House Health & Welfare committee) would have required written notification of all appropriate health care providers and Medicaid recipients of any changes in the pharmacopoeia, and would have required a copy of the current pharmacopoeia be posted on the Internet.

MOTOR VEHICLES

House Bill 275 by Representative Gary Smith (pending House Commerce committee) would have provided for notification to motor vehicle customers of the presence of certain event data recording devices installed in vehicles (e.g., transmit information concerning an accident in which the vehicle has been involved to a central communications system when an accident occurs).

MOTOR VEHICLE/DRIVER LICENSE

House Bill 26 by Representative Bowler (Act 363) permits payment of class "D" or "E" drivers' license renewals by electronic commerce.

MUNICIPALITIES

Senate Bill 612 by Senator Hainkel (pending Senate Transportation committee) would have authorized municipalities with a population of more than 50,000 to use photographic equipment for enforcement of certain traffic violations (e.g., photographic, video, or digital camera).

House Bill 1078 by Representative Murray (failed House final passage) would have authorized municipalities with a population of more than 20,000 to use photographic equipment for enforcement of certain traffic violations (e.g., photographic, video, or digital camera).

OFFICIAL JOURNALS

Senate Bill 702 by Senator Hainkel (Act 708) provides that legislative documents or governmental instruments may be made accessible on the official Internet web site or portal of the Louisiana State Legislature.

PHARMACISTS

Senate Bill 446 by Senator Jackson (Act 653) provides for duties and responsibilities of the Medicaid Pharmaceutical and Therapeutics Committee, and requires the posting of the preferred drug list on the Internet.

PROPERTY/PUBLIC

Senate Bill 503 by Senator Heitmeier (Act 19) authorizes the state to sell surplus movable property through the use of certain electronic technology, and provides for "Internet Computer Auctions." Defines Internet Computer Auctions as the sale by auction that takes place when offers are placed through the use of electronic technology including the Internet, and the thing is sold to the qualified bidder who offers the highest price.

House Bill 1241 by Representative Alario (pending House Appropriations committee) would have authorized electronic notice of auction for sale of movable surplus property, and would have provided for an "Internet Computer Auction."

PUBLIC CONTRACTS

Senate Bill 40 by Senator McPherson (Vetoed) would have required the commissioner of administration to designate a goal for awarding to small businesses a portion of anticipated total state procurement of data processing equipment and software.

House Bill 1343 by Representative Crowe (pending House Appropriations committee) would have provided for a 10% preference for information technology software or hardware, which is assembled, manufactured, or produced in Louisiana that is equal in quality to information technology software or hardware that is assembled, manufactured, or produced outside of the state.

PUBLIC WORKS

Senate Bill 289 by Senator Boissiere (Act 458) provides for facsimile or e-mail notification by governmental entities of addendums to a bid over the contract limit.

REVENUE DEPARTMENT

Senate Bill 343 by Senator Cain (pending Senate Judiciary A committee) would have provided for Internet training and testing as it relates to the Responsible Vendor Program.

SCHOOLS

Senate Bill 50 by Senator Hainkel (pending Senate Education committee) would have created the La. Parental Choice in Primary Education Program to provide for state payments of private school tuition for the preschool and primary grade education of children whose families meet certain income requirements, and would have provided that the Department of Education shall provide via its Internet web site all private schools participating in the program.

TAX/TAXATION

Senate Bill 610 by Senator Michot (calendar Senate introduction) would have authorized certain Vision 2020 cluster high technology businesses to sell unused net operating loss carryover occurring in amount equal to at least 75% of the amount of the surrendered tax benefit, up to \$500,000 per year of such benefit.

Senate Bill 687 by Senator Mount (pending Senate Revenue & Fiscal Affairs committee) would have required the Louisiana Tax Commission to create a statewide ad valorem tax assessment database for publication on the Internet.

House Bill 1130 by Representative Daniel (reported as Substitute becomes House Bill 1700) would have required the Louisiana Tax Commission to create a statewide ad valorem tax assessment database for publication on the Internet.

House Bill 1700 by Representative Daniel (Act 448) requires the Louisiana Tax Commission to create a statewide ad valorem tax assessment database for publication on the Internet.

TELECOMMUNICATIONS

Senate Bill 511 by Senator Ellington (reported as Substitute becomes Senate Bill 877) would have created the Louisiana Broadband Council to serve as the central broadband planning body of the state and to coordinate the development of a statewide broadband access and usage policy.

Senate Bill 877 by Senator Ellington (Act 736) creates the Local Government Fair Competition Act to enhance the development and widespread use of technological advances in providing cable television services and telecommunications and advanced services.

House Bill 1265 by Representative Thompson (Act 167) creates the Louisiana Broadband Advisory Council to serve as the central broadband planning body of the state and to coordinate the development of a statewide broadband access and usage policy.

House Bill 1352 by Representative Pinac (pending House Commerce committee) would have created the Louisiana Broadband Council to serve as the central broadband planning body of the state and to coordinate the development of a statewide broadband access and usage policy.

WEAPONS/HANDGUNS

House Bill 241 by Representative Richmond (pending House Administration & Criminal Justice committee) would have established a state ballistic fingerprint database and databank that had the capability provided by computer software and procedures administered by the state police for the imaging, analysis, and comparison of a bullet or projectile and shell casing, and to store and maintain ballistic fingerprint records related to the investigation of criminal offenses.

House Bill 243 by Representative Richmond (pending House Administration & Criminal Justice committee) would have provided for the Louisiana Handgun Registration Act and would have created a computer-based database of all hand guns purchased funded by a \$25 fee on the sale of the handgun.

Insurance

by: *Carla Roberts*
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HEALTH INSURANCE

House Bill 344 by Representative Carter (Act 751) is a bill requested by the DOI which has been working the previous year with the Dept. Of Health & Hospitals (hereinafter DHH) toward obtaining a HIFA (Health Insurance Flexibility & Accountability) Waiver. A HIFA waiver is a document which can be obtained from the U.S. Dept. of Health & Human Services which allows for greater flexibility in the state's use of federal medicaid dollars. According to the departments, legislation was needed to authorize the state to negotiate with the federal government for a HIFA waiver. H.B. 344 authorizes DOI and DHH to obtain a HIFA waiver and to use medicaid money to establish a program to subsidize eligible employees to purchase health insurance through their employer's health plan.

House Bill 1211 by Representative Shepherd (Act 431) requires all health insurance companies, that sell health insurance policies in Louisiana, to waive the co-pay for all childhood immunizations. The health insurance plans put forth little opposition to the mandated waiver of co-payments even though this mandate cost shifting would cost the plans \$3.2 million annually. Senator Irons attempted to amend the bill on the Senate floor to require any health insurance policy which provides coverage for prescription drugs to cover prescription birth control drugs approved by the United States Food and Drug Administration. That amendment was narrowly defeated. A similar bill (**House Bill 732 by Representative K. Carter -entire subject matter tabled**) requiring contraceptive coverage was tabled on the House floor after House members objected that the mandated coverage had a \$18.3 million per year price tag.

PROPERTY & CASUALTY INSURANCE

Senate Bill 731 by Senator Cain (Act 711) establishes the Louisiana Theft and Fraud Insurance Prevention Authority. The Fund would be established within the Department of Insurance (hereinafter DOI) for the purpose of combating motor vehicle insurance fraud, including fraud by theft. Empowers the DOI to solicit grants, donations and loans which can be used to provide financial assistance to state prosecutors to prosecute insurance fraud. According to committee testimony by the DOI, many district attorneys have complained that their budgets are stretched to the limit with costs associated with prosecuting violent crime. The fund would allow the DOI to collect money from, among other entities, national insurance companies who are willing to make donations to the fund to be used to hire prosecutors to prosecute insurance fraud.

Senate Bill 215 by Senator Fields (defeated in House Committee on Insurance)would have prohibited the use of credit scoring to set, cancel, fail to renew, or increase the premiums on any liability

policy. The measure passed the full Senate but was voted down in the House Committee on Insurance.

House Bill 349 by Representative Hebert (Act 826) defines an insurance claim as an incident where there is a request for payment by an insured and when such request results in an actual payment by the insurer. According to testimony before the Senate Committee on Insurance, that when homeowners have previously contacted their homeowner's insurance agent or company to inquire about coverage, the companies considered this inquiry as a "claim" for purposes of determining whether to raise rates or cancel coverage. The act applies to both homeowner and auto insurance policies.

Senate Bill 157 by Senator Cain (Act 689) clarifies conflicting provisions issued in certain burial policies which were sold prior to 1997. The law required the policies to list the items which would be included in the funeral and to also list the face dollar amount of the policy. Problems arose in the funeral industry when inflation caused the dollar amount listed on the policy to be inadequate to cover the full costs of a funeral. S.B. 157 clarifies that when the dollar amount on the policy is inadequate to cover the costs of the funeral, the policy holder is entitled to a credit toward the cost of a funeral or the payment of that dollar amount.

Judiciary

*by: Tom Wade
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LOCAL MATTERS

Most of the matters concerning the courts and the judiciary during the 2004 Regular Session were local in nature. Affecting only the parishes of Iberia, St. Mary, and St. Martin, **Senate Bill 364 by Senator Romero (Act 364)** authorizes the parish school boards and governing authorities of those parishes to each contribute up to \$100,000 annually to the district attorney of the 16th JDC to help defray the cost of providing legal services to certain boards and commissions.

Senate Bill 657 by Senator Boissiere (Act 701) affects only Orleans Parish. Under present law, each criminal district court in a parish having a population of more than 465,000 people according to the most recent federal decennial census is required to have the position or office of a judicial administrator, deputy judicial administrator, and assistants, 13 law clerks, and four secretaries. The provisions of this bill require that the costs of these positions and the costs of the jury commission and sanity hearings be appropriated in the judicial expenses bill and require the appropriation be allocated by the Judicial Budgetary Control Council. House amendments added provisions creating a judicial expense fund for the Traffic Court of New Orleans.

CLERKS OF COURT

House Bill 104 by Representative Toomy (Act 474) changes the current provisions relating to state holidays to provide that the offices of clerks of district, parish, and city courts shall be closed on any day that the governor has proclaimed a state holiday. The current law provides that the governor, by executive proclamation, may authorize the observance of holidays and half-holidays to be observed by the departments of state, other than the statutorily enumerated holidays, as he may deem in keeping with efficient administration of government. It also provides for specified days that each clerk of a district court, parish court, and city court shall close his office. It provides additionally that each clerk of a district court shall close his office on the day upon which the governor has proclaimed Dr. Martin Luther King, Jr.'s birthday as a legal holiday. Also included in present law is a provision that each clerk of a district court shall close his office on any day an emergency situation has been declared by the governor or the local governing authority and governmental entities, including the courthouse, have been ordered to close. A Senate amendment requires each clerk of a district court, parish court, and city court to close his office on every legal holiday to be observed by state departments.

PILOT PROGRAMS

Senate Bill 594 by Senator Bajoie (Act 673) requires the Department of Public Safety and Corrections to request, no later than February 1, 2005, proposals from non-governmental organizations seeking to provide services as part of a pilot program which will implement programs to operate post-release, non-residential facilities designed to facilitate the successful reintegration of offenders into the community. It requires the secretary of the department to develop rules and regulations to commence the application process for non-governmental organizations who are qualified to operate a post-release facility designed to assist offenders with reintegration into their communities, and provides that the rules shall include criteria for selection of the non-governmental organizations and criteria for evaluation of the program. The department is required to report annually to the legislature on the progress of the program. The department is required, after review of all applications, to choose one applicant who will operate a Post-Release Facilities pilot program in an urban area and one applicant who will operate such a facility in a rural area. The implementation of the Post-Release Facilities pilot program is dependent upon the appropriation of funds for the program.

Senate Concurrent Resolution 106 by Senator Lentini (enrolled) requests the Department of Public Safety and Corrections to extend and expand the pilot program for home incarceration and electronic monitoring that was established by Act No. 1139 of the 2001 Regular Session.

STUDIES

Senate Concurrent Resolution 93 by Senator Fields (enrolled) requests the Senate Committee on Judiciary A and the House Committee on the Judiciary to meet and function as a joint committee to study the need to increase the number of judges on the First Circuit Court of Appeal and the number of supreme court districts and associate justices. This issue has faced the legislature in one form or another for the past several sessions and will almost certainly continue to be raised in future sessions.

Senate Concurrent Resolution 110 by Senator Chaisson (enrolled) extends the expiration date for the authority of the Forensic Strategic Task Force created by SCR 28 of the 2002 RS and SCR 138 of 2003 RS until July 1, 2006. It requires the task force to report its findings and recommendations to the Senate Committee on Judiciary C and the House Committee on the Administration of Criminal Justice, the president of the Senate, and the speaker of the House sixty days prior to the convening of the 2006 Regular Session.

Senate Resolution 94 by Senator Dardenne (enrolled) requests the Senate Committee on Judiciary B to study the creation of a youthful offender system or another form of blended sentencing as a sentencing alternative for judges when imposing a sentence upon a juvenile offender. It requests the Senate Committee on Judiciary B to conduct its first meeting upon call of the chairman not later than 11/1/04 and to report its findings not later than 11/1/05.

Juvenile Justice

by: *Camille Sebastien*
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JUVENILE JUSTICE

Senate Bill 221 by Senator Cravins (Senate calendar subject to call) would prohibit a juvenile offender under the age of seventeen at the time of offense from being subjected to a sentence of death.

Senate Bill 490 by Senator Cravins (Act 658) authorizes any district indigent defender board to contract with one or more other district indigent defender boards for the establishment of a regional juvenile defense center and further allows the regional defense service centers to contract for the representation of juveniles in juvenile courts and in all other courts with juvenile jurisdiction. This bill requires no further allocation of funds by the state.

Senate Bill 621 by Senator Cravins (pending Senate Committee) would provide for the creation of a new department to be called the Department of Children, Youth and Families. The bill would further provide that the new department shall be responsible for administering and supervising the functions of the Office of Youth Development and it would further transfer the Juvenile Justice Reform Act Implementation Commission and the Family in Need of Services program to the new department.

Senate Bill 848 by Senator Cravins (pending Senate Committee) would have created the office of the child advocate within the office of the governor to be composed of an administrator and chief executive officer who would have been the child advocate. The child advocate would have provided services for children in out-of-home placements in the custody of the state and in the custody of entities that provide services to children using state funds.

Senate Bill 115 by Senator Jones (pending Senate Committee) would have granted a juvenile adjudicated for certain crimes the possibility of parole, probation, suspension of imposition or execution of sentence, modification, or furlough and would have allowed the Department of Public Safety and Corrections to place the child in a setting most appropriate to the individual needs of the child.

Senate Resolution 94 by Senator Dardenne (enrolled) requests the Senate Committee on Judiciary B to study the creation of a youthful offender program or another form of blended sentencing as a sentencing alternative for judges when imposing a sentence upon a juvenile offender.

House Bill 1276 by Representative Montgomery (Act 7), Senate Bill 486 by Senator Cravins (House Referral-subject to call) creates youth services as a separate entity in the Department of Public Safety and Corrections, to be comprised of the office of youth development, which was moved from corrections services, a new office of management and finance for youth services, as well as the deputy secretary of youth services, the undersecretary for youth services, the assistant secretary of the office of youth development, and the personnel necessary to carry out their functions. A deputy secretary for youth services shall be appointed by the governor, subject to Senate confirmation, and he shall exercise his powers and authority subject to the overall direction and control of the governor and report directly to the governor. The undersecretary of youth services shall be directly responsible to the deputy secretary for youth services and he shall direct and be responsible for the functions of the office of management and finance for youth services. Replaces the secretary of the Department of Public Safety and Corrections with the deputy secretary of youth services of the Department of Public Safety and Corrections as a member of the Children's Cabinet and adds the deputy secretary of youth services as a member of the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice.

House Bill 1363 by Representative Winston (Act 555), Senate Bill 491 by Senator Cravins (subject to call-Senate final passage) provides for the creation of children and youth planning boards and requires the Children's Cabinet to facilitate the creation of such boards and offer technical assistance and guidance. Further requires each board to prepare a comprehensive plan for the development, implementation, and operation of services for children and youth in the district and to appoint members from the education community, the criminal justice community, the health care community, the mental health and early childhood substance abuse prevention and treatment community, and members of faith-based organizations, business and labor communities, and parenting and youth organizations.

House Bill 184 by Representative Gray (Act 484) was filed on recommendation of the Law Institute and revises the provisions of law requiring mandatory confinement of children adjudicated delinquent for first degree murder, second degree murder, aggravated rape, and aggravated kidnaping, while deleting the applicability of these provisions to the crime of treason. The bill further adds a definition of "secure placement" and provides that secure placements include but are not limited to secure correctional centers for children and community-based secure detention facilities. However, a child shall not be placed in a community-based detention facility when the child has been adjudicated for the commission of first degree murder, second degree murder, aggravated rape, aggravated kidnaping or armed robbery unless the committing judge and the district attorney have been advised of such placement. The bill further requires that a child be fourteen years of age or older at the time of the commission of the offenses of first degree murder, second degree murder, aggravated rape, aggravated kidnaping and armed robbery before he is subject to the provisions of mandatory confinement. The bill also allows a child who is under mandatory confinement to be granted a furlough and requires the department of Public Safety and Corrections to prepare an individualized and thorough transitional plan at least six months prior to the release of the child in order to assist the child with a successful return to his family and community.

House Bill 185 by Representative Gray (Act 485) was filed on recommendation of the Law Institute and amends several provisions relative to juvenile delinquency proceedings with an emphasis on revising the procedures to be followed when a child's mental capacity to proceed is raised by the child, the district attorney, or the court. The procedures revised by this bill include the appointment of the sanity commission, including the qualifications of those on the commission, the report of the sanity commission and the filing procedures for such report, the procedure after a determination of mental capacity, and the procedure for when mental capacity is regained.

House Bill 1508 by Representative Gray (Act 776) was filed on recommendation of the Law Institute and provides that a child may waive the assistance of counsel if the child has consulted with an attorney, parent or caretaker, if there is no parent, both the child and the adult consulting with the child have been instructed regarding the child's rights and the possible consequences of waiver, and the child is competent and is knowingly and voluntarily waiving his right to counsel. The bill further prohibits the child from waiving the assistance of counsel in proceedings in which the child may be placed in a mental hospital, psychiatric unit, or substance abuse facility, in proceedings in which the child is charged with a felony-grade delinquent act and in probation or parole revocation proceedings. Additionally, the bill requires the court to appoint an attorney or refer the child for representation by the Indigent Defender Board if the court finds that the interests of the child and his parent or caretaker conflict or if required in the interests of justice, and the clerk of court shall send notice of appointment to any attorney appointed by the court under these circumstances.

House Bill 97 by Representative Salter (Act 120) provides that the governing authority of the parish or municipality requesting preadjudication placement of a juvenile in a regional detention center or a shelter care facility shall be responsible for the costs of confinement.

House Bill 1723 by Representative Winston (House calendar subject to call) would repeal provisions requiring the state to provide alternative uses for the Swanson Correctional Center for Youth-Madison Parish Unit at Tallulah, Louisiana, as a correctional facility for as long as the state is obligated for debt service for the correctional center

House Bill 1527 by Representative St. Germain (Act 570) authorizes the judicial districts of all parishes to create truancy and assessment and service centers rather than limiting it to certain enumerated parishes and further authorizes LSU, office of social services research and development to develop and implement a monitoring and evaluation program for all parishes with truancy and assessment and service centers.

Labor/Employment

by: Cheryl Cooper
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Louisiana's unemployment rate for April 2004 was 5.9% while the national unemployment rate was 5.6%. Among the parishes, both Lafayette and St. Tammany parishes shared the lowest unemployment rate of 3.4 % for April 2004 while East Carrol Parish had the highest unemployment rate of 17.2%.

Workers' Compensation

Senate Bill 432 by Senator Jones (Act 647) may appear, at first blush, to be another effort to increase the fees for attorneys. While the measure does permit an attorney to charge a fee of twenty percent on the first thirty thousand dollars awarded in a workers' compensation case and ten percent of any award in excess of thirty thousand dollars, the real intent of the Act is not so much about attorney earnings. Rather, the Committee learned that a small fraction of attorneys in the state will take workers' compensation cases because such cases have a very low profit margin. By increasing the fees, more attorneys will be encouraged to practice workers' compensation law thereby giving injured workers more opportunities for legal representation.

Senate Bill 670 by Senator Lentini (House Labor and Industrial Relations Committee) was an efficiency bill. That is, by allowing multiple disputes over the amount payable according to the reimbursement schedule between the responsible party and the healthcare provider to be consolidated, the processing of cases would have been streamlined. The bill also allowed for dispute resolution by defining the venue for such combined claims as either the workers' compensation district of the parish in which the domicile of the provider was located or the workers' compensation district of the parish in which the domicile of the employer was located.

Senate Bill 672 by Senator Holden, (subject to call-House final passage) which failed to pass the House, related to workplace safety. This legislation denied immunity from civil litigation to an employer who intentionally removed manufacturer installed safety devices that would otherwise have protected the injured employee. It would have been permissible, however, to remove the safety equipment for routine maintenance on the machinery. The legislative intent was to make for a safer workplace for employees so that they can remain productive while on the job.

Employment of Minors

House Bill 691 by Representative Johns (Act 524) drew a considerable amount of public interest. Little wonder since this bill deals with the hours that minors 16 years of age and older who have

not graduated from high school can be employed. As signed by the governor, 16 year old students cannot work between the hours of 11:00 p.m. and 5:00 a.m. on the day prior to a school day. As for 17 year old minors who have not graduated from high school, they are restricted from employment between 12:00 a.m. and 5:00 a.m. prior to the start of any school day. A minor under 16 is prohibited from working before 7:00 a.m. or after 7:00 p.m. on any day prior to a school day or after 9:00 p.m. on any day prior to a school day. Minors employed in the dairy industry are exempt from these provisions.

Employment

Senate Bill 37 by Senator Holden (Act 607) is an effort to better inform employees of their pay cycles. The requirements of this legislation, discerned after considerable discussions between labor and industry, are straightforward: in the places where employers currently post notices to employees, information regarding wage rates as well as frequency and method of pay must also be posted. The bill also gives employees the opportunity to report any violation by the employer to the payday arrangement to the Department of Labor providing there has been an attempt to resolve the dispute directly with the employer.

Legislative Affairs

by: *Renee Marshall*
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GOVERNOR

Governor Blanco's package lead, along with proposed bills by several legislators, efforts to attract new industry to Louisiana by attempting to strengthen and improve the states image and governmental ethics. Part of the package included: **House Bill 1015 by Representative Lancaster (Act 783)** prohibits the governor and legislators from accepting or depositing certain campaign contributions, loans, or transfers of funds for his own campaign during a regular legislative session and for a period of 30 days after such session adjourns it must be returned within 10 days of receipt. Relative to campaign finance contribution restrictions, **House Bill 530 by Senator Lancaster (Act 115)**, changes civil penalties for any person who makes a contribution in the name of another person. It provides for a penalty of the amount of the contribution plus 10% for persons who unknowingly violates the prohibition and twice the amount of the contribution for any person who knowingly and willfully violates the prohibition.

House Bill 1126 by Representative Murray (Act 862) would require persons making independent expenditures, in support or opposition to a candidate, to file 48-hour reports in 20 days prior to an election if such contributions or expenditures are in excess of: \$1,000 to a candidate for any major office, \$500 to a candidate for district office and \$500 to a candidate for any other office. **House Bill 1246 by Representative LaFleur (Act 116)** regulates lobbying of the executive branch by providing for the registration and disclosure of expenditures of lobbyist including expenditures by lobbyists principals and employers for legislators which is administered and enforced by the Board of Ethics.

LEGISLATIVE AGENCIES

Senate Bill 379 (Withdrawn from files of the Senate) and 380 by Senator Nevers (Withdrawn from files of the Senate) removes authority of the Legislative Auditor to perform an audit on a quasi public body which is subject to open meetings law and partially funded with public monies. In addition, **Senate Bill 380** would have added new law that specifies that the legislative auditor shall not be authorized to perform an audit on a voluntary membership organization, either not for profit or for profit, even if the organization's membership includes public entities or public employees.

LEGISLATORS

Identical bills were introduced addressing term limits of members appointed to the Senate and House of Representatives. Current law prohibits a person who has been elected to serve as a member of the Senate or House of Representatives for more than 2 ½ terms in three consecutive terms from being elected for the succeeding term. **Senate Bill 114 by Senator C D Jones (Subject to call Senate final passage) and Senate Bill 68 by Senator Hainkel (Assigned to Senate & Governmental Affairs)**

would allow voters to vote on November 2, 2004 whether to eliminate provisions which limit the number of consecutive terms a member serves.

REAPPORTIONMENT

The House of Representatives introduced several bills that would reconfigure House Districts. **House Bill 1026 by Representatives St. Germain and Dartez (Assigned to House & Governmental Affairs)** would reconfigure House Districts 51 and 60 in Assumption Parish and **House Bill 1566 by Representative Pitre (Assigned to House & Governmental Affairs)** would reconfigure Districts 54 and 55 in Lafourche Parish. Reconfiguration, in **House Bill 910 by Representatives Lancaster, Burrell, Dartez, Glover, Pitre, St. Germain, and Triche (Act 535)**, not only contained Districts 51 and 60 in Assumption Parish, and Districts 54 and 55 in Lafourch Parish but included Districts 2 and 4 in Caddo Parish.

SENATE

It has been over 20 years since the Senate has conducted a comprehensive review of The Senate Rules of Order. A request by **Senator Mount, Hainkel, Hines, Lentini and Schedler in Senate Resolution 14 (enrolled)** urges the Senate and Governmental Committee to study, review and make recommendations to revise the Senate Rules of Order.

HOUSE

House Rule 9.10 and 9.13, **House Resolution 16 by Representative Hebert (Rejected in the House)**, of the House of Representatives would have required approval of the majority of elected members of the House and voting to move the previous question and the previous question on the entire subject matter, and to end consideration of amendments. If voting machines are locked (House Rule 10.3), **House Resolution 41 by Representative Hebert (enrolled)**, would have provided that only a member shall cast his own vote, unless the member is present in the Chamber and publicly directs his vote. If any other person including the Clerk, takes any action to cast a vote for the member, such person may be punished in such a manner as the House may determine.

Local Government

by: *Michael Bell*
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SPECIAL DISTRICTS

This session several bills were introduced addressing the creations of special districts. **Senate Bill 133 by Senator Fields (Act 617)** creates the Concord Estates Crime Prevention District in East Baton Rouge Parish as a political subdivision of the state for the purpose of aiding in crime prevention and security of district residents. Also, **Senate Bill 218 by Senator Fields (Act 623)** creates the South Burbank Crime Prevention and Development District in East Baton Rouge Parish as a political subdivision of the state for the purpose of aiding in crime prevention through the use of such concepts as Crime Prevention Through Environmental Design and Crime Free Multi-Housing. **House Bill 24 by Representative Bruneau (Act 230)** creates the Lakewood Crime Prevention and Improvement District in Orleans Parish as a political subdivision of the state for the purpose of aiding in crime prevention by providing security for district residents and serving the needs of district residents by funding beautification and other activities and improvements for the district's betterment. Furthermore, **House Bill 235 by Representative Bruneau (Act 200)** creates the Lakeshore Crime Prevention District in Orleans Parish as a political subdivision of the state for the purpose of aiding in crime prevention and adding to the security of district residents by providing an increase in law enforcement personnel presence in the district. **House Bill 955 by Representative Durand (Act 422)** creates the Acadiana Criminalistics Laboratory District as a political subdivision with the power to impose and levy an ad valorem and other taxes to fund the operation of the Acadiana Criminalistics Laboratory, subject to voter approval. **Senate Bill 212 by Senator Dupre (Act 622)** would change the name of the district from the Terrebonne Economic Development District to the Terrebonne Economic Development Authority and changes the membership of the board of commissioners from nine to eleven voting members and one non-voting member. **Senate Bill 545 by Senator Duplessis (Act 917)** changes the name of the district from the New Orleans Business and Industrial District to the New Orleans Regional Business Park and adds appointments by the governor, lieutenant governor, the board of commissioners of the Port of New Orleans, New Orleans Chamber Inc. And the Regional Planning Commission for Jefferson, Orleans, Plaquemines, St. Bernard and St. Tammany Parishes while removing appointments by the New Orleans Chapter of the National Business League and the Eastern New Orleans Area Council of the Chamber of Commerce. **Senate Bill 839 by Senator Jackson would have** placed into the revised statutes certain existing laws concerning the Shreveport Downtown Development District.

SALES TAXES

Senate Bill 758 by Senator Jones (Act 681) authorizes the city of Monroe to levy an additional sales and use tax up to ½ of one percent and provides that the proceeds of the tax must be used to provide for the expenses associated with the operation of the fire and police departments of the city of Monroe and only in accordance with the proposition approved by the voters. **Senate Bill 801 by Senator Romero**

(Act 683) provides that the renewal or continuation of sales taxes by local governmental subdivisions or school boards is to be used solely for the purpose or purposes set forth in the renewal or continuation proposition approved by the voters.

TAX INCREMENT FINANCING

Senate Bill 784 by Senator Jones would have authorized the creation of The South Monroe Economic Development District in the parish of Quachita and authorizes the district to issue revenue bonds payable from an irrevocable pledge and dedication of up to the full amount of tax increments available to an economic development corporation. **House Bill 1134 by Representative Jackson** would have authorized East Baton Rouge Parish to issue revenue bonds payable solely from an irrevocable pledge of “sales tax increments” to finance or refinance an economic development project or from revenues generated by economic development projects.

FUNDING

Senate Bill 288 by Senator Schedler (Act 630) provides that monies may be appropriated from the St. Tammany Parish Fund for support of performing arts/or convention centers within St. Tammany Parish, including use for capital improvements related to the construction, maintenance, and operation of such centers, where 20% of the total appropriation shall be allocated to the St. Tammany Parish Tourist Commission, 40% shall be allocated to the East St. Tammany Events Center District and 40% to Recreation District No. 1 of St. Tammany Parish. **Senate Bill 749 by Senator Cain (Act 715)** re-dedicates the money of the state sales tax on hotel/motel rooms in the following manner: 20% to the Vernon Parish Tourist and Recreation Commission to be used for “improvements” in Vernon Parish; 10% to the Vernon Parish Council on Aging, to be distributed equally to each of the senior citizen centers in the parish, 12% for the operation and maintenance of the arena facility in Vernon Parish, and the following to be used solely for salary and benefits of law enforcement officers and tourism related activities:(a) 15% to the Town of New Llano, (b) 7% to the Village of Simpson, (c) 7% to the Town of Rosepine, (d) 7% to the Town of Hornbeck and (e) 7% to the Village of Anacoco.

MISCELLANEOUS

Senate Bill 67 by Senator McPherson (Act 59) authorizes the governing authority of the city of Pineville to expropriate by a declaration of taking property needed for the Susek Drive Project. **Senate Bill 799 by Senator Mount (Act 723)** provides authorization for the Louisiana Housing Finance Agency to sponsor a statewide community housing development organization to facilitate the development of affordable residential rental housing in Louisiana and to ordinate and fund second mortgage loans to persons or households of ver low or moderate income as defined by the U.S. Department of Housing and Urban Development. **Senate Bill 855 by Senator Bajoie (Act 731)** would create the Louisiana Civil Rights Museum Advisory Board within the Department of Culture, Recreation and Tourism and provides that the office of state museum shall provide for such funds.

Natural Resources

*by: J.W. Wiley
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CONSTITUTIONAL AMENDMENT

Senate Bill 2 by Senator McPherson (Act 927) is a proposed constitutional amendment to preserve the freedom to hunt, fish, and trap subject to regulation, restriction, or prohibition imposed pursuant to law. The amendment provides that such freedoms are a valued natural heritage, forever preserved for the people of Louisiana.

OILFIELD SITE RESTORATION

House Bill 651 by Representative Pierre (Act 412) increases the oilfield site restoration fee to one and one-half cents per barrel on oil and condensate produced from wells in this state, and to three-tenths of one cent per thousand cubic feet on gas produced from wells in this state. These fees would go to the Oilfield Site Restoration Fund. It also would repeal the section that provides for an increase in the fees as production declines.

House Bill 652 by Representative Pierre (Act 768) increases the allowable amount the Department of Natural Resources may use in the administration of the restoration program to \$750,000 per fiscal year.

House Bill 669 by Representative Pierre (Act 225) allows all orphaned oilfield sites, not just oilfield sites transferred prior to May 1, 1993, without a site-specific trust fund to be restored with funds from the Oilfield Site Restoration Fund. All sites with site-specific trust funds will be restored using money from the trust fund first, then funds from the responsible part, and then funds from the Oilfield Site Restoration Fund. It retains the exemption for those parties who made full contribution to the fund, created a site-specific trust account, made full disclosure, are not entities which are operators or working interest owners in an orphaned site, and complied with all required reviews.

PIPELINES AND UNDERGROUND STORAGE TANKS

House Bill 654 by Representative Pierre (Act 222) requires the commissioner of conservation to annually review the fee assessed against a person engaged in the transportation of hazardous liquids or who owns or operates intrastate pipeline facilities for the transportation of hazardous liquids. It allows the commissioner to revise the fee so long as the fee does not exceed twenty-two dollars and forty cents per mile.

House Bill 668 by Representative Montgomery (Act 104) defines "reservoir" as any natural

or manmade spaces capable of containing or holding natural gas or liquefied hydrocarbons, including caverns created in salt domes.

NATURAL GAS

House Bill 655 by Representative Pierre (Act 223) sets the annual safety and odorization inspection fee of the greater of twenty-two dollars and forty cents per mile of pipeline used in a jurisdictional gas distribution system, or four hundred dollars per pipeline facility.

House Bill 656 by Representative Pierre (Act 224) includes post-secondary education institutions in the definition of a “master meter system” for purposes of the regulation of natural gas distribution. It also adds the definition of “school system”, and “special class system” for natural gas distribution regulations.

FISHING

Senate Bills 206 and 853 by Senator B. Gautreaux (withdrawn from Senate files) would have allowed commercial fishing for red drum. It set requirements for fishermen who could commercially fish for red drum, and provided for annual stock assessments conducted by the office of fisheries of the Department of Wildlife and Fisheries.

In order to control the overgrowth of invasive aquatic grasses and weeds in Saline Lake and Iatt Lake, **Senate Bill 45 by Senator Smith (Act 173)**, allows the Saline Lake Game and Fish Preserve Commission and the Grant Parish Police Jury to place triploid grass carp into the lakes. In addition, **Senate Concurrent Resolutions 30, 90, 91, and 92 by Senator Smith (enrolled)**, requests the Department of Wildlife and Fisheries to draw down the lakes, to apply herbicides to the lakes during the draw down, and to supervise the introduction of triploid grass carp into the lakes.

GENERAL

House Bill 1162 by Representative Dove (Act 792) limits the liability caused by certain activities performed by oil companies to oyster leases to the diminution in market value of the oyster leases. The diminution in market value will be calculated by methods used by Louisiana Oyster Lease Damage Evaluation Board.

Senate Bill 118 by Senator McPherson (Act 613) establishes the White Lake Property Fund within the Louisiana Wildlife and Fisheries Conservation Fund, and create the White Lake Property Advisory Board. Money for the fund will be derived from agricultural leases and mineral revenues on White Lake properties, user fees on the properties, money from sale of assets, and public and private donations. The advisory board would consist of members from various environmental groups, and certain universities, which would be appointed by the governor, subject to Senate confirmation.

Senate Bill 695 by Senator Malone (Act 919) would provide that mineral rights reserved from acquisitions of land by governments, agencies, entities with expropriation authority, and certain

organizations certified by the Department of Natural Resources would be imprescriptible under certain conditions. It would provide for a right of first refusal in certain transfers of property, and provides for certain exemptions to the law.

House Bill 608 by Representative Jack Smith (Act 836) would repeal the prohibition of the exploitation of natural resources by certain employees of the Wildlife and Fisheries Commission, or the forestry commission.

Senate Concurrent Resolution 22 by Senator Malone (enrolled) requests the commissioner of conservation to seek agreements with bordering states for the timely notification prior to certain oil and gas activity near the state's boundary.

Property

by: *Joe Guillory*
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ADMINISTRATION DIVISION

Act 19 (Senate Bill 503 by Senator Hietmeier) authorizes the state to sell surplus movable property through the use of electronic technology including internet web sites, privately or publicly owned, that facilitate such sales. Authorizes the commissioner of administration to pay any costs of the sale from the proceeds of such sale.

ASSESSORS

Act 141 (House Bill 1472 by Representative Murray) requires taxpayers who own property in Orleans Parish to send a change of address notice to the board of assessors within 30 days.

CIVIL PROCEDURE

Act 177 (Senate Bill 146 by Senator Ellington) provides that in a proceeding to partition the community, the court may include, in the valuation of any community owned corporate, commercial, or professional business, the goodwill of the business. However, that portion of the goodwill attributable to any personal quality of the spouse awarded the business shall not be included in the valuation of a business.

Act 18 (Senate Bill 500 by Senator Lentini) adds that a notice of seizure is a required document in service upon a garnishee in accordance with C.C.P. Art. 2412. Provides that all effects of a seizure by garnishment of wages, salaries, and commissions cease if the garnisher fails to obtain a judgment within 180 days of the filing of answers to interrogatories affirming that the judgment debtor is employed by the garnishee and if no opposition is filed. The garnisher shall then be required to re-serve the garnishee if he again wishes to attempt seizure.

Act 303 (Senate Bill 227 by Senator Dardenne) provides for security on movable property.

Act 464 (Senate Bill 581 by Senator Schedler) provides that if a lessee persists in remaining on the property after order has been given that he be expelled, the lessee who is not the prevailing party in a resulting action shall be required to pay any court cost related to his expulsion.

Act 45 (House Bill 401 by Representative Flavin) reduces from seven years to five years the warranty period under the New Home Warranty Act for certain major structural defects. Clarifies that the exclusion from the warranty for trees includes existing and new trees.

Act 158 (House Bill 576 by Representative Bowler) provides for the giving of security by a usufructuary and the nature of the security. Also provides that security may be dispensed with by operation of law in the following circumstances: (1) When parent has usufruct over minor's property. (2) When a surviving spouse has a usufruct over the intestate decedent's share of community property, unless the naked owner is not a child of the marriage or is a forced heir. (3) When a parent has a legal usufruct over a deceased child's property, unless the naked owner is not a child of the parent. (4) When a surviving spouse has a legal usufruct over the marital portion, unless the naked owner is not a child of the marriage.

Act 437 (House Bill 1430 by Representative Bruneau) provides that no action for damages against any home inspector duly licensed under the laws of this state or against any home inspection company shall be brought unless filed in a court of competent jurisdiction and proper venue within the prescriptive period of one year from the date of the act, omission, or neglect is alleged to have occurred.

EXPROPRIATION

Act 59 (Senate Bill 67 by Senator McPherson) authorizes the governing authority of the city of Pineville to expropriate by a declaration of taking property needed for the Susek Drive Project.

Act 90 (House Bill 390 by Representative Murray) authorizes the city of New Orleans to expropriate property needed by the city for a street, drainage, water, utility, sewerage, or other capital project prior to judgment in the trial court fixing the amount of compensation due to the owner of the property.

IMMOVABLE PROPERTY

Act 452 (Senate Bill 52 by Senator Ullo) requires additional information in residential property disclosures which informs a potential purchaser of the existence of a homeowners' association affecting the property.

Act 209 (House Bill 391 by Representative Murray) provides for the creation and ranking of liens and privileges in favor of municipalities with a population greater than 450,000 and for the enforcement of the liens and privileges by procedures for tax sales or ordinary process with citation and petition.

Act 24 (House Bill 1011 by Representative Johns) repeals the retroactive application of Section 2 of Act 1005 of the 2003 Regular Session relative to time limitations for options and rights of first refusal in contracts for the sale of immovable property. Declares the provisions of that Act to be substantive and to have prospective application only.

Act 40 (House Bill 317 by Representative Pinac) revises the procedure for appraisal of immovable property held by a state bank, whereby property valued at less than \$250,000, a state bank shall annually perform an adequate evaluation of such property. If it is determined after adequate evaluation

that the property has a value that is less than its book value, then the book value shall be reduced to reflect the correct valuation of the property in accordance with policies adopted by the commissioner.

HOUSING

Act 723 (Senate Bill 799 by Senator Mount) grants authorization for the Louisiana Housing Finance Agency to sponsor a statewide community housing development organization to facilitate the development of affordable residential rental housing in Louisiana. Also provides the authorization to originate and fund second mortgage loans to persons or households of very low, low, or moderate income as defined by the United States Department of Housing and Urban Development.

Act 419 (House Bill 897 by Representative Pinac) provides that the Uniform Standards Code for Manufactured Housing shall include any construction or installation-related standards adopted by the La. Manufactured Housing Commission. Amends the definition of the term "retailer". Provides for certain requirements for obtaining a developer's license. Provides that the administrative agent appointed by the governor shall be independent of the La. Manufactured Housing Commission and shall answer only to the office of the governor. Requires the marriage line on all multi sectional manufactured homes to be sealed at the ceiling line, the floor line, and the end walls to restrict any air infiltration into the home.

Act 349 (House Bill 1302 by Representative Murray) relative to the New Orleans Community Improvement Act, codifies provisions of such Act. Authorizes the city of New Orleans for the purposes of present law to formulate a workable program for the community improvement for utilizing appropriate private and public resources to eliminate and prevent the development or spread of slums and urban blight, to encourage needed rehabilitation, and to provide for the redevelopment of slum or blighted areas or to undertake other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program.

Act 444 (House Bill 1583 by Representative Gray) prohibits a local housing authority from terminating the tenancy of a household or a resident or terminating any other assistance provided by the authority for reasons of domestic abuse, dating violence, or family violence committed against the head of household, member of household, or resident. Provides exception which allows such termination in the case of the perpetrator of such abuse or violence.

LAND USE

Act 277 (House Bill 1266 by Representative Damico) authorizes alternative landowner notifications for coastal use permits if there are multiple owners of the same land and provides relative to appropriate uses of the Coastal Mitigation Account and offsetting payments in lieu of compensatory mitigation.

Act 459 (Senate Bill 308 by Senator Dupre) provides that the owner of the land on which a permitted activity is to occur shall have the option of requiring on-site or off-site compensatory mitigation

on his property located in any jurisdictional area of the coastal zone or any area included in the Louisiana Coastal Wetlands Conservation Plan, notwithstanding any geographical limitation otherwise required by the regulations adopted by the secretary, provided that the secretary determines that the proposed mitigation is acceptable and sufficient.

PAWNBROKERS

Act 139 (House Bill 1401 by Representative John Smith) decreases the maturity date for jewelry pledged in pawnshops from six months to three months.

PRIVILEGES/LIENS

Act 294 (Senate Bill 21 by Senator Dupre) relative to cancellation of mortgage loans requires a mortgagee servicing agent or any holder of a note to execute and deliver sufficient acceptable documentation, including the original note or notes, and instructions regarding the cancellation of mortgage inscriptions to the mortgagor or the mortgagor's designated agent within 60 days after the date of receipt of full payment of the balance owed on the debt secured by the mortgage in accordance with a payoff statement.

Act 179 (Senate Bill 186 by Senator McPherson) provides a privilege to any person engaged in the making or repairing of marine vessels, marine vessel trailers, or marine vessel equipment for the debt due him for materials furnished or labor performed. Further establishes a process for sale of the property by the business after notice to the owner of the property as a remedy for the unpaid debt.

Act 440 (House Bill 1475 by Representative Walsworth) merges two definitions of "claimant" under the Public Works Act into one definition, by incorporating the varying provisions and by clarifying that only "licensed" architects, are claimants under the Public Works Act, and includes as claimants persons who rent or lease to contractors and subcontractors movables used at the site of the immovable.

PUBLIC LANDS/SCHOOLS

Act 215 (House Bill 565 by Representative Farrar) makes applicable to Rapides Parish certain provisions relative to the rental or lease of sixteenth section school lands for hunting or trapping purposes.

Act 410 (House Bill 566 by Representative Farrar) authorizes the Rapides Parish School Board to exchange unused school land, including sixteenth section land, for other land in Rapides Parish in accordance with proposed law procedures. Requires public hearing and notice of such hearing and appraisal of lands being considered for exchange. Authorizes such exchange only upon determination, by a vote of a majority of the elected membership of the school board, that such exchange is for a valid purpose in the best interest of the school board and that the lands to be exchanged are of comparable value. Specifies that proposed law shall be construed to provide a complete and additional method for the school board to exchange unused school lands, including but not limited to sixteenth section lands.

PUBLIC LANDS/STATE

Act 87 (House Bill 203 by Representative Frith) authorizes the transfer of certain state property situated in Vermilion Parish from the Dept. of Health and Hospitals to the Vermilion Parish Police Jury. Provides for the reservation of mineral rights to the state.

Act 327 (House Bill 395 by Representative Alario) authorizes the exchange and transfer of certain state property situated in Jefferson Parish between the secretary of Dept. of Culture, Recreation and Tourism and the Jefferson Parish Council. Provides for the reservation of mineral rights by the state.

Act 102 (House Bill 657 by Representative Quezaire) authorizes the transfer of certain state property situated in Assumption Parish from the Dept. of Transportation and Development to the Assumption Parish Police Jury.

Act 54 (House Bill 914 by Representative Mc Vea) authorizes the transfer of certain state property situated in West Feliciana Parish from the Dept. of Culture, Recreation and Tourism to the West Feliciana Parish Police Jury. Provides for the reservation of mineral rights to the state.

PUBLIC BUILDINGS/GROUNDS

Notwithstanding the Criminal Code prohibition against naming a public building in honor of a living person several bills were passed allowing school boards and other governing authorities to do so, including the following:

Act 228 (House Bill 6 by Representative Faucheux) authorizes a parish school board with a 40,000-60,000 population to name a gymnasium in honor of a former school board member who meets the following criteria: (1) He began serving as a member of the school board in the parish where the gymnasium is located before 1975; (2) He served as a school board member for at least 25 years and retired from the board after 2002; (3) He is at least age 70 and attended elementary school and graduated from high school in the parish.

Act 124 (House Bill 219 by Representative Walsworth) authorizes a parish school board in a parish with a 100,000-200,000 population to name a football stadium in honor of a school board member who meets the following criteria: (1) He was elected to the school board in the parish where the football stadium is located and took office prior to 1990 and has continued to serve as a school board member since then; (2) He has served as a coach, athletic director, and principal in the parish where the football stadium is located; Proposed law provides that proposed law shall be effective until Dec. 31, 2004, and shall be null and void thereafter.

Act 55 (House Bill 944 by Representative Scalise) names a portion of LaSalle Park in Jefferson Parish as the Oswald-Dubea Arboretum and Nature Center of LaSalle Park.

Act 289 (House Bill 1501 by Representative Alario) authorizes a parish governing authority in a parish with a 100,000-500,000 population to name an administrative building in honor of a former parish president who meets the following criteria; (1) He served as director of the recreation department in the parish where the administrative building is located prior to 1990; (2) He began serving as president of the parish where the administrative building is located prior to 2000; (3) He left the office of parish president in the parish where the administrative building is located after eight years of service. Proposed law provides that proposed law shall be effective until Dec. 31, 2004, and shall be null and void thereafter.

Act 290 (House Bill 1512 by Representative Alario) authorizes a parish governing authority in a parish with a 100,000-500,000 population to name a common entryway or entry plaza to parish administrative buildings in honor of a former parish councilman who meets the following criteria; (1) He served as a parish councilman for at least 20 years and such service began in 1980 or earlier; (2) He served as a state legislator representing a district that included part of the parish. Proposed law provides that proposed law shall be effective until Dec. 31, 2004, and shall be null and void thereafter.

PROPERTY/PUBLIC

Act 595 (Senate Bill 10 by Senator Dupre) authorizes the Terrebonne Parish School Board to negotiate and lease certain described properties to the Terrebonne Council on Aging, Inc. Provides for the reservation of mineral rights to the state.

Act 41 (House Bill 327 by Representative Durand) authorizes the transfer of certain state property in St. Martin Parish from the state to lessees of the property. Provides for the reservation of mineral rights to the state.

Act 101 (House Bill 637 by Representative Quezairé) authorizes the transfer of certain state property situated in Sabine Parish from the state to the Department of Transportation and Development. Provides for the reservation of mineral rights to the state.

Act 291 (House Bill 1564 by Representative Salter) authorizes the transfer to the Red River Parish Police Jury of certain state-owned immovable improvements on property located in Red River Parish.

SEIZURES/SALES

Act 191 (Senate Bill 768 by Senator Hollis) requires a secured party who proceeds with seizure without judicial process to file a "Notice of Seizure" with the clerk of court where the collateral is located within seven days of taking possession of the collateral. The clerk of court is required to transmit the notice to the appropriate law enforcement officer of the parish where the collateral is located. Requires the secured party to pay \$75 to the recorder of mortgages for each "Notice of Repossession" filed, as well as \$250 to the appropriate law enforcement official where the collateral is located.

Act 468 (Senate Bill 805 by Senator Adley) adds federal earned income tax credit of the debtor as an item exempt from seizure except for seizure by the Department of Revenue.

Act 400 (House Bill 1445 by Representative Jack Smith) Authorizes the district attorney to authorize a licensed auctioneer to conduct a sale of forfeited property related to certain criminal activity.

TAX/TAXATION

Act 71 (Senate Bill 385 by Senator Lentini) requires tax commission members to file the same report as assessors and list all owned property by them or a member of their immediate family within the state along with the property assessment shown on the assessment roll. The report shall be filed with the Senate president, speaker of the House, and the Legislative Audit Advisory Council by December 15 of each calendar year.

TRESPASS

Act 157 (House Bill 561 by Representative Walsworth) creates the crime of unauthorized entry of a critical infrastructure. Which is the intentional entry by a person without authority into any structure or onto any premises, belonging to another, that constitutes in whole or in part a critical infrastructure that is completely enclosed by any type of physical barrier including but not limited to: (i) chemical manufacturing facilities; (ii) refineries; (iii) electrical power generating facilities; (iv) water intake structures and water treatment facilities; and (v) transportation facilities such as loading and unloading docks.

U S PROPERTY

Act 180 (Senate Bill 199 by Senator Smith) removes the sunset date from provision which authorizes the governor to enter into written agreements with the U.S. for concurrent jurisdiction over lands, waters, and improvements acquired, leased, occupied, or controlled by or for the U.S. for use by the Department of Justice or any of its component agencies or bureaus for the operation of correctional facilities.

WATER/WATERWAYS

Act 453 (Senate Bill 160 by Senator Hainkel) removes exception, for land which is zoned as suburban agricultural land, to the Louisiana Natural and Scenic River Act for certain tracts of land located along the banks of the Tchefuncte River from Highway No. 22 to Lake Pontchartrain.

Public Safety

*by: Alan Miller
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Senate Bill 341 by Senator Chaisson (Act 15) expands the current "open container" law by prohibiting passengers of most motor vehicles from possessing an open container of an alcoholic beverage while a motor vehicle is operated on a public highway or right-of-way. This Act also preempts any municipal or parish governing from enacting any code or ordinance concerning possession of alcoholic beverages in motor vehicles.

Senate Bill 556 by Senator Dupre (Act 666) creates an impaired driver tracker system as part of the Integrated Criminal Justice Information System, also known as "Jade's Law." This system will track drivers who have been arrested for the offenses of vehicular homicide, vehicular negligent injuring, operating a motor vehicle, watercraft, or aircraft while intoxicated, and the disposition of each case. The information contained in the system will also include the offender's name, address, driver's license number, date of birth, and physical characteristics.

Senate 765 by Senator Adley (Act 467) provides for penalties when an operator of a motor vehicle that remains in the left lane of a multiple lane highway when not actively passing another vehicle. The bill also requires the Department of Transportation and Development to install "slower traffic keep right" signs on multiple lane highways.

Senate Bill 679 by Senator Chaisson (failed House final passage) would have given judges more discretion in the sentence of multiple DWI offenders by removing the requirement that he suspend the vast majority of those sentences. Currently, a person convicted of a third DWI offense is required to serve thirty days in jail out of a five year sentence, while a person convicted of a fourth DWI offense is required to serve sixty days in jail out of a ten to thirty year sentence. Under present law, the judge is required to suspend the remainder of the sentence and the offender must participate in a four to six week inpatient substance abuse program.

House Bill 109 by Representative Baudoin (Act 742) requires any person who operates or rides on a motorcycle or motorized bicycle to wear a safety helmet. See also **Senate Bill 29 by Senator Chaisson (subject to call - House final passage)** that was substantially similar.

House Bill 1260 by Representative Cazayoux (Act 805) allows a parish or municipal government to authorize the operation of motor scooters, that do not exceed a speed of twenty miles per hour, on sidewalks within its jurisdiction between sunrise and sunset. The operator must be eight years old or older and parents or guardians are responsible for assuring that operators between the ages of eight and

eighteen wear a safety helmet. House Bill 1260 further requires sellers of motor scooters to post a conspicuous sign in its place of business informing the public about the helmet requirement.

House Bill 1599 by Representative Baudoin (Act 572) prohibits a person riding on roller skates or skate boards from attaching himself to a moving vehicle on a highway.

House Bill 1710 by Representative Baldone (Act 903) requires any person convicted of a second or subsequent offense DWI who, as part of his probation, is required to install an ignition interlock device, to provide proof to the court of such installation within thirty days after the order.

Retirement

*by: Angela Lockett-DeJean
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State Police Retirement System

One piece of legislation supported by the State Police Retirement System (SPRS) during the 2004 Regular Session of the Legislature would authorize the board of trustees to use excess interest earnings to fund COLAs. **House Bill 976 by Representative Schneider (pending in conference committee).** The bill authorizes the SPRS board to grant a COLA with the additional requirements of law such as the COLAS shall be paid from excess investment earnings of the system when the system's actuary certifies that such excess earnings exist, the legislative actuary agrees with the system's actuary, the board has the prior approval to grant the COLA from the legislature.

Sheriffs Pension and Relief Fund

House Bills 1006 (Act 782), 1007 (pending House concurrence) and 1008 (pending House concurrence) by Representative Schneider and 1306 (enrolled) provides relative to Sheriffs' Pension and Relief Fund (SPRF). Specifically, **House Bill 1006 (Act 782)** authorizes the SPRF board to determine a higher employee contribution rate, not to exceed 10.25% of pay. The purposes of the higher employee contribution rate is to fund the cost of benefits authorized by **House Bills 1007, 1008 and 1194.** **House Bill 1007** allows the SPRF to retain any accrued interest on both the employee and employer contributions paid to the fund during the Back-DROP period. The employee contributions, upon separation from service, shall be credited to the member's Back-DROP account for distribution with the other Back-DROP proceeds. **House Bills 1008** provides that if no COLA is authorized based on the valuation for SPRF for the one year ending June 30, 2003, then the SPRF is allowed to pay to beneficiaries who have been receiving benefits for more than one year, a nonrecurring lump sum of 3% of their annual benefit but not less than \$300. A DROP participant who has not severed employment has the one-time option to rescind all or a specified portion of his election to participate in DROP and return to active status. The rescinding participant forfeits all DROP monies attributable to the rescinded participation period and return to active contributing membership in the fund. Anyone who participated in DROP and did not rescind the full amount of participation is ineligible to participate in Back-DROP. (**House Bill 1194 by Representative Montgomery pending concurrence**).

Effective January 1, 2005, the board of trustees of the SPRF is required to provide for the transfer of DROP and Back-DROP balances to a third party, fixed income investment manager. Participants shall have the option to opt out of this program and to take a distribution of DROP or Back-DROP assets, if

otherwise eligible, or to rollover the assets to another qualified retirement plan. (**House Bill 1306 by Representative Schneider - passed the Senate**). **House Bill 1005 (Act 781) by Representative Montgomery (passed the Senate)** allows a retiree of SPRF to receive up to 50% of his final average compensation when reemployed on a part-time basis with any sheriff's office within 24 months of his retirement and 55% in the 25th month and thereafter.

Legislation affecting state and statewide retirement systems

House Bill 935 by Representative Schneider (pending conference committee) would allow certain state and statewide retirement systems: Louisiana Assessors' Retirement Fund (LARF), State Police Pension and Relief Fund (SPRS), Municipal Employees' Retirement System (MERS), Municipal Police Employees' Retirement System (MPERS), Firefighters' Retirement System (FRS) and District Attorneys' Retirement System (DARS) to invest up to 65% of the system's portfolio assets in publicly traded equities and requires the systems have at least 10% of equity investments to be in indexed funds. With the approval of the Joint Legislative Committee on the Budget, the SPRS may exceed the 65% limit.

LASERS and TRSL

Senate Bills 622 (Act 520) and 623 (Act 766) by Senator Boissiere relative to Louisiana State Employees' Retirement System and Teachers' Retirement System of Louisiana, requires amortization over a 30-year period, beginning with the Fiscal Year ending June 30, 2004 of any changes in actuarial liability due to actuarial gains and losses, changes in valuation methods, changes in actuarial assumptions or actuarial funding methods and changes in actuarial accrued liability due to legislation. The outstanding balances of amortization bases shall be amortized as a level dollar amount. Currently, such changes in actuarial liability is amortized by making annuitized payments increasing at 4.5% annually, over 15 years or until the year 2029, whichever is later.

The bills require that the employer contribution rate for the LASERS and TRSL shall not be less than fifteen and one-half percent per year until such time as the initial unfunded accrued liability is fully funded. At the end of each fiscal year, the excess between the minimum employer contribution as required by the Constitution of Louisiana and the employer contribution for the fiscal year as determined under this Subsection accumulates in an Employer Credit Account (ECA). **Senate Bills 622 (Act 520) and 623 (Act 766)** also authorize the required annual employer contribution, or the constitutional minimum if greater, to be utilized to fund the employer contribution in excess of the 15 ½ % minimum required contribution for the fiscal year to the extent the ECA has a positive balance. Subject to legislative approval, the ECA also may be used to reduce the initial unfunded accrued liability.

Currently, LASERS and TRSL experience accounts are credited with 50% of the systems' net investment experience gain and debited for 50% of the systems' net investment experience losses for each year. The systems' experience accounts are credited/debited with that portion of the systems' net

investment income/loss attributable to the balance in the experience account in the prior year. The board of trustees of each system is required to grant cost-of-living adjustments (COLAs) when the experience account balance is sufficient to fund such COLA in full.

Senate Bills 622 (Act 520) and 623 (Act 766), effective July 1, 2004, zero the balance in the experience accounts and requires the experience accounts to share in 50% of the systems' net experience gains but in none of the net experience losses. However, the bills retain the provision that the experience accounts share in the net investment income/loss attributable to the balance in the experience accounts during the prior year; but, specifies that in no event shall the amount in the experience account fall below zero. The senate bills also cap the amount that may be credited to the experience accounts at a level sufficient to fund two COLAs. If the legislative actuary disagrees with the determination of the system's actuary, a COLA shall not be granted. Prior to granting a COLA, the board of trustees must have legislative approval. Any negative balances in the experience accounts on is added to the UAL and amortized over a 30 year period.

Members of LASERS with at least one year of service credit can purchase up to five years of service credit by payment of a lump sum sufficient to offset any increase in accrued liability to the retirement system. **House Bill 980 (Act 340) by Representative Schneider (sent to the governor)**. Under present law, there are various provisions for purchase of service credit for certain employment, service, or training outside of the requirements for earning service credit in the retirement system by paying all actuarial costs for such purchase.

Senate Bill 792 by Senator Dardenne (failed House final passage) would provide that any person hired after July 1, 2004 who has no prior service or membership in LASERS gains retirement eligibility only if he has 10 or more years of service, at age 60 or thereafter. Presently a member of LASERS is eligible for retirement if he has:

- (1) 30 years or more of service, at any age.
- (2) 25 years or more of service, at age 55 or thereafter.
- (3) 10 years or more of service, at age 60 or thereafter.
- (4) 20 years of service credit at any age, exclusive of military service and unused annual and sick leave, at an actuarially reduced benefit from the earliest age that he would normally become eligible for a regular retirement benefit.

Representative Triche authored legislation, **House Bill 58 (Act 194)**, relative to LASERS, the "Early Retirement and Permanent Payroll Reduction Act of 2004" which allows early retirement of members who have attained age 50 and have at least 10 years of service credit at an actuarially reduced benefit. Once the member retires, the bill requires that the position be abolished and not be reestablished,

unless the position is in the Department of Social Services, office of family support, support enforcement services division.

The purpose of the bill is to permanently reduce the number of state employees, thereby reducing payroll costs, in a manner which furthers the fiscal needs of the state and which is fair and equitable to state employees. The bill allows any member of LASERS to retire and receive retirement benefits if he submits an application for retirement during the period from the effective date of proposed law through 12/31/06, with his effective date of retirement occurring during the same period. Eligibility is limited to members who have attained at least age 50 and have at least 10 years of service credit, exclusive of any military service credit, on or before 12/31/06. Any member retiring under such provisions of the Act during such period is not eligible for reemployment by the state or any agency thereof for a period of two years from the date of retirement.

Further, the appointing authority of an agency in which a position is abolished must notify the state treasurer of the unspent portion of state general funds appropriated to pay for that position and requires the state treasurer to withhold from that agency's state general fund appropriation an amount equal to the unspent state general fund appropriation, including employer retirement contributions, for the position abolished. The state treasurer must return to the agency's state general fund appropriation an amount sufficient to pay for any position that is reestablished from the date of reestablishment to the end of the fiscal year in the proportion and to the extent the position is to be funded from the state general fund.

House Bill 58 (Act 194) authorizes members who retire pursuant to the "Early Retirement and Permanent Payroll Reduction Act of 2004" to receive annual benefits that are calculated in accordance with present law, but prohibits members who retire pursuant to the Act from participating in the Deferred Retirement Option Plan (DROP) or from receiving the alternative benefit option known as the Initial Benefit Option (IBO).

Any position which becomes vacant as a result of a retirement pursuant to **House Bill 58 (Act 194)** proposed shall only be filled or reestablished if approved:

- ! Jointly by the commissioner of administration and the director of the Dept. of State Civil Service with the commissioner making the initial approval (executive branch).
- ! By the Legislative Budgetary Control Council (legislative branch).
- ! By the Judicial Budgetary Control Board (judicial branch).

Positions that are reestablished must be filled by moving qualified existing employees from within the same agency when the agency has qualified personnel to fill the positions and provides that the positions becoming vacant by such movement must be abolished, subject to the reestablishment procedures.

Revenue & Taxation

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Most of the significant action in the tax area took place in the Special Session which occurred immediately before the '04 Regular Session.

As it has done for many years, the Legislature was required again to ensure a balanced budget by "suspending" state sales tax exemptions. While the "Stelly" constitutional amendment has constitutionally protected from further suspensions food and residential utilities, the remaining sales tax exemptions against 3 pennies of the state sales tax (basically, business utilities) were "suspended" for 5 fiscal years by **House Bill 1 of the First Extraordinary Session by Representative Hammett (Act 4)**. [Note: The 4th penny of state sales tax on items covered by the traditionally suspended sales tax exemptions has been permanently levied.]

Once this was done, the Legislature was able to turn to the more satisfying task of reducing taxes.

Because the "Stelly" constitutional amendment overlooked exempting some types of fuels used for residential utilities such as butane and propane, **House Bill 15 of the First Extraordinary Session by Representative Strain (Act 8)** exempted such fuel from both state and local sales taxes.

Several tax inducements considered important by many were extended: **Senate Bill 14 of the First Extraordinary Session by Senator Mount (Act 13)** extended the Quality Jobs Programs; **Senate Bill 9 of the First Extraordinary Session by Senator Mount (Act 12)** extended the credit for rehabilitating downtown historic structures; **House Bill 10 of the First Extraordinary Session by Representative Hammett (Act 7; duplicate of Senate Bill 19 by Senator Mount)** extended the motion picture investor tax credit; and **House Bill 35 of the First Extraordinary Session by Representative Montgomery (Act 10)** extended the exemption for buses, trucks and trailers used in interstate commerce.

More important, the Legislature was finally able to find a way to deal with two, unique, aggravating taxes on business which have been a long term and much discussed thorn in the side of economic development. **House Bill 2 of the First Extraordinary Session by Representative Hammett (Act 1; duplicate of Senate Bill 10 by Senator Mount)** phases in an exclusion from state sales tax on "machinery and equipment." The phase-in occurs over 6 fiscal years beginning July 1, 2005 unless the Revenue Estimating Conference up its estimate of state revenues, in which case the phase-in begins in the 04-05 Fiscal Year. The reduction is phased-in, depending on the estimate, at 14% to as much as 19% in the first year; 28 to 35% in the second; 42 to 54% in the third; 56 to 68% in the fourth; 70 to 82% in the

fifth; 84 to 100% in the fifth; and in any case, 100% after the fifth year. The "machinery and equipment" affected is the following:

- (1) That which has a useful life of 3 years or more.
- (2) That which is used as an "integral part" in the manufacturing of "tangible personal property" for sale.
- (3) That which is used by a "manufacturer," specifically defined as a person whose principal activity is manufacturing as described in NAICS codes and who puts raw materials through a series of steps that brings about a change in their composition or physical nature in order to make a new or different item that will be sold to another.
- (4) Such "machinery and equipment" also specifically includes property that is used as an integral part of the production, processing, and storing of food and fiber or of timber by a person defined in NAICS code Sector 11.

Local governments can provide their own exclusion either immediately effective or subject to a phase-in.

House Bill 3 of the First Extraordinary Session by Representative Hammett (Act 2; duplicate of Senate Bill 12 by Senator Mount) phases-out the corporate franchise tax on "borrowed capital," that is, debt on the books of a corporation maturing more than one year from the date incurred. (Not included in the phase-out is certain debt owed to related corporations or other entities.)

The phase-out starts with tax returns filed in 2006, borrowed capital being subject to tax on a declining basis as follows: 86% in the first year; 72% in the second; 58% in the third; 44% in the fourth; 30% in the fifth; 16% in the fifth; and beginning in the 6th year, no "borrowed capital" is to be subject to corporate franchise tax.

There was much less tax activity in the Regular Session. **Senate Bill 806 by Senator Dupre (Act 929)** is a constitutional amendment to be submitted to the voters on November 2, 2004 which re-states the application of the homestead exemption. It endorses many traditional applications of the exemption by assessors which have recently been called into question by the Attorney General and the Legislative Auditor. Some highlights are that it authorizes the application of a full homestead exemption to:

- (1) Property occupied by surviving spouses and "former spouses" if they own any interest in the property, are usufructuaries, or if title is in a testamentary trust.
- (2) Property occupied by immediate prior owners who are the beneficiaries of an irrevocable trust or

are usufructuaries.

Property owned in "indivision" may be granted a homestead exemption, but it is limited to the pro rata ownership interest of the person or persons occupying it unless they are included in the exceptions set forth above.

Land classified as use value property may have a homestead exemption. On the other hand, no homestead exemption may be granted on bond for deed property whose owner did not have an exemption as of June 20, 2003.

Senate Bill 825 by Senator Mount (Act 469) continued the effort to make uniform the application of the state and local sales tax. It sets up a procedure under the UTC [the Uniform Local Sales Tax Code] for the Legislature to review and approve sales tax regulations applicable only to local tax authorities.

Social Services

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Senate Bill 249 by Senator Bajoie (Act 456) provides for corrections to Louisiana's adopted subsidy laws for compliance with federal guidelines. Previously, the Department of Social Services (DSS) was authorized to develop and implement a program for subsidizing the adoption of children with special needs, and the annual redetermination of eligibility for such subsidies. Louisiana's adoptive parents with a Louisiana adopted child may receive subsidy payments whether or not they reside in Louisiana, except in cases where the other state has a subsidized adoption program, or the other state is party to the Interstate Compact on Adoptions and Medical Assistance. The child must be eligible for at least six months, with every effort being made to place the child with Louisiana residents, before nonresident adopters of another state may be eligible for the adoption subsidy.

This new statute changes the redetermination from annually to at least annually except in cases where the redetermination shall be every five years for a child who is eligible for federal Title IV-E funding under the Social Security Act. Louisiana adopters may not receive cash funds when living in another state that has subsidized adoption programs available to the Louisiana adopters for the adopted child. Additionally this new statute will delete the six months eligibility requirements before nonresident adopters are eligible for the subsidy.

Senate Bill 140 by Senator Bajoie (Act 299) provides for criminal background checks on those seeking employment at agencies that care for the infirm, and bars employment for those convicted of certain offenses in agencies which provide care for the infirm. Such agencies as personal care attendant services agencies, respite care service agencies, and supervised independent living programs.

Senate Bill 437 by Senator Jackson (Act 186) provides for the initiation of prescription of certain child support judgements. Currently, a failure to pay court-ordered child support resulted in a judgement of operation of law which is executionary in all respects except that the court shall determine the actual amount owed in a summary proceeding and the judgement shall have the actual effect of a judicial mortgage when recorded. In cases where the Department of Social Services (DSS) is providing support enforcement services, a summary proceeding is not required to determine the amount owed, but an affidavit shall be filed certifying such amount, and once filed and legally recorded shall have the effect of a legal mortgage and privilege.

This new statute additionally provides that prescription shall not begin to run against any such judgement for child support arrearage until the child reaches the age of majority or the obligation to provide

child support ceases. Provisions apply to all child support arrearage judgements that have not prescribed of the effective date of gubernatorial signature.

Senate Bill 609 by Senator Bajoie and Representative Winston (Act 75) requires additional information in child abuse reports, and requires the Department of Social Services (DSS) to provide and optional written form for mandatory reporting. The report must now contain the number of times the individual making the report has filed on behalf of a child or the child's siblings. Additionally, the reporter may use a form for the written report, which shall be developed, approved and made available to the Department of Social Services (DSS). Such form is now available electronically on the DSS website.

Senate Concurrent Resolution 76 by Senator Fields and Representative Dorsey (enrolled) urges and requests the Department of Social Services (DSS) to study the feasibility of implementing the "At Home Care Act." At home infant care programs offer certain lower-income parents of infants a choice between returning to work and using a state child car subsidy or staying home and receiving a monthly stipend. The goal of such programs is to recognize the importance of at-home parenting by providing comparable help both to parents who want to care for their children at home and to parents who want to work outside the home.

House Concurrent Resolution 128, by Representative Winston (enrolled) continues the implementation of the "No Wrong Door" plan authorized by Act 726 of the 2003 Regular Session, and additionally authorizes the Joint Legislative Committee on the Budget and any involved executive departments an opportunity to review the "No Wrong Door" plan and its implementation and provide written comments to the Department of Social Services.

House Concurrent Resolution 5, by Representative Walker (enrolled) memorializes the United States Congress to study and consider receiving the income guidelines for senior citizens and reduce them by ten percent so they may participate in, or receive more assistance through the federal food stamp program. Less than thirty-eight percent of low-income senior citizens qualify for participation of the federal food stamp program, according to the Department of Social Services (DSS).

State Government

by: *Tim Prather*
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Environmental Quality

Addressing certain environmental concerns, **Senate Bill 467 by Senator Fontenot (Act 17)**, provides for a five year statute of limitations, from the date a claim first accrued, for the commencement of actions, suits, or other proceedings for assessment or enforcement of civil fines or penalties under the LA Environmental Quality Act. The Act provides that a claim for a civil fine or penalty first accrued from the date the violation is first reported to DEQ.

Administration Division

Senate Bill 503 by Senator Heitmeier (Act 19), addressed the law which authorizes the state to sell surplus movable property of any board, commission, agency, or department of the state at public auction. The current law authorized the selection, through a competitive bid process, of qualified licensed auctioneers to handle the sale and provided for the selection of an auctioneer to be for a period of one year and to compensate such auctioneer from the proceeds of the sale.

The Act retains current law and specifies that the selection of an auctioneer shall be in the case of live public auction. Moreover, the Act authorizes the state to sell surplus movable property through the use of electronic technology including Internet web sites, privately or publicly owned, that facilitate such sales. It also authorizes the commissioner of administration to pay any costs of the sale from the proceeds of such sale.

Another administration bill, **Senate Bill 509 by Senator Heitmeier (Act 23)**, increases the efficiency of the state's payroll system. The Act provides for electronic funds transfer payments for all employees paid through the Integrated Statewide Information System (ISIS). The law will affect employees who are hired on or after 7/1/02 and employees hired before 7/1/02 who later have a break in service after that date and are rehired.

Funds/Funding

Currently, state law authorizes the state treasurer to invest certain state funds and authorizes investment in time certificates of deposits in any bank domiciled or having a branch office in the state of Louisiana or a federally or state-chartered credit union. Furthermore, the rate of interest for investments in time certificates of deposit are established by rules and regulations promulgated by the state treasurer.

Competitive bidding may be used to establish the rate of interest on 20% or less of the amount available for investment in time certificates of deposit. **House Bill 466 by Representative Alario (Act 92)** increases the amount allowed for competitive bidding from 20% to 50%.

Lobbying

Attempting to clean-up the state's image, **House Bill 1246 by Representative Lafleur (Act 116)**, would make several changes to the current law regulating lobbyists in the state, particularly the lobbying of the executive branch of government. The new law would provide for the following:

- * Defines the following terms: executive branch action, executive branch agency, executive branch official, expenditure, lobbying, and lobbyist.
- * Specifies that an elected or appointed official or any designee of such an official acting in the performance of his public duties shall not be considered to be a lobbyist.
- * Provides that persons register with the ethics board within five days of employment as a lobbyist or within five days after the first action requiring registration.
- * Provides for hiring and termination of lobbyist.
- * Requires lobbyists to pay a \$110 fee for each registration and renewal filed.
- * Requires that, as provided by ethics board rule, each lobbyist file with the ethics board, semiannually (August 15 for period of Jan. 1 - June 30; Feb. 15 for period July 1 - Dec. 31), a report of all expenditures required to be reported during the reporting period. Requires each report to include the total aggregate expenditures during the calendar year, aggregated as prescribed by the ethics board.
- * Requires that the lobbyist will also report by name and agency any executive branch official for whom the lobbyist's aggregate expenditures exceed \$50 on any one occasion, or exceed the sum of \$250 during a reporting period and the total amount of expenditures for any such executive branch official during the calendar year.
- * Requires the ethics board to promulgate rules and forms to prescribe the level of organization unit or units of an executive branch agency for which expenditures are required to be aggregated.
- * Requires that each report shall include a statement of total expenditures for each registration or social gathering to which 25 executive branch officials are invited and shall include the name of the group(s) invited and the date and location of the reception or social gathering. Amounts so

reported are not attributable to individual officials for reports as required above. Exempts from reporting requirements any expenditures by a lobbyist for a reception or social gathering held in conjunction with a meeting of a national or regional organization of executive branch officials and expenditures for a meal or refreshment consumed or offered to an executive branch official giving a speech, being a member of a panel, or otherwise being involved in an informational presentation to a group.

- * Requires any expenditures by a lobbyist's principal or employer made in the presence of the lobbyist to be reported by the lobbyist. Requires any lobbyist's principal or employer who makes direct expenditures required to be reported to timely furnish its lobbyist information about such expenditures as necessary for compliance. Requires such information to be furnished to the lobbyist no later than two business days after the close of each reporting period.
- * Requires that any lobbyist's principal or employer who makes direct expenditures required to be reported and who fails to provide its lobbyist such information shall be required to register as a lobbyist and shall be subject to penalties for violations.
- * Allows a lobbyist's principal or employer to opt to file the required reports on behalf of all of the lobbyists who represent such principal's or employer's interests. Requires the principal or employer to notify the ethics board no later than January 31 of each year. Provides that such option shall be effective for the reporting of all expenditures made during that calendar year. Requires the notification to include a listing of all persons on whose behalf the lobbyist's principal or employer is filing reports. Requires any lobbyist whose principal or employer opts to file the required reports to timely furnish its principal or employer all information about expenditures as necessary for compliance, no later than two business days after the close of each reporting period. Provides that any lobbyist's principal or employer who opts to file the required reports who fails to file or timely file such reports shall be liable for and subject to any applicable late fees or penalties, or both.
- * Requires that the ethics board:
 - (a) Register lobbyists and assign lobbyist registration numbers. Requires such number to be inscribed on registration forms and reports of the lobbyist.
 - (b) Issue each registered lobbyist a copy of the provisions and rules adopted.
 - (c) Promulgate all necessary rules and forms, including but not limited to rules and forms to prescribe the level of organizational unit or units of an executive branch agency for which expenditures required to be reported shall be aggregated.
- * Makes the ethics board responsible for enforcement. Provides that provisions for enforcement of the ethics code will apply, including investigation, hearing procedures, confidentiality, penalties,

appeals, powers of the ethics board, and enforcement of orders. Prohibits commencement of enforcement actions after two years after the alleged violation.

- * Authorizes the ethics board to impose and collect penalties and authorizes the ethics board to censure any person found guilty of a recurring or egregious violation of law and prohibit such person from lobbying for not less than 30 days and not more than one year.
- * Provides for late fees of \$50 per day for failure to timely register or timely file any required report. For being 11 or more days late in registration or filing a report, after a hearing by the ethics board, a civil penalty may be assessed not to exceed \$10,000.
- * Requires any expenditures by a lobbyist's principal or employer made in the presence of the lobbyist to be reported by the lobbyist. Requires any lobbyist's principal or employer who makes direct expenditures required to be reported to timely furnish its lobbyist information about such expenditures as necessary for compliance. Requires such information to be furnished to the lobbyist no later than two business days after the close of each reporting period. Requires that any lobbyist's principal or employer who makes direct expenditures required to be reported and who fails to provide its lobbyist such information shall be required to register as a lobbyist and shall be subject to penalties for violations.

Government Organization

Addressing concerns about the state of juvenile corrections in the state, **House Bill 1276 by Representative Montgomery (Act 7)**, creates youth services as a separate entity in the Department of Public Safety and Corrections, comprised of the office of youth development and a new office of management and finance for youth services. The law provides for a deputy secretary for youth services who reports directly to the governor and includes special provisions for implementation of the office of management and finance for youth services.

Transportation & Development

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AIRCRAFT/AVIATION

A notice of proposed construction of and for the marking of certain wireless communication facilities will be required under **Senate Bill 13 by Senator Theunissen (Act 57)**. The Act requires any person proposing to construct a "communication facility" that is taller than 100 ft., but not more than 200 ft., to send such notice on or before the 13th day before the date the construction begins to any airport approved by the Dept. of Agriculture and Forestry located within 3 miles of the proposed facility location and to the La. Agricultural Aviation Assoc. Any person proposing to construct such a "communication facility" in a cultivated field or within 100 ft. of a cultivated field that is at least 100 ft., but not more than 200 ft. in height above ground level, will be required to mark the highest guy wires on the facility, if any, with two warning spheres each.

Senate Bill 434 by Senator Theunissen (Act 312) authorizes the use of Transportation Trust Fund monies for the General Aviation and Reliever Airport Maintenance Grant Program provided that state matching fund requirements for all FAA grants for capital improvements, planning, and NAVAIDS have been satisfied; however, the total sum of monies used from the trust fund must not exceed \$200,000 in any fiscal year.

Under **Senate Bill 743 by Senator Theunissen (Act 712)**, medical services will be provided for Civil Air Patrol member injured, or made ill during the performance of their duties and not just during official search and rescue missions, disaster emergencies and disaster emergency preparedness exercise and training. The Act also provides for certain payments to surviving spouses and children of Civil Air Patrol members killed during the performance of their official duties.

BOATS/BOATING

House Bill 1354 by Representative Pinac (Act 553) also includes the provisions of **Senate Bill 870 by Senator Ellington (House calendar)** which makes various changes relative to used motor vehicle dealers and marine dealers and provides for certain area of responsibility provisions. The measure provides relative to licensing procedures, marine dealer/manufacturer/distributor agreements, and procedures regarding disputes between marine dealers and marine manufacturers and distributors.

LEVEES & LEVEE DISTRICTS

Senate Bill 368 by Senator Dupre (Act 310) provides for shared jurisdiction for flood protection to be between the South Lafourche Levee District and the Lafourche Basin Levee District, and also alters the membership of the Lafourche Basin Levee District. Construction of recreational facilities, which are part

of a federally approved flood control program, with federal matching funds, situated south from Donaldsonville to the Gulf of Mexico, within the Lafourche Basin Levee District.

House Bill 79 by Representative Hutter (Act 82) authorizes the construction of bicycle paths and walkways along the top of the levee of the Mississippi River in St. Bernard and Plaquemines parishes.

MOTOR VEHICLES

Senate Bill 555 by Senator Dupre (Act 463) requires that any medical exemption to the vehicle window tint restrictions in current law granted must be due to a diagnosed condition made only by a licensed optometrist or physician, including but not limited to an ophthalmologist, or dermatologist and that such condition be verifiable in the American Medical Association Journal as a recognized condition that would warrant a medical exemption. The secretary of the Dept. of Public Safety & Corrections will conduct a case by case review of grants and denials and make any changes necessary based on evidence presented to him by anyone seeking an exemption. Any medical exemption granted will be subject to review every 3 years unless deemed otherwise by the department.

Driver's Licenses

Senate Bill 30 by Senator Dupre (Act 600) changes the requirement that the learner's license be maintained from 90 days to 180 days, unless prior to such time the driver reaches 17 years of age, effective for any Class "E" learner's license issued on or after Sept. 1, 2004.

Under current law, a duplicate driver's license must be obtained if the original license has been lost or destroyed at a charge of \$5.00. **Senate Bill 487 by Senator Heitmeier (Act 314)** waives the \$5.00 charge and any handling charge if the license has been stolen as evidenced by a police report.

Senate Bill 852 by Senator Chaisson (Act 730) authorizes the commissioner of the office of motor vehicles to promulgate rules and regulations establishing a uniform system of assigning demerit points for convictions of certain moving traffic violations by young drivers, and provides for a 30-day license suspension for the young driver who accumulates a minimum of 12 points during a two year period for convictions of moving violations upon implementation of the system. A restricted driver's license may be issued to the individual, limited to operating a motor vehicle at such time as is necessary to allow him to earn a livelihood. The commissioner of the office of motor vehicles may promulgate rules and regulations to allow drivers to attend an approved "driver's education course" in order to decrease the number of demerit points that the driver has earned. The Act also requires that, on second conviction of driving while intoxicated, the offender to have his driver's license suspended for one year by the court.

House Bill 570 by Representative G. Smith (Act 216) requires driving instructions and testing of applicants for driver's licenses include information on sharing the road with motorcycles and tractor/trailer trucks.

House Bill 881 by Representative Quezairé (Act 387) provides for an exemption from certain test specifications for a driver of a farm-related service vehicle used to transport agricultural products, farm machinery, or farm supplies to and from the farm and which is not used as a contract or common carrier. In order to qualify for this exemption, an applicant with one to two years of driving experience must demonstrate a satisfactory operating record for his entire driving history, or an applicant with more than two years of driving experience must demonstrate a satisfactory operating record for the two most recent years of his driving history.

House Bill 991 by Representative Futrell (Act 542) requires the operating record of a commercial motor vehicle driver include certain motor vehicle violations and requires the Dept. of Public Safety and Corrections to forward a copy of certain motor carrier inspection reports.

Anyone applying for a driver's license for the first time must present evidence of the successful completion of a driver education course approved by the DPS&C or the Dept. of Education or a prelicensing training course approved by the DPS&C. Under **House Bill 1469 by Representative Martiny (Act 439)** the maximum fee charged for a prelicensing training course will be increased from \$25 to \$50.

House Bill 1550 by Representative Heaton (Act 881) provides for the issuance of drivers' licenses to persons using bioptic telescopic lenses, and provides for the conditions, limitations, and driving restrictions for such licensing.

DWI

Senate Bill 556 by Senator Dupre (Act 666) provides for an impaired driver tracking system as a component of the Integrated Criminal Justice Information System (ICJIS) Project. The tracking system component will be designed to provide accurate, complete, and reliable information regarding the arrest of each driver for the certain offenses involving vehicles and the disposition, of each case, including information on prosecution, dismissal, conviction, disposition, or completion of the sentence. The information in the tracking system will be shared by all agencies that contribute information to the system in accordance with provisions of the ICJIS project so that they may effectively investigate, prosecute, or dispose of cases involving impaired driving. Upon its passage, this law will be known as "Jade's Law," in memory of Jade Thomas, a nine year old who was killed in a car accident on February 14, 2004 due to a multiple offender who was charged with a tenth offense DWI.

License Plates/Placards

Status of prestige license plates issuance: What began as a suit to challenge the "Choose Life" prestige plates (Henderson v. Stalder), a federal judge ordered Louisiana to end the production of all specialty license plates, including the "Choose Life" plates, finding that the specialty plates discriminate based on viewpoint. The federal suit over the issuance of Louisiana's specialty license plates is still pending

at the 5th Circuit Court of Appeals. Oral arguments were heard on April 6, but as of yet, no decision has been rendered.

House Bill 139 by Representative Hutter (Act 84) allows the issuance of a hang tag which bears the international symbol of accessibility, to any disabled veteran who has or is issued such a plate and who requests the hang tag.

House Bill 246 by Representative Daniel (Act 245) creates, upon receipt of a minimum of 1,000 applications for each plate, the Louisiana State University National Champions and the Southern University Black College National Champions special prestige license plates for passenger cars, pickup trucks, recreational vehicles, and vans. Upon distribution of the plates, a one-time royalty fee of \$25 will be collected and forwarded to the institution for academic or financial need-based scholarships.

House Bill 904 by Representative Hammett (Act 849) requires the Dept. of Public Safety and Corrections to resume issuing the following military special prestige license plates: former prisoners of war, members of the Louisiana National Guard, disabled veterans, congressional Medal of Honor recipients, Louisiana members and retired members of the reserve forces of the U.S., World War II, Korean War, and other military vehicles, veterans and retired veterans, survivors of Pearl Harbor, veterans of the Vietnamese Conflict, "Purple Heart" recipients, veterans of the Korean War, veterans of the U.S. Merchant Marine, participants in Operation Desert Shield/Desert Storm, World War II veterans, certain veterans of the U.S. Marine Corps, Laos War veterans, and veterans of the Cold War. The measure also provides for creation of a "NASCAR" special prestige license plate.

House Bill 1620 by Representative Schneider (Act 1620) prohibits the manufacture, sale, possession, or use of a counterfeit mobility-impaired parking placard which is a facsimile of the mobility-impaired parking placards issued by the office of motor vehicles. Also, a person is in violation, relative to handicapped parking, if such person knowingly parks a vehicle displaying a counterfeit mobility-impaired parking placard in a parking space or area reserved for persons with disabilities. In addition to other applicable penalties, any person in violation will be fined not less than \$100 nor more than \$250, or imprisoned for not more than 30 days, or both, for a first offense. Any person committing a subsequent offense will be fined not less than \$250 nor more than \$500, or shall be imprisoned for not more than 90 days, or both.

Motorcycles/Motor Scooters/Electric Mobility Aids

Prior to 1999, a mandatory motorcycle safety helmet law was in place for all operators. Under a measure passed in 1999, persons under the age of 18 who operate or ride a motorcycle, motor-driven cycle, or motorized bicycle were required to wear a safety helmet while the vehicle was in motion. **House Bill 109 by Representative Baudoin (Act 742)** will now reinstate the mandatory helmet law and require all persons riding a motorcycle to wear a safety helmet.

Senate Bill 29 by Senator Chaisson (House calendar) would have required any person under

21 years of age who operates or rides upon a motorcycle, motor-driven cycle, or motorized bicycle to wear a safety helmet. Additionally, the bill would have required completion of the Motorcycle Safety, Awareness, and Operator Training Program or a motorcycle operating training course approved by the Dept. of Public Safety and Corrections prior to licensure to operating such vehicles. Further, the bill would have required the office of motor vehicles to issue "M" endorsement stickers for license plates.

Senate Bill 46 by Senator Theunissen (Act 451) grants persons with mobility impairments who operate an electric mobility aid the same rights as able-bodied pedestrians to use streets, sidewalks, and walkways. Electric mobility aids may be operated, during daylight hours, on any road or street, if the posted speed limit is 25 mph or less or if suitable sidewalks or bicycle paths are not available, on any marked or designated bicycle path, in residential subdivisions, on any street or roadway necessary to cross, or as a reasonable accommodation under the Americans with Disabilities Act.

House Bill 1260 by Representative Cazayoux (Act 805) allows a parish or municipal governing authority (local option) to authorize the operation of scooters at a speed not to exceed 20 mph by persons eight years old or older between sunrise and sunset on any sidewalk under its jurisdiction. The measure also authorizes the operation of electric personal assistive mobility devices on sidewalks, bicycle paths, and highways with posted speed limits of 35 mph or less, but provides an exception for a local governing authority to limit or prohibit the operation of such devices on any sidewalk, bicycle path, or highway under its jurisdiction. An electric personal assistive mobility device is defined as a self-balancing, two non-tandem wheeled device designed to transport only one person at a time, with an electric propulsion system which limits the maximum speed to not more than 15 mph.

House Bill 1292 by Representative Pinac (Act 551) revises the definition of "all-terrain vehicle" and "motorcycle", and defines and authorizes "electric personal assistive mobility devices" to operate on sidewalks, bike paths, and highways with a posted speed limit of 35 mph or less, but authorizes a local governing authority to limit or prohibit the operation of such devices on sidewalks, bike path, or highways under its jurisdiction.

Trucks/Weight/Height

The height of any vehicle and its load by law is prohibited by law from exceeding 13 ft. 6 in.; **House Bill 1531 by Representative M. Guillory (Act 571)** retains this height limitation generally, but increases that limitation only on interstate highways to 14 feet, provided that vehicles operating on the interstate system having reasonable access within one mile from the interstate to terminals and facilities for food, fuel, repairs, and rest, unless prohibited for specific safety reasons on individual routes. Also, the operator of a vehicle that is higher than 13 ft. 6 in. must ensure that the vehicle will pass through each vertical clearance of a structure in its path without touching the structure. Any damage to a bridge, underpass, or similar structure caused by the height of a vehicle will be the responsibility of the owner of the vehicle.

House Bill 903 by Representative Quezairé (Act 848) provides relative to requirements certain commercial motor vehicles must meet for transporting property in interstate commerce to qualify for the exemption from motor vehicle safety inspections. Commercial motor vehicle truck tractors, trailers, and semitrailers in interstate commerce which are subject to the Federal Motor Carrier Safety Regulations will be exempt from certain inspection requirements provided that these commercial motor vehicles comply with the federal requirements requiring periodic and annual inspections of commercial motor vehicles. As an alternate means of compliance, the owner or operator of a commercial motor vehicle truck tractor may opt to obtain a Louisiana commercial motor vehicle inspection certificate which satisfies the federal regulations. A trailer or semitrailer being used in combination with a truck tractor meeting such exemption may opt to obtain a Louisiana commercial motor vehicle inspection certificate which satisfies the federal requirements. For the purposes of these inspection exemptions, a "commercial motor vehicle" means any self-propelled truck tractor or towed vehicle which is used on public highways to transport property in interstate commerce, has been issued an apportioned plate through the International Registration Plan and (a) has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 10,001 pounds or more, or (b) is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the secretary under the Hazardous Transportation Act.

PORTS/HARBORS/TERMINALS

Senate Bill 346 by Senator Chaisson (Act 307) makes various changes to the powers, duties and responsibilities of the South Louisiana Port Commission which governs the Port of South Louisiana.

Other bills providing for the nominations of and membership on the boards of commissioners of various port authorities includes as follows:

- C **House Bill 107 by Representative Hutter (Act 83)** regarding the Port of New Orleans.
- C **House Bill 393 by Representative Ansardi (Act 91)** regarding the Port of New Orleans.
- C **House Bill 1102 by Representative Daniel (Act 137)** regarding the Millennium Port Authority.
- C **House Bill 1146 by Representative LaFleur (Act 397)** regarding the Greater Krotz Springs Port Commission.

PUBLIC WORKS

Senate Bill 4 by Senator McPherson (Act 631) prohibits the state or local entity from entering into any agreement for the purchase of unimproved property which contains provisions related to the successful design and construction phases of a particular construction project prior to the transfer of title, unless authorized. Also, the measure was amended to prohibit the letting of contracts for public works by the state or a political subdivision which provide for the purchasing, leasing, or leasing with an option to purchase by the state or political subdivision after completion of the building when such construction was paid for with funds of the state or subdivision. This prohibition will not apply to the activities or contracts of the following entities: Correctional Facilities Corporation, La. Office Building Corporation, Office Facilities Corporation, La. Correctional Private Management Act.

RAILROADS

House Bill 1329 by Representative Thompson (Act 435) authorizes two or more parishes to create a railroad development district for the primary purpose of promoting and encouraging development of rail service in the area of the parishes involved to stimulate the economy through renewed commerce, industry, and for the utilization and development of natural and human resources of the area by providing job opportunities.

ROADS/HIGHWAYS

House Bill 333 by Representative Smiley (Act 125) requires DOTD to incorporate the use of "RV friendly" markers on specific information logo signs for establishments which cater to the needs of RVers. An establishment that qualifies as "RV friendly" may request the "RV friendly" marker on its specific information logo sign. The department will promulgate rules and regulations as are necessary to set forth the minimum requirements that establishments must meet in order to qualify as "RV friendly". These requirements will include large parking spaces, entrances, and exits which can easily accommodate recreational vehicles, and facilities with appropriate overhang clearances, if applicable.

Bridges/Ferries

Senator Theunissen authored **Senate Bill 24 (Act 13)** which renames the Monkey Island Ferry as the Dr. Martin Luther King, Jr. Ferry. Also, **Senate Bill 12 by Senator Theunissen (Act 597)** extends the authorization for appropriation of state funds for the Dr. Martin Luther King, Jr. Ferry until July 1, 2008.

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Roads, Naming

Each legislative session, a number of bills and resolutions are filed to name, designate, or re-designate certain roads and highways in Louisiana. Last year in 2003, portions of U.S. Highway 190 in East Baton Rouge, Livingston, and St. Tammany parishes were collectively named the Ronald Reagan Highway. This year in 2004, that entire stretch of U.S. Hwy. 190 from the Mississippi River to the Louisiana-Mississippi State Line has been named the Ronald Reagan Highway by **House Bill 7 by Representative Strain- Act 117** as a memorial to the late, respected 40th President of the United States who passed away on June 5, 2004.

House Concurrent Resolution 228 by Representative Quezaire (enrolled) requests that a section of I-49 in St. Landry Parish be named in honor of the late Representative Charles "Doc" Hudson. As the first African-American legislator elected from St. Landry Parish, Doc Hudson earned great respect from his colleagues in his 12 years as a state representative as well as from the constituency he served. He will be remembered for his commitment, his wisdom, and the dignity with which he faced every issue. Doc Hudson will be sorely missed.

Other measures which named roads or highways include the following:

- C A portion of La. Highway 28 East in central Louisiana is designated as the Korean War Veterans Memorial Highway (**Senate Bill 18 by Senator McPherson-Act 170**).
- C The Lafitte Larose Boulevard will be renamed as the Leo Kerner/Lafitte Parkway in Jefferson Parish (**Senate Bill 267 by Senator Ullo-Act 304**).
- C A portion of U.S. 90 in Calcasieu Parish is redesignated as the Veterans Memorial Highway 90 (**Senate Bill 269 by Senator Cain-Act 305**).
- C A portion of the Interstate 10 will be also named as the Stephen E. Ambrose Memorial Parkway (**Senate Bill 496 by Senator Schedler - Act 315**). Back in 1993, Act 513 named that portion of Interstate 10 which begins at the Texas state line and travels eastward across the state of Louisiana to the Mississippi State Line as the Vietnam Veterans Memorial Highway. The naming of this section of interstate will in no way affect the name of the memorial highway, but will simply also designate a portion as a memorial parkway.

Signage

House Bill 635 by Representative Quezaire (Act 837) provides relative to: (1) the size and placement of certain outdoor advertising signs; (2) specific information on and placement and maintenance of logo signs, including the authorization for DOTD to contract with a qualified third party or parties as was amended into the measure pursuant to the provisions of **Senate Bill 519 by Senator Ellington (pending House-subject to call)**; and (3) the repeal of authority of DOTD to authorize repair or replacement of sign structures on interstate highways granted permits prior to June 5, 1992 and which are determined to be legally nonconforming for failing to comply with spacing provisions in law.

Traffic

Several legislators introduced bills in an effort to inform the public of Louisiana laws on multiple-lane highways that require slower vehicles to be driven in the right lane unless passing another a vehicle or making a left hand turn. As stated in current law, nothing is to be construed to authorize any vehicle in the left lane so as to prohibit, impede, or block passage of an overtaking vehicle, and in such a case, the vehicle must merge into the right lane.

In an effort to inform the public, **Senate Bill 765 by Senate Adley (Act 467)** prohibits a "rolling roadblock" on certain multiple lane highways. The measure makes clear that a vehicle which remains in the passing lane of a multiple-lane highway (which is outside the city limits with a posted speed limit of 55 mph or more), traveling at the same speed as the vehicle in the right lane and impedes the flow of traffic is deemed a "rolling roadblock", which is prohibited. This does not apply to vehicles stopped at a traffic signal or traveling at a slower rate due to traffic congestion as long as the vehicle is not causing traffic congestion. The Act also requires DOTD to install signs on multiple-lane highways reading SLOWER TRAFFIC KEEP RIGHT.

Senate Concurrent Resolution 23 by Senator Cain (enrolled) also requests the Department

of Public Safety and Corrections to inform the public of the law requiring slower moving traffic to drive in the right-hand lane on multiple lane highways and requests enforcement of the law. **House Concurrent Resolution 283 by Representative Wright (enrolled)** requests DOTD to post certain signs along the state and interstate highways and that certain information be included in the knowledge test for issuance of driver's licenses.

House Bill 142 by Representative J.D. Smith (Act 242) requires that vehicles yield to persons who require a wheelchair for transportation who are crossing a street.

SPECIAL PERMITS

Current law provides for the issuance of annual special permits to persons who operate trucks which haul agronomic or horticultural crops and sugarcane, but prohibits DOTD from issuing a special permit to any truck that hauls sugarcane which has not added an additional single axle on the sugarcane trailer for a total of 6 axles for the truck and trailer combination, beginning August 1, 2008. **Senate Bill 152 by Senator Marionneaux (Act 300)** further requires the issuance of such permits to persons who operate vehicle combinations which haul sugarcane or agronomic or horticultural crops and authorizes issuance to either the pulling unit or the trailer or the combination having a minimum of 18 wheels. The permit must be specific to the vehicle that is indicated by the permit applicant upon application.

House Bill 789 by Representative Futrell (Act 527) authorizes any vehicle transporting intermodal containers with an open-top or flat rack with a gross vehicle weight not to exceed 80,000 pounds and axle weight not to exceed 40,000 pounds per tandem axle group shall be eligible for the Class I Ocean Container Permit. All fines and penalties assessed against a vehicle hauling containerized prepackaged products in international trade for failing to provide proof to any law enforcement or weight enforcement officer that the cargo originated from or is destined to an intermodal facility will be waived by DOTD upon submission of satisfactory proof that the cargo originated from or was destined to an intermodal facility.

House Bill 1717 by Representative Walsworth (Act 907) authorizes the DOTD secretary to issue, through the truck permit office, special permits for sealed containerized cargo in international trade intended for exportation within a 50-mile radius of the Port of Ouachita at a fee of \$750 annually. The permit will authorize the operation of a vehicle or combination of vehicles with a total gross vehicle weight not to exceed 90,000 pounds and a tandem axle weight not to exceed 40,000 pounds, and authorize the secretary to impose a civil penalty of up to 5¢ per pound for each violation of this weight limit. The special permit may be issued only for a one year period between July 1, 2004 and June 30, 2005, and the authority of the secretary to issue this permit terminates effective July 1, 2005.

TRANSPORTATION/DEVELOPMENT DEPT.

Transportation and priority reports on current construction projects provides for the order of priorities to be based upon a list of factors which shall be considered, as provided in law. **Senate Bill 28**

by **Senator Dupre (Act 71)** adds as an additional factor the safe evacuation of population when necessitated by catastrophic events such as hurricanes or flooding.

Senate Bill 347 by Senator Smith (Act 308) authorizes DOTD to sell timber which has been cut or felled on state highway rights-of-way. Any proceeds from such sale will be dedicated to the Transportation Trust Fund to be used for maintenance and repair of roads not eligible for federal matching funds provided by the federal highway program.

Senate Bill 841 by Senator Ellington (Act 81) changes the limitation of the design-build program from one that authorizes the construction of one project, at a cost not to exceed \$5 million, to one that authorizes the construction of the new Mississippi River Bridge at St. Francisville (connection to US 61) including approach structures and connecting roadways, which is included in the TIMED program. The secretary may select an additional project to utilize the design-build method at a cost not to exceed \$5 million. The measure also provides for the creation of a primary design-build evaluation committee to evaluate the responses to the notice of intent received by the department, and for the creation of a technical review committee to identify specific technical elements of the project, depending on the characteristics of the project, to be included in the technical scoring of the proposals. The winning proposal must be the proposal with the lowest adjusted score, and provides for the formula under which such adjusted score for each technical proposal is determined.

House Bill 628 by Representative Quezairé (Act 129) changes certain statutory TIMED project descriptions to be consistent with TIMED project descriptions included in the state constitution.

House Bill 638 by Representative Quezairé (Act 163) authorizes DOTD to issue permits for outdoor advertising devices along highway rights-of-way in areas designated in a department forestry management plan. The applications for permits for devices in such areas may be denied if the department plans to reforest the area with trees or other vegetation which would eventually cause the location to be unfavorable for such use.

House Concurrent Resolution 110 by Representative Tucker (enrolled) directs the House and Senate committees on transportation to study the re-creation of DOTD.

PUBLIC WORKS

Senate Bill 4 by Senator McPherson (Act 361) prohibits the state or local entity from entering into any agreement for the purchase of unimproved property which contains provisions related to the successful design and construction phases of a particular construction project prior to the transfer of title, unless authorized. Also the bill was amended to prohibit the letting of contracts for public works by the state or a political subdivision which provide for the purchasing, leasing, or leasing with an option to purchase by the state or political subdivision after completion of the building when such construction was paid for with funds of the state or subdivision. This prohibition will not apply to the activities or contracts of the

following entities: Correctional Facilities Corporation, La. Office Building Corporation, Office Facilities Corporation, La. Correctional Private Management Act.

RAILROADS

House Bill 1329 by Representative Thompson (Act 435) authorizes two or more parishes to create a railroad development district for the primary purpose of promoting and encouraging development of rail service in the area of the parishes involved to stimulate the economy through renewed commerce, industry, and for the utilization and development of natural and human resources of the area by providing job opportunities.

ROADS/HIGHWAYS

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Advertising Signs. **House Bill 635 by Representative Quezairé (pending House concurrence)** would provide relative to the size and placement of certain outdoor advertising signs. Under current law the highest point of a sign may extend to a height of 60 feet, but this measure will allow the highest point of signs placed and erected within 300 feet of a sound barrier wall to extend to a height of no more than 100 feet. Also, by amendment on the Senate floor, the bill included the provisions of **Senate Bill 519 by Senator Ellington (pending Senate-subject to call)** which provides relative to logo signs on interstate highways and certain other highways and authorizes DOTD to contract with a qualified third party or parties for the placement and maintenance of logo signs.

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House Bill 142 by Representative J.D. Smith (Act 242) requires that vehicles yield to persons who require a wheelchair for transportation who are crossing a street.

House Bill 1067 by Representative Flavin (Act 136) authorizes Lake Charles and Calcasieu Parish to employ parade marshals to direct, control, and regulate traffic during parade events, but prohibits the parade marshals from issuing traffic citations.

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Wildlife & Fisheries

by: *Arthur McEnany*
(225) 342-2414

BOATS/BOATING

Senate Bill 710 by Senator Ellington (Act 709) prohibits persons under 16 years of age from operating a personal watercraft unless they have completed a boater safety class.

House Bill 106 by Representative Farrar (Act 238) establishes “no wake” zones around public boat launches and public docking facilities.

House Bill 607 by Representative Jack Smith (failed in the house) would have required all persons under 17 years of age to wear life preservers on all boats under 26 feet.

COASTAL RESOURCES

House Bill 620 by Representative Pierre (Act 217) provides that the proper venue for actions for compensation arising out of oyster lease by a person who has entered into an oyster lease with the state shall only be in the 19th JDC, for the parish of East Baton Rouge.

COMMITTEE STUDIES

Senate Concurrent Resolution 107 by Senator Boasso (enrolled) creates the joint legislative commission on saltwater fisheries and the ad hoc saltwater fisheries advisory board to study and make recommendations to the legislature on revision of the laws and regulations for commercial and recreational fishing interests.

FISH/FISHING

Senate Bills 206 and 853 by Senator Butch Gautreaux (withdrawn from the files of the Senate) would have authorized the commercial taking of red drum and established a commercial quota for red drum caught by legal means.

Senate Bill 254 by Senator Butch Gautreaux (Senate Natural Resources Committee) and House Bill 1172 by Representative Odinet (Senate Natural Resources Committee) would have allowed night fishing for mullet.

House Bill 415 by Representative Jack Smith (Act 831) institutes a moratorium on the purchase of commercial crab trap gear licenses for the year 2005 under certain circumstances.

House Bill 733 by Representative Jack Smith and Senator Butch Gautreaux (conference committee report returned to the calendar) would authorize the Wildlife and Fisheries Commission to adopt regulations for the use of yo-yo devices in certain lakes. The conference committee report amended the bill to allow night fishing for mullet, a measure (HB 1172) that was defeated earlier in the Senate Natural Resources Committee.

House Bill 818 by Representative Odinet (House Natural Resources Committee) would have allowed a limited strike net season for black drum.

FUNDS/FUNDING

Senate Bill 117 by Senator McPherson (Act 174) requires \$2 of any penalty or fine to be paid into the Fish and Wildlife Violations Reward Fund to pay rewards to individuals who provide information on fish and wildlife criminal activity.

HUNTERS/HUNTING

Senate Bill 2 by Senator McPherson (Act 927) is a constitutional amendment to preserve the freedom to hunt, fish, and trap subject to regulation, restriction, or prohibition imposed by law.

Senate Bill 375 by Senator Marionneaux (Vetoed) would have provided for statewide uniformity as to size and number of antlers which an antlered deer must possess in order to be legally taken. Any exceptions to uniformity would have had to be approved by the legislature and no rule or regulation in this regard could have been adopted without formal approval of the House and Senate Natural Resources Committees.

House Bill 606 by Representative Jack Smith (Act 835) provides that a person under the age of 13 may purchase a combination lifetime license for \$50 through June 30, 2006. Also provides that a lifetime hunting and fishing license for persons 60 years of age and older may be purchased for \$50. Changes the Saltwater Fishery Enforcement Fund to the Saltwater Fishery Enforcement Account and places the account in the Conservation Fund and stipulates that monies in the account are to be used to supplement enforcement efforts related to saltwater fishery laws, rules and regulations. Provides that funds received by the department from contributions, donations, or court awards made specifically to the account shall be deposited to the account.

NATURAL RESOURCES DEPARTMENT

Senate Bill 118 by Senator McPherson (Act 613) establishes the White Lake Property Fund in the state treasury as part of the Wildlife and Fisheries Conservation Fund and creates the White Lake Property Advisory Board. This instrument takes away management from the White Lake Preservation, Inc., a non-profit private organization.

PUBLIC LANDS

Senate Concurrent Resolution 24 by Senator McPherson (enrolled) requests the governor to adopt a policy that ensures the public's right to access and use, for both navigation and fishing, naturally navigable waterways owned by the state.

Senate Concurrent Resolution 25 by Senator McPherson (enrolled) requests the governor to direct the state land office to complete an inventory of state waterbottoms and to provide funding to accomplish the task.

WILDLIFE AND FISHERIES DEPARTMENT

Senate Bill 105 by Senator Dupre (Act 297) requires the Wildlife and Fisheries Commission to elect its chairman and vice-chairman at their first meeting in January.

Women & Children

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

WOMEN

Senate Bill 408 by Senator Bajoie (Act 644) creates the Women's Health Commission. The Commission will study issues relating to educating women on women's health and will focus on the delivery of and access to health and social services for women in the state. The commission will also work to identify gaps within the health and social services system which affect access to health care for women. Additionally the commission will study the causes of death of women in Louisiana, efforts available to provide economic security, and address discrimination. The commission will make recommendations to the Department of Health and Hospitals (DHH), or other appropriate state agencies and the legislature in an effort to improve the delivery of services and access to health and social services.

Senate Resolution 143 by Senator Jackson (enrolled) requests the Senate Select Committee on Women and Children to study the prevalence of cervical cancer and human papilloma virus in women in Louisiana. Cervical cancer is the third most common gynecological cancer among American women, with approximately twelve-thousand new cases diagnosed each annually. With regular screening, cervical cancer is highly preventable, and will significantly reduce the probability of mortality from cervical cancer.

House Bill 580 by Representative Dorsey (Act 518) creates the Louisiana Task Force on Violent Crime Against Women. The commission will be an advisory task force to the Louisiana Women's Policy and Research Commission and the governor's Office on Women's Policy, on matters pertaining to the occurrence of violent crime against women. The commission will examine factors which may indicate the actions which women can take which have the highest probability of preventing the occurrence of violent crimes against women. The commission will publish an annual report to be delivered to the Louisiana Women's Policy and Research Commission, along with recommendations for improved cooperation among law enforcement agencies which are charged with the investigation of such crimes.

House Bill 1193 by Representative Karen Carter (Act 795) would create the Equal Pay Commission. The commission will study the wage disparities, in both private and public sector, between men and women and minorities and non-minorities. Additionally the commission will study the causes with factor into wage disparities within occupations traditionally held by women and minorities, as well as occupations such as child rearing, and education. The commission will examine the consequences of such wage disparities, and include actions which may lead to the elimination and prevention of such disparities.

CHILDREN

Senate Bill 164 by Senator Nick Gautreaux (Act 178) provides that sexually violent predators and sexual offenders remain at least one thousand feet away from certain locations. Currently it is unlawful for a convicted sexual predator to reside within one thousand feet of any public or private elementary or secondary school, Act 178 additionally adds day care facilities, playground, public or private youth center, public swimming pool, or free standing video arcade facilities to the provision. No sexual offender whose offense involved a minor child will be eligible for probation, parole, or suspension of sentence unless as a condition of release the offender agrees going in or with one thousand feet of a school, public or private, or the physical presence in any motor vehicle used to transport students when such persons are under the age of eighteen.

Senate Bill 193 by Senator Bajoie (Act 28) provides for the creation of a pilot program from a system of care for the delivery of children's mental health services, to be known as the Louisiana Youth Enhanced Services consortium. On or before June 30, 2005, the Louisiana Youth Enhanced Services consortium shall prepare a recommended plan to the assistant secretary of the office of mental health, Department of Health and Hospitals, for the provision of mental health services to emotionally disturbed children within the jurisdiction of the consortium. Annually thereafter, the consortium shall continue to report recommendations regarding the provision of mental health services to emotionally disturbed children. The consortium will be guided by the following principals:

- (1) Each child should have access to a comprehensive array of services that address their physical, emotional, social, and educational needs.
- (2) Each child should receive individualized services in accordance with the unique needs and potentials of each child and guided by an individualized service plan.
- (3) Each child should receive services within the least restrictive, most normative environment that is clinically appropriate.
- (4) Each child should receive services that are integrated, with linkages between child-serving agencies and mechanisms for planning, developing, and coordinating services.
- (5) Each child should be provided with case management of similar mechanism to ensure that multiple services are delivered in a coordinated or therapeutic manner and that they can move through the system of services in accordance with their changing needs.
- (6) Each child should be assured of smooth transitions to adult systems.
- (7) Each child should receive services without regard to race, religion, national origin, sex, physical disability, other characteristics and services should be sensitive and responsive to cultural

differences and special needs.

Senate Bill 871 by Senator Irons (Act 734) establishes a pilot program consisting of a baseline assessment of the physical fitness of students. Obesity is a problem of epidemic proportions in Louisiana, and the promotion of physical activity during school hours for students may be the first step in combating this problem, as well as change the behavior of citizens towards understanding the health benefits of physical education in children. The purpose of the pilot program will be to:

- (1) To promote, encourage, and motivate children of all physical abilities to participate in physical activity for children to reach their full potential as individuals.
- (2) To promote physical activity and fitness in schools by encouraging innovative physical education programs that consist of physical exertion of a moderate to vigorous intensity level.
- (3) To inform children and their parents about the importance of physical activity and its effect on positive outcomes.
- (4) To increase parental awareness of their children's activity and fitness levels.
- (5) To promote daily physical activity, the enjoyment of physical activity, and the development of lifelong patterns of physical activity.

Point by Point...

by: *Brenda Hodge*
(225) 342-9737

Overview

The 2004 Regular Session of the Louisiana State Legislature continued the work of the special session earlier this year, focusing on building a solid foundation for economic development and job growth through education, job training, ethics and an improved quality of life. And while highly charged debate over controversial social issues often grabbed the headlines, lawmakers also took important steps to reform the state's juvenile justice system; to begin restructuring our health care programs and services; to improve the safety of our communities and our highways; to address needed reforms in local property tax assessments and eligibility for the homestead exemption; to give struggling families the tools they need to succeed and to continue our battle to save Louisiana's valuable coastal areas.

Of course, work on the state's operating and construction budgets continued throughout the session. Despite facing a deficit topping \$500 million in the operating budget when the session began, improved tax collections and a commitment to maximizing the use of available state dollars enabled legislators to avoid drastic cuts in health care and other programs as well as ease the burden of skyrocketing retirement and health insurance costs on our colleges and universities and local school systems.

Money Matters

- C State Operating Budget - Lawmakers approved a state operating budget that totals about \$17.5 billion including some \$6.8 billion in state general fund dollars. The budget basically keeps current state services and programs going. With an eye to setting the right kinds of priorities for state spending, the Senate successfully worked to restore vital funds to the state's charity hospital system, mental health services and substance abuse programs; provided additional funding to ease the burden of rising retirement costs on state agencies; opened up to more participants the New Opportunities Waiver program that provides home and community care for the elderly and disabled; restored funding to the CASA and truancy programs and increased funding for statewide implementation of the highly successful SeniorRX Program that assists the elderly to qualify for low cost and/or free prescription drugs.
- C The Saints Payment - A major consideration when piecing together the state's operating budget was how to meet the state's obligations to the Saints. Lawmakers needed to find \$7.1 million to cover the \$15 million incentive payment due the Saints in July 2004 under the existing contract between the Saints organization and the Louisiana Stadium and

Exposition District. The last day of the session, legislators and the Blanco administration decided to borrow up to \$7.5 million from the Louisiana Economic Development Corporation (LEDC) with a commitment to pay back the funds over 8 years. The LEDC fund, used to provide new and expanding businesses with infrastructure improvements and other assistance, currently has a \$60 million surplus.

- C State Construction Budget - The capital outlay budget outlines the state's plans for state and local infrastructure improvements in the coming year and in future years. While the budget totals some \$4.3 billion dollars, only a portion of that will actually be spent in the coming year. Most of the money that will be spent in the 2004-05 budget year is earmarked for on-going projects or projects that the prior administration committed to begin. Since there is limited cash available for construction needs and a constitutional limit on the amount of bonds that can be sold each year, few "new" projects will get under way this budget year. Concerned that the capital outlay budget is becoming more and more a "wish list" than a workable budget, the Joint Legislative Committee on Capital Outlay and the Commissioner of Administration plan to develop recommendations regarding reform of the capital outlay budget process and funding of projects for non-governmental entities.

Ethics

Key to Governor Blanco's efforts to bring new and expanding businesses to Louisiana is improving the state's image as a good place to do business. To that end, legislators approved a series of measures to remove any perception - whether or not based in reality - that Louisiana is a risky place to do business.

- C Lobbyists & the Executive Branch - Beginning January 1, 2005, persons who are seeking to influence the executive branch as a paid lobbyist are required to register with the state and to report certain expenditures in connection with their work including naming the agency and/or individual when the expenditures total \$50 in any instance, \$250 or more over a six month period or involve a social gathering of more than 25 officials. Public official includes elected officials, appointed members of boards & commissions and employees of the executive agencies. The new lobbyist requirements are similar to those required of lobbyists doing business with the legislature.
- C Campaign Contributions & Legislative Sessions - Legislators agreed to prohibit campaign contributions to members of the legislature and the governor during a regular legislative session and to extend the prohibition relative to the governor until 30 days after the session, the time in which the governor has to act on measures approved by the legislature. The new law also bans the receipt or deposit of campaign contributions during those times.

- C “Third Party” Campaign Contributions - Groups and individuals who seek to influence an election must follow the same rules as a candidate, including the reporting of expenditures within 48 hours during the final 20 days before an election.
- C Illegal Campaign Contributions - Those who illegally contribute to a campaign under another’s name face new penalties. Someone who unknowingly violates the law can be fined the amount of the contribution plus 10%. Knowingly violating the law will jump the fine to twice the contribution amount.

Economic Development

- C New & Expanding Business Negotiations - At the request of state economic development officials and Governor Blanco, lawmakers approved a new law to exempt certain records pertaining to negotiations between the state and a business seeking to locate or expand in the state from the state’s public record laws for up to two years. The governor pushed the measure in an attempt to improve Louisiana’s ability to compete with other states for the new or expanding business.
- C Rural Development & Broadband Infrastructure - The Louisiana Broadband Advisory Council is created within the Governor’s Office of Rural Development. The council will develop and implement a strategy to increase high-speed Internet usage and availability in rural Louisiana, vital to economic development in rural areas.
- C Louisiana Economic Development Council - In an effort to give women and entrepreneurs more of a voice in the state’s economic development efforts, lawmakers added two members to the council to represent those interests. The council is also given the authority to establish a new subcommittee to focus on women and minority business concerns.
- C Rapid Response Fund - The state operating budget sets aside \$10 million for state economic development officials to commit to infrastructure improvements and other needs of new and expanding industry in the state.
- C River Pilots Regulation - Lawmakers finally approved a major overhaul of the current system relating to river pilot fees and oversight regulations. Businesses pushed the reforms claiming that the number of pilots and their fees have been deterring business at the state’s ports. The reforms include the creation of one fee commission and one oversight commission to regulate the four different pilot groups. The eleven member commissions will be composed of pilot and business representatives as well as independent members. The oversight commission will have some ability to reduce the number of pilots through attrition. The pilots will no longer be able to require reimbursement from industry for the costs of pilot lobbyists and political contributions. The meetings will be opened to the public.

- C International Development Banks - In an attempt to expand the availability of large-scale commercial and industrial loans to Louisiana businesses, legislators changed state law to allow foreign banks to establish branches in Louisiana under the supervision and review of the Louisiana Office of Financial Institutions.
- C Quality Jobs
 - C Contract Employees - Governor Blanco vetoed a legislatively approved change in the state's Quality Jobs Act - an act that provides tax rebates worth up to 6% of payroll to companies that hire new workers at certain salary and benefit levels - to make companies that hire contract workers eligible for 80% of the allowed tax breaks. The change is a move to respond to the growing trend in business to "contract out" certain aspects of their operations. The contract workers tax break would not apply to construction workers.
 - C Small Employers - Governor Blanco signed a small change in the Quality Jobs Act to allow small employers currently eligible for tax breaks under the program to get the tax break even if only 50% of the health premiums for new hires are covered.
- C Health Care Workforce Development - Legislators set aside \$3 million to provide training for jobs in the health care industry. There are approximately 10,000 openings in the allied health area with an estimated annual payroll totaling over \$200 million. The money set aside for additional training of health care workers should provide needed training for about 400 workers.
- C Regional Research/Development Parks - To promote cooperative efforts among local governments, business interests, universities and others, legislators created the Louisiana Research and Development Council to promote the establishment of regional and research parks. One such effort is already underway in Lafourche Parish which will focus on maritime technology and research.
- C Consumer Credit Businesses - Concerned about the decreasing number of consumer credit businesses offering loans to high risk customers in Louisiana, legislators agreed to change state law to allow for the repossession of vehicles and other consumer items without going through local law enforcement and the judicial process. Creditors, auto dealers and other retailers claimed the old system was too costly and lengthy. The new law still requires some filing fees when the notice of repossession is recorded, but the costs are substantially reduced. There are also protections for the consumer with required licensing of repossessioners, proper notice of the pending repossession to the consumer and prohibitions against unlawful entry.

- C Agricultural and Seafood Products Support Fund - Voters will have a chance to change the State Constitution in the November statewide election to create a special fund to support the agriculture and seafood industry. Any money the state receives from licensing of trademarks or labels promoting Louisiana agricultural and seafood products will go into the fund. The Louisiana Department of Economic Development will oversee use of the money to help support and expand the farming and fisheries industries in the state.
- C “Business Friendly” Coastal Permits - The state’s coastal management program is set to be revised to streamline the process for applying for a coastal use permit. Applicants will be allowed to post their intentions for development in a local newspaper rather than contacting landowners that might be affected by the project. Additional Natural Resources Department staff will also be available to review the permits, licenses and regulations.
- C Local Government Fair Competition Act - Creates a system to oversee and govern parish and municipal governments who want to set up telecommunication companies to compete with private industry. Currently there are no regulations or restrictions. The Public Service Commission will be the watchdog group for the public ventures.

Taxes

- C Tax Commission Reforms -
 - C At the urging of Governor Blanco, the legislature increased the membership of the tax commission from three to five members with all of the members selected from separate public service commission districts when the change is fully implemented in August, 2008.
 - C Both members of the commission and local tax assessors who own property must file reports on the property they own and the assessment of such property.
 - C The Louisiana Tax Commission will create a statewide tax assessment data base including the property location, assessment, homestead exemption amount and classification that will be available on the Internet. A number of parishes have volunteered to participate. Any parish with a population of more than 75,000 is required to participate. The initial data base should be up and running by October of this year.
- C Homestead Exemption Issues-
 - C To qualify for the homestead exemption in a given year, the taxpayer must own and occupy the home on or before November 15th of the year in which the exemption is claimed. Orleans Parish is exempt.
 - C In the November statewide election, voters will have an opportunity to clarify the

constitutional provisions relative to how one qualifies for the homestead exemption. The clarification is in response to an attorney general's ruling and a legislative audit report that questioned the granting of homestead exemptions to surviving spouses without minor children. The proposed change in the constitution would basically tie eligibility for the homestead exemption to whether or not the taxpayer owns the home and whether or not they occupy the home.

- C Local Taxation of Off-Road Diesel Fuel - Concerned about the growing practice of local governments to use a loophole in state law and the State Constitution to tax certain diesel fuel and the impact of the tax on heavy users of such fuels, legislators prohibited such local taxation unless the political subdivision has been collecting the tax since January 1, 1975.*In July 2004, the Louisiana Supreme Court ruled that local governments cannot tax off-road diesel fuel used to power equipment in a case involving Plaquemines Parish and Ocean Energy Inc., an oil and gas exploration and production company.
- C Tax Increment Financing - Expands the use of Tax Increment Financing to all parishes except Rapides Parish and a specific project in Shreveport. Tax increment financing allows a government to use the taxes generated by an economic development project to finance construction of the project through the sale of revenue bonds.
- C Cigarette Papers Tax - What started out as a limited measure affecting one parish, ended up authorizing some 35 parishes and two municipalities to increase the tax on cigarette rolling papers by \$1.50 with the revenue set aside for anti-drug and youth programs. The current tax is \$1.25 a pack. The authorized increase in Orleans Parish, with a current tax of \$1.00 is fifty cents.

Elementary & Secondary Education

- C Dollars & Cents -
 - C Minimum Foundation Program - The program is fully funded. \$2.6 billion, an increase of about \$61.5 million over the 2003-2004 budget year, is set aside for support of local school systems. About one-half of the increase is set aside for teacher pay increases in every parish. The actual amount available will vary from parish to parish with the local officials deciding how to apply the pay raise funds. The teacher pay raises are expected to range from \$118 to \$619 a year. The rest of the increased funding will be available to help with increased costs of operations.
 - C Operational Costs - School systems across the state are facing about \$182 million in increased costs associated with payments to the teachers and school employees retirement systems and health insurance programs. A change in the way the

retirement systems will have to address recent declines in investments and some of the increased MFP funding will ease the burden somewhat, but many school systems will still have problems. The retirement system change saves school systems about \$52 million, but also increases interest owed on the retirement debt in future years.

- C Continued funding (\$49 million) for the public and private pre-k program for at risk four year olds.
- C Continued funding for the Accountability Program (\$52 million) including increased funding for the High Stakes Remediation and Testing Program (\$1.3 million).
- C Restores state funding for adult literacy & after school enrichment programs that were previously funded with TANF funds which are no longer available.
- C Local School Boards & Superintendents - Limits the authority of local school boards over the superintendent in school systems that are academically in crisis, systems with 30 or more failing schools. The measure keeps the school boards more in a supervisory role with the superintendent overseeing the day by day operations of the schools. Currently the measure only applies to Orleans Parish.
- C Distinguished Educators - Concerned about the loss of highly skilled, effective teachers from particular parishes to the state's distinguished educator program, the legislature decided to limit to 10% the percentage of teachers that can be drawn from a single school district into the program. Distinguished educators, who get a 35% pay hike, are placed in struggling schools to improve student and school performance for at least two years and as long as six.
- C High School Certificates - Governor Blanco vetoed the bill that would have sets up a statewide policy to issue a student a "certificate" who completes all of the requirements for high school graduation except for the graduate exit exam. The governor was concerned about hurting efforts to improve public schools and diminishing the accomplishments of students who earn a diploma. BESE is already studying options for high school students who do not plan to attend college.
- C School Anti-Hazing Policies - Requires public school boards to establish and enforce anti-hazing policies. The policies must include definitions, methods of filing complaints and conducting investigations and penalties.
- C Student Obesity & Health - Sets up a three year pilot program and study of physical activity and nutrition in schools. As part of the nutrition study, which will involve 7th, 8th,

9th and 10th graders in 8 schools around, 50% of the vending and beverage machines in the schools will offer healthy alternatives beginning with the 05-06 school year. Schools participating in the physical fitness program are eligible for awards for outstanding programs. Elementary schools are required to comply with existing state law requiring at least 30 minutes of physical activity each day. Data will be gathered from all schools to track the impact of the physical activity and alternative nutrition programs in the participating schools.

- C Adult Literacy - With almost one-third of the adults in Louisiana with low literacy skills, the legislature created the Adult Learning Task Force to make recommendations on how to better educate adults in the state, improving their quality of life and job skills. The task force must report to the legislature by the end of January 2005.

Higher Education

- C TOPS -
 - C Fully funded at over \$113 million including funds to cover the 3% tuition increase planned at most institutions. Expected to serve over 41,000 students in 04-05.
 - C Some minor changes in requirements and eligibility including allowing certain students with high IQ's who have not obtained a high school diploma to get the tuition assistance; a change in the computer course requirements adopted last year and approval of AgriScience I & II courses as science electives.
 - C Change in the way TOPS funds are used to pay for costs so that students may use the funds to cover any cost of attendance rather than applying the funds to tuition. The new option can make parents and independent students eligible for federal education tax credits.
- C Dollars and Cents -
 - C \$30.8 million additional funds provided to meet increased costs associated with health insurance, retirement and merit pay increases.
 - C 4% Operational Fee - Authorizes a 4% operational fee at the various institutions to help meet the \$17 million shortfall in operational needs even with the additional state funding. The additional fee will not be covered by TOPS and will mean \$28 to \$156 in increased fees annually depending on the institution. Hardship waivers are available for students who cannot afford the increase. Any revenue generated over and above that needed to cover operational costs will have to be used for instruction and cannot be used for salaries.
 - C Community Colleges Enrollment Growth - \$5 million

- C Library and Scientific Equipment Acquisitions - \$12.4 million
- C Endowed Chairs & Professorships - \$4.6 million
- C Additional funds for various research programs connected with economic development.
- C Sports Agents - A measure was adopted to crack down on sports agents' contacts with athletes at colleges and universities as well as high schools and middle schools.
- C Private Foundations & Payments to Higher Education Officials - Requires disclosure of and approval by a management board of any payment over \$1000 to any higher education employee by a foundation.

Health Care

Feared devastating cuts in charity hospital services, teaching hospitals, mental health programs, addictive disorder treatment services and various Medicaid reimbursements were avoided. Immediately after the session, the Governor's Health Care Reform Panel began work on the variety of health care challenges facing the state in the coming budget year. The panel will work with regional advisory groups established by the legislature to recommend reforms to Louisiana's health care system, services and programs.

- C Federally Qualified Health Centers & Rural Health Clinics - Requires DHH along with various health care associations to develop a statewide plan to expand current and create new federally qualified health care centers and rural health clinics. The centers, operated at the community level by non-profit groups involving patients, promote primary and preventative care and lessen dependence on expensive emergency care. Compared to other states, Louisiana has relatively few such centers which are financed with federal funds.
- C Primary Care Physicians - Expands the state's existing program that encourages primary care physicians to practice in underserved areas. Offers grants for medical education to 15 students who are required to practice in underserved areas for at least five years.
- C LaChoice - This is the first step in setting up a pilot program to assist small business groups and individuals to get health insurance. If finally approved by the federal government the initial part of the program would provide about 3000 citizens who work in small businesses that do not provide health insurance coverage the opportunity to buy insurance coverage with state assistance. This phase is scheduled to begin in April of next year and cost about

\$3.7 million.

- C Limited Benefits Health Coverage - Allows companies to offer limited coverage health insurance policies - policies that do not include certain state mandated benefits - to individuals and small businesses. The companies must clearly disclose that the policy includes limited benefits and must give policy holders the right to add benefits. 46% of the small businesses in Louisiana do not offer health insurance to their employees.
- C Childhood Immunizations - Beginning January 2005 for new policies and January 2006 for existing policies, insurance companies cannot require a deductible be paid for childhood immunizations required by state law from birth to age 6.
- C Louisiana Emergency Response Network in DHH - To establish comprehensive statewide access to records and resources for trauma patient care throughout the state. In Louisiana, death rates due to trauma are 40% higher than the national average.
- C Louisiana Diabetes Initiative Council - To develop a plan for prevention, treatment and education regarding diabetes and to gather data on the impact of the disease in Louisiana.
- C Louisiana Youth Enhanced Service Consortium - To devise a plan to provide comprehensive mental health services for emotionally disturbed children in Orleans, Jefferson, Plaquemines, St. Bernard and St. Tammany Parishes.
- C Nursing Home Residents' Rights - Includes in the Nursing Home Residents' Bill of Rights a requirement that nursing homes notify all applicants that they may receive a copy of the annual licensing survey results for the facility as well as the telephone number to report complaints. Known as "The Stella Act" in honor of a West Monroe woman whose family claimed she was mistreated in a nursing home facility.
- C Prescription Authority - Legislators agreed to allow medical psychologists, after consultation with a patient's primary physician, to prescribe certain drugs to treat mental and emotional disorders. They also agreed to allow physician assistants who meet training and work experience qualifications to prescribe drugs with the permission of the supervising physician. Louisiana was one of only three states that did not allow such authority for the physician assistants.

Highway Safety

- C Motorcycle Helmets - Reinstates law repealed in 1999 that requires motorcycle riders to wear helmets.

- C Open Container Ban - Establishes a statewide ban on open containers of alcoholic beverages in motor vehicles with certain exceptions for riders on parade floats and courtesy vehicles like limousines. The open container ban, however, does not meet the federal open container ban requirements that would allow the use of some \$10 million a year in federal funds for highway improvements, money that in recent years has been diverted to highway safety programs.
- C DWI Database - In an attempt to crackdown on repeat DWI offenders, the legislature agreed to implement and maintain an electronic database of all DWI offenders in all jurisdictions. \$300,000 is set aside to implement the data base. Lawmakers also agreed to establish an impaired-driver tracking system as part of the state's Integrated Criminal Justice Information System which is currently under development.
- C DWI Offenders
 - C Interlock Ignition Devices - As a condition of probation, any person charged with a second or subsequent DWI offense or a related crime must install an ignition-interlock device in his or her vehicle.
 - C Vehicular Homicide - Legislators increased the minimum jail time for the crime of vehicular homicide from two to five years. The increased sentence applies to offenders with previous DWI arrests or a blood alcohol level of .15 or higher.
- C Rolling Road Blocks - Penalizes drivers who block flowing traffic by two vehicles traveling at the same rate of speed preventing passing of the vehicles. Requires "slower traffic keep right" signs on multi-lane highways.
- C Motorized Scooters & Wheelchairs - Legislators approved two measures relating to the use of motorized scooters, wheelchairs and devices like the Segway. One measure allows the disabled, with a doctor's prescription, to drive the motorized device on a roadway or sidewalk. Another measure, approved after the first measure, bans low powered motor scooters from sidewalks unless allowed by a local or parish government. There are also minimum standards for the use of scooters in those parishes that approve their use including a ban on night time operation and a requirement that riders under 18 must wear a safety helmet.
- C Drivers' Permits - Beginning September 1, 2003 a new driver under the age of 17 must maintain his/her learning permit for 180 days rather than 90 days before moving to an intermediate license.
- C Traffic Control Devices - To insure that a new technology used by emergency personal to

control traffic signals is not abused by non-emergency personnel, legislators approved a measure setting a \$5,000 fine and up to one year in jail for the misuse of the devices.

Children & Family

- C Same Sex Marriages - A proposed change in the State Constitution that will be considered in the September statewide election to define marriage as the union of one man and one woman and forbids the state to recognize any other kind of marriage or civil union from another state.
- C Covenant Marriage - Requires covenant marriage couples seeking a divorce to participate in on-going counseling until the divorce is finalized. The counseling requirement will not apply if one spouse has sexually or physically abused the other spouse or a child of one of the spouses.
- C Child Support - Non-payment of child support for at least one year or owing \$5,000 or more in back payments would be a crime punishable by jail time and fines if the Governor agrees to the legislature's change in state law; Another measure allows the state to suspend certain registrations for recreational vehicles and boats for nonpayment of child support.
- C Illegitimate Children Designation - Removes all references to legitimate or illegitimate children and replaces the designations with a child born of marriage and a child born out of marriage.
- C Teenage Work Hours - With the permission of parents and school principals, seventeen year olds will be able to work until midnight on schools nights and sixteen year olds will be able to work until 11 PM. Local curfew laws can supersede the extended work hours. The law now limits teen work hours to 10 PM on school nights.
- C Welfare & Job Training - Extends the two year limit on welfare payments to those who are involved in job training or continuing education. Eligible families will also receive more supervision and help in complying with their Family Success Agreements.
- C Women's Health Commission - Created within DHH to study issues relating to the health of women and educating women on women's health issues.
- C Home Ownership - Legislators created a task force to study regional and statewide housing and community development needs and to make recommendations to the legislature to promote home ownership by more Louisiana residents.

Public Safety & Corrections

- C Indigent Defense - The Louisiana Task Force on Indigent Defense is reenacted to review funding and operation of the system. To ease a shortage of attorneys available for indigent defense, legislators removed the requirement that the attorney live in the judicial district.
- C Sex Offenses - Establishes voyeurism as a new category of sex crime with a 2nd offense a felony; Bans convicted sex offenders on probation or parole from living within 1000 feet of a playground, day care, youth center, recreational facilities or schools; Requires convicted sex offenders teaching “recreational” courses to youth under the age of 17 to post a notice of their conviction at the site.
- C Murder Investigations & Prosecutions- Allows prosecution to proceed in the jurisdiction in which the body was found when the location of the crime cannot be determined; Includes the murder of a witness or a member of a witness’ immediate family in the definition of 1st degree murder; Requests state police to develop procedures and plans to coordinate investigations regarding suspected serial killers or unsolved murders.
- C Sexually Explicit Vehicles/Videos - Outlaws the showing of sexually explicit materials in a motor vehicle that are visible to other motorists or pedestrians.
- C Tinted Windows Crackdown - Crackdown on window tinting that prevents law enforcement officials and others from seeing into the vehicle. Requires a medical excuse with the description of the illness requiring the darker tint to be kept in the vehicle and prohibits the darker tints on vehicles owned by convicted violent criminals.
- C Firearms & Parades - Increases penalties for crimes committed with an illegal firearm within 1,000 feet of a parade route to a prison sentence of one to five years and a \$2000 fine.
- C Street Sports - Bans sports activities and other group functions from blocking a road, right of way or private driveway and levies a \$25 fine. This ban expires July 1, 2005.
- C Juvenile Justice Reforms - Creates youth services as an independent organizational unit in the Department of Public Safety and Corrections to focus on alternatives to incarceration and community based intervention programs; Creates Youth Services Planning Boards to assist with the implementation of the juvenile justice reforms; Redirects funds previously set aside for juvenile jails to alternative services.

Gambling Issues

- C Video Poker - Several measures approved by lawmakers address licensing requirements for video poker establishments including a new definition of what is considered a restaurant for licensing purposes and a change in current law to allow an applicant’s compliance with

restaurant requirements to be considered in the licensing process, but not to be a determining factor. Another measure gives an exemption from fuel sales requirements to video poker truck stops that experience a drop in fuel sales due to situations beyond their control such as road construction.

- C Professional Service Contracts - Requires those with a gaming license, except video poker licensees, to file quarterly reports detailing their professional service contracts. The reports are public record.
- C Racing Commission - One measure increases the members of the Louisiana State Racing commission to include four more members representing Calcasieu, St. Landry, Bossier and New Orleans. Another measure prohibits a member of the commission from owning a horse that races in Louisiana.
- C Campaign Contributions - Clarifies the state prohibition against campaign contributions to Louisiana candidates from gaming interests to allow contributions to political committees affiliated with a recognized political party in another state which does not support or oppose a Louisiana candidate.
- C Indian Gaming - Requires Indian tribes and the Governor to notify parish governing authorities and legislators within 15 days after negotiations begin regarding a gaming compact for an Indian casino at a specific location. Officials in both the parish in which the casino is to be located as well as officials in adjoining parishes must be notified.

Elections

- C Poll Commissioners - Beginning January 2005, Parish Boards of Election Supervisors may assign poll commissioners half day shifts with the commissioners receiving half pay when there is a shortage of poll commissioners in the parish. The authority ends January 2007.
- C “Independent Voters” - Allows an “independent” voter to vote in the state’s presidential primary election, if the central committee of the recognized political party agrees to allow such voting. A no party voter could only vote in one primary.
- C “Minor” Candidates - Allow candidates representing minor political parties to have the party name listed on the election ballot if the minor parties have 1,000 or more registered voters in Louisiana. Other candidates with no political party affiliation or those affiliated with political parties that do not meet the registered voter standard will still be listed as “no party”.
- C Candidate Qualifications - Require candidates for elected office to sign a certificate

declaring that they owe no finally determined outstanding fines, fees or penalties totaling \$250 or more under the state's Campaign Finance Disclosure Act. Sets up a system to disqualify the candidate if the candidate's declaration is false.

Government Reform & Operations

- C Public Records - Allows minors to obtain copies of public records which puts Louisiana in line with other states. The change in the law was prompted by a LaSalle Parish high school student whose attempts to review records of the parish school board were denied.
- C Constitutional Amendment Language - In attempt to make proposed changes in the State Constitution more user friendly, the Secretary of State must now word the proposed amendment that will appear on the ballot in clear, concise, simple and unbiased language. The wording will be approved by the Attorney General.
- C State Energy Contracts - Sets up a system to better monitor and review performance based energy contracts, contracts in which companies provide government entities with equipment upgrades such as light fixtures and air conditioning units that are to be paid for by the resulting energy savings. The state has already entered into about \$200 million worth of such contracts. Companies must now provide the state with a detailed breakdown of the equipment upgrades and expected energy savings.
- C State Contracts & Proposals - Beginning in October of this year, state executive branch agencies seeking bids or proposals under the procurement code must post the requests on the Internet or an electronic site coordinated through the Division of Administration.
- C Retirement Systems -
 - C In an effort to deal with reduced interest earnings on investments and the impact on the unfunded accrued liability facing the retirement systems, legislators agreed to extend the payments on the newly acquired debt for LASERS, the Teachers' Retirement System and the School Employees Retirement System from 25 years to 30 years. The change saves school systems about \$52 million and the state about \$25 million in the 2004-05 budget year.
 - C Various measures also address the operations of the retirement systems including requiring the legislative auditor to audit and study the relationship between investment advisors, consultants, managers and state retirement board members; mandating additional continuing education for board members to include education on the rules and regulations governing the board; requiring the four state public retirement systems to abide by state policies regarding travel, contracts and procurement; requiring the various systems to submit quarterly and annual reports

on their efforts to better utilize Louisiana brokers and dealers for their investments; requiring each state and statewide public retirement system to submit operating budgets to the Joint Legislative Committee on the Budget for review and approval; and requiring persons doing business or seeking to do business with a retirement system to file reports disclosing certain expenditures on board members and employees.

C Early Retirement and Payroll Reduction Act of 2004 - allows for the early retirement of a LASERS member at age 50 with 1- to 15 years service between now and December 31, 2006 at a reduced benefit. The employees position would then be eliminated with some exceptions.

C Veterans

C Civil Service Employment - Veterans who have served in the armed forces for at least 90 days after September 11, 2001 will be eligible for a hiring preference when applying for civil service or state police jobs if voters agree to a change in the State Constitution in the November statewide election. Veterans who have served in a congressionally declared war already are eligible for the hiring preference.

C Auto Insurance Protections - Auto insurance companies in Louisiana cannot refuse coverage or increase premiums on policies issued to those serving in the military who are seeking to reinstate their insurance after deployment out of state. Companies must also offer active military personnel serving in Louisiana a 25% premium discount. The companies will be eligible for a premium tax rebate in exchange for providing the discount.

C Out-dated Laws - Repeals various segregation area laws relating to the governor's powers to close schools and protect property.

C State Boards & Commissions - Requires due consideration of the demographics of the state including geography, gender and race when making appointments to state boards and commissions.

C Martin Luther King, Jr. Holiday - Makes the third Monday in January an official state holiday rather than just an optional one to be declared by the governor.

C Ronald Reagan Honors - Declares February 6th Ronald Reagan Day in Louisiana and names a portion of U.S. Highway 190 in honor of Ronald Reagan.

C Pay Raises - Despite a great deal of talk about pay raises for various elected officials, the

only major pay raises approved at the session were for certain parish clerks of court and assessors. The salary changes relate to parish population growth and are financed by self generated revenues.

- C Smoking Bans & Public Buildings - Legislators approved a resolution directing the Governor as well as House and Senate officials to ban smoking in the State Capitol. They also banned smoking in the UNO Lakefront Arena.

Natural Resources/Wildlife & Fisheries

- C “Hog-Dog” Fight Ban - Prohibits events that pit hogs against dogs in which it is intended or can be reasonably foreseen that the dogs or hogs will be injured, maimed, mutilated or killed. The ban applies to organizing, promoting, advertising or attending such events.
- C Right to Hunt, Fish & Trap - Proposed change in the State Constitution to guarantee the right of Louisiana residents to hunt, fish and trap. Eight other states already have such constitutional protections.
- C Senior Hunting and Fishing Licenses - Sets up a new lifetime license for citizens 60 years of age and older at a cost of \$50.
- C White Lake Preserve - Removes management of the 71,000 Vermillion Parish Preserve from the private cooperation set up by BP Amoco which donated the property to the state and Governor Foster to a state board under the jurisdiction of the Department of Wildlife and Fisheries. Also establishes a dedicated fund to receive any monies generated by the preserve, such as agricultural lease payments.
- C Personal Watercraft - Raises the legal age for the operation of a personal watercraft from 13 to 16. Beginning January 1, 2005, persons at least 13 years of age and not yet 16 can operate the watercraft after the completion of an approved boating safety course.
- C Shrimping Industry/Anti-Dumping Fight - Legislators agreed to establish a new series of fees on shrimpers and seafood dealers to help fight the dumping of foreign shrimp in U.S. markets and to otherwise promote and protect the domestic wild-caught Louisiana shrimping industry. The state has also committed to setting aside about \$350,000 to help in the fight.
- C Aquaculture Coordinating Council - Legislators created this council under the control of the Department of Agriculture and Forestry to promote the development of aquaculture in Louisiana. The council’s efforts will be in cooperation with the Department of Wildlife and Fisheries to insure that the development of the industry does not threaten native

species in the state.

Coastal Issues

Over the last 100 years, Louisiana has lost about one million acres of coastal land. We are expected to lose another 300,000 plus acres by the middle of this century.

- C Quick Take Authority - With the support and cooperation of landowners' groups, lawmakers gave the Department of Natural Resources the authority to take possession of land needed in connection with coastal restoration projects without a lengthy court process. The authority also extends to land already tied up in the legal process.
- C Barrier Islands Stabilization - Legislators approved a series of proposals relating to the barrier islands including the establishment of a barrier islands stabilization and preservation program that sets up a priority system for projects with legislative oversight. Included in the program is the authority for the state to operate high powered dredges throughout the year to replace sand lost by storms and other environmental factors. A companion measure establishes the Barrier Islands Stabilization and Preservation Fund to receive any appropriations or private donations to support the dredging program.
- C Coastal Use Permits - Requires DNR to consider an applicant's past history of compliance with the state's coastal resources program when deciding whether to issue a coastal use permit.

Other Issues

- C \$17 million set aside for the some 6,000 miles of roads that do not qualify for federal funding, the first such funding in several years.
- C Highway Priority Program - Require consideration of the safe evacuation of the population in the event of an emergency or natural disaster when deciding how to allocate limited highway dollars.
- C License Plates - Legislators approved several measures dealing with regular and prestige license plates including a mandate to the state to start re-issuing military and veteran's license plates that have been put on hold as the result of a court ruling relating to prestige license plates in general with the \$25 extra charged for the plate to support the military organization; the creation of a new NASCAR license plate; the creation of the LSU National Champions and the SU Black College National Championship prestige plates with \$25 from the sale of each plate to support scholarship funds for need students at each institution; a directive to state motor vehicle officials to begin again the use of the pelican on license plates, a practice last stopped in 1993.

- C Increased the motor vehicle inspection fee by \$5 in the ozone non-attainment parishes in the Baton Rouge area.
- C Insurance rates - Allows insurance companies to submit rate increases for business property and casualty insurance with the rate increase taking effect within 45 days unless the insurance department steps in.
- C Gift Certificates Regulations - Prohibits the issuing of gift certificates with an expiration date less than five years. Gift certificates without an expiration date will be valid until redeemed or replaced. The new requirements do not apply to certificates provided to non-profit and charitable organizations for fund raising purposes.
- C Do Not Call Lists - By January 1, 2006, the Public Service Commission will combine the state's Do Not Call list with the federal Do Not Call list to make it easier for consumers and businesses.
- C Funeral Insurance Policies - Clarifies state law to state that the burial policies obligate funeral homes to provide services up to the stated dollar amount of the policy.
- C Official Designations - St. Mary Parish officially becomes the "Gateway to the Atchafalaya Basin, home of some of the best bass fishing tournaments in the world" and the official state cuisine is now gumbo.