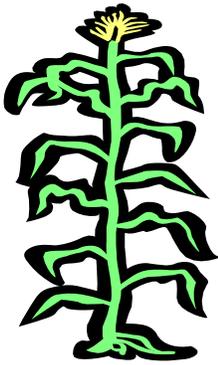


Final Edition of 2006 Session Highlights

Agriculture/Rural Development



by: *Todd Parker*
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AGRICULTURAL AND SEAFOOD PRODUCTS SUPPORT FUND

Senate Bill 7 by Senator Nevers (Act 558) changes the name of the Agricultural Product



Support Fund to the Agricultural and Seafood Products Support Fund. This was done to conform the statutes with the constitutional provisions regarding the Agricultural and Seafood Products Support Fund. This fund consists of money which is derived from the sale of trademark licenses, grants, gifts, and donation received by the state for purpose of promoting Louisiana agricultural and seafood products.

ALTERNATIVE FUELS

House Bill 685 by Representative Thompson (Act 313) requires the use of a certain percentage of alternative renewable fuel when the production of such fuel reaches a specified threshold. Specifically, when monthly annualized production of denatured ethanol produced in the state exceeds 50 million gallons then 2% of the gasoline sold by volume in the state shall be denatured ethanol produced from domestically grown feedstock or other bio-mass material. Additionally, when monthly production of bio-diesel produced in the state exceeds annualized production of 10 million gallons then 2% of the total diesel sold by volume in the state shall be bio-diesel produced from domestically grown feedstock. In the event that another alternative renewable fuel capable of substituting for ethanol or bio-diesel produced in the state exceeds annualized production of 20 million gallons then 2% of the total motor fuel sold in the state shall consist of the alternative renewable fuel.

Senate Bill 454 by Senator Ellington (Act 656) creates the “Louisiana Renewable Fuels Production Accountability Act”. It provides that beginning on July 1, 2006, there shall be a presumption that renewable fuel plants which operate in the state and which derive ethanol from the distillation of corn shall use as feedstock at least 20% of the corn crop harvested in Louisiana. It

requires that the minimum percentage in succeeding years be at least the same as the percentage of corn used nationally to produce renewable fuels as reported by the USDA's Office of the Chief Economist. Beginning on July 1, 2006, there shall be a presumption that renewable fuel plants operating in the state which derive biodiesel from soybeans and other crops shall use as feedstock at least 2.5 % of the soybean crop harvested in the state. It requires that the minimum percentage of harvested soybeans presumptively used to produce renewable fuel in Louisiana facilities be the same percentage of soybeans used nationally to produce renewable fuel as reported by the USDA's Office of the Chief Economist. As to additional crops used in production of renewable fuels at Louisiana facilities, there is a presumption that such plants will use Louisiana harvested crops in a percentage rate at least equal to the percentage of the crop's usage nationally in the production of renewable fuels as reported by the USDA's Office of the Chief Economist.

The legislation also provides that the provisions of **Act 313** relative to ethanol shall not be effective until six months after the average wholesale price of a gallon of Louisiana-manufactured ethanol, less any federal alcohol fuel mixture tax credit, is equal to or below the average wholesale price of a gallon of regular unleaded gasoline in Louisiana for a period of not less than 60 days, as determined by the La. Bio-Fuel Panel.

Senate Concurrent Resolution 10 by Senator Nevers (enrolled) requests the Department of Economic Development and the Department of Agriculture and Forestry to promote the use of alternative fuels and provide incentives for companies and consumers who use alternative fuels.

ANIMAL CRUELTY

Cockfighting is currently prohibited in all but two states— Louisiana and New Mexico. Several bills this session attempted to prohibit the practice of cockfighting, including **House Bill 120 by Representative Richmond (House Agriculture)**, **Senate Bill 124 by Senator Lentini (Senate Agriculture)**, and **Senate Bill 652 (involuntarily deferred— House Agriculture) by Senator Lentini**. **Senate Bill 652** would create a separate crime of cockfighting which would prohibit anyone promoting or conducting a cockfight, possession of a fighting bird at a cockfight, possession of a cockfighting weapon, amputation of comb or wattles, breeding or importation of fighting birds, transportation of a fighting bird over across a parish line being employed at a cockfight, or attending a cockfight.

House Bill 1146 by Representative Triche (Act 228) amended the definition of what constituted an animal for the purpose of cruelty to animals. This legislation broadens the definition of animal to include certain types of birds such as parrots, lovebirds, macaws, cockatiels, starlings, and sparrows.

Senate Bill 574 by Senator Murray (pending Senate Agriculture) would have made changes in the way an interested person can post a bond in the event an animal is confiscated under charges of neglect. The legislation would have allowed the judge setting the bond the ability to modify the bond amount to reflect actual holding costs of the animal confiscated, and provide other

conditions as determined to be reasonable, including the use of alternate holding facilities to house the animal.

CATFISH

Two pieces of legislation this session attempted to protect Louisiana catfish farmers from foreign competition. **Senate Bill 558 by Senator Ellington (pending House Agriculture)** and **House Bill 1079 by Representative Thompson (pending House Agriculture)** both carefully would have defined catfish such as to exclude species such as the *Pangasius bocourti*, also known as the Vietnamese basa catfish.

CRAWFISH

House Bill 1035 by Representative Frith (Act 21) removes the restrictions on the Louisiana Crawfish Promotion and Research Board concerning the disbursement of funds collected by the board. The legislation allows the board to use all of the funds collected for the purposes of advertising, promotion, and marketing rather than only 60% of the funds that is mandated under current law.

House Bill 1034 by Representative Frith (Act 293) requires an assessment of one cent per pound on all crawfish tail meat sold in the state if the assessment is approved by a referendum vote by a majority of crawfish tail meat producers in the state. If approved, the assessment would be collected and paid at the first point of sale in Louisiana by the producer or distributor doing business in the state.

DOMESTIC ANIMALS

House Bill 772 by Representative Crowe (Act 771) creates the Louisiana Pet Registry to be administered by the Louisiana Animal Welfare Commission which allows owners of animals, for a nominal fee of \$15, the ability to register their animal with the commission. In addition, **Senate Bill 607 by Senator Fontenot (Act 615)** requires the governor's office of homeland security and emergency preparedness to assist each parish office of homeland security and emergency preparedness in the formulation of emergency operations plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in times of emergency or disaster.

FORESTRY

Senate Bill 565 by Senator Fontenot (pending Senate Agriculture) would have required any logging company to secure permit from the office of forestry for each logging job conducted in the state.

House Bill 336 by Representative Montgomery (pending Senate Agriculture) would have authorized the commissioner of administration to adopt rules and regulations to require the management of timber on state lands in a manner to avoid waste where forests are in decline and mortality consistency exceeds growth over time. It would require cypress-tupelo swamps and other forest ecosystems to be managed for natural resource value other than timber production. Moreover,

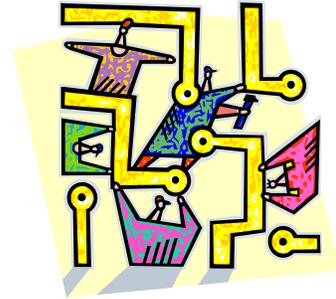
the bill would require the commissioner to work with each executive department to develop a management plan for the land under the jurisdiction of each department, and prohibit use of clear cutting as a management practice.

GRAIN STORAGE

Presently, contracts for the storage of grain in which title passes are required to be in writing. In addition to this requirement, **Senate Bill 196 by Senator McPherson (Act 114)** requires that warehousemen to provide quarterly statements to the producer who has contracted for the storage space. The statement must include all charges and the rate at which the charges accrue.

Capital Outlay

by: *Frankie King*
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CAPITAL OUTLAY

House Bill 2 by Representative Hammett

(Act 27), provides for the comprehensive capital outlay budget, the development and expansion, for Fiscal Year 2006 - 2007, including funding from the following sources of monies:

(1)	State General Fund (Direct)	\$ 29,417,000
(2)	Federal Funds	\$ 19,550,627
(3)	Federal Funds - TTF	\$ 601,000,000
(4)	Transportation Trust Fund (TTF) - Regular	\$ 184,287,693
(5)	TIMED Funds	\$ 72,830,252
(6)	Interagency Transfers	\$ 46,000,000
(7)	Misc. Statutory Dedications	\$ 8,150,000
(8)	Fees and Self-Generated Revenues	\$ 129,558,408
(9)	Reappropriated Cash	\$ 1,934,375
(10)	Reappropriated Interest Earnings	\$ 158,615
(11)	Revenue Bonds	\$ 979,364,453

TOTAL CASH PORTION \$ 2,072,251,423

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

Priority 1	\$ 811,035,000
Priority 2	\$ 373,528,000
Priority 3	\$ 369,955,000
Priority 4	\$ 140,405,000
Priority 5	\$ 1,005,570,000
TOTAL GENERAL OBLIGATION BONDS	\$ 2,700,493,000
BONDS NRP/RBP	\$ 6,040,231
GRAND TOTAL ALL MEANS OF FINANCING	\$ 4,778,784,654

BONDS NRP is the reallocation of previously sold bonds.

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

Section 16 of the act limits cash lines of credit or authorization or issuance of general obligation bonds to \$1,056,475,000. After fulfilling the Priority 1 cash lines of credit, there will be approximately \$245,000,000 available for cash lines of credit/bond sale amount for Priority 2 projects.

Civil Law & Procedure

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EXPROPRIATION

On June 23, 2005, The Supreme Court of the United States, in *Kelo v. City of New London*, held in a 5-4 decision that governmental taking of property from one private owner to give to another in the furtherance of economic development constitutes a permissible "purpose use" under the Fifth Amendment. The case resulted from the decision of the city of New London, Connecticut, through the new London Development Corporation, to exercise its right of eminent domain for the taking of private property, including residential property, for economic development, including a resort hotel and conference center, a new state park, and office and retail space. The Supreme Court of Connecticut found that the use of eminent domain for economic development did not violate the public use clauses of the state and federal constitutions and the U.S. Supreme Court upheld the decision.

Based on various opinion polls, public reaction to the decision was overwhelmingly negative. Nationwide, states reacted by proposing legislation to specifically prohibit the use of eminent domain for private use for economic development. **Senate Bill 1 by Senator McPherson, Senate Bill 4 by Senator N. Gautreaux, Senate Bill 8 by Senator Nevers, Senate Bill 21 by Senator Smith, Senate Bill 297 by Senator Murray, and Senate Bill 294 by Senator Cain** were introduced during the 2006 Regular Session to provide for constitutional changes to address the issue of eminent domain in Louisiana. The bills were referred to the Senate Committee on Judiciary A. **Senate Bill 1 (Act 851)** was reported favorably by the committee and the other bills were voluntarily deferred with the respective authors being added as co-authors of **Senate Bill 1**.

Presently, there is a constitutional prohibition against the expropriation of property by the state or its political subdivisions except for "public purposes" and by any private entity authorized to expropriate except for a "public and necessary" purpose and that the determination of a purpose which is public and necessary shall be a judicial question. In either case, the constitution requires that the owner of the expropriated property be paid "just compensation." If approved by the electorate, **Senate Bill 1** would further prohibit the expropriation of property by the state or its political subdivisions for the predominant use by any private person or entity, or for the transfer of ownership to any private person or entity. The constitutional amendment would further limit "public purpose" to a general public right to a definite use of the property; continued public ownership of property dedicated to objectives and uses by public employees and publicly elected officials as specifically described; and the removal of a threat to public health or safety caused by the existing use or disuse of the property.

In addition to the present right to a trial by jury to determine compensation in expropriation actions, the proposed constitutional amendment would provide for a right to a trial by jury to determine whether the compensation is just. It also would provide that the owner shall be compensated to the full extent of his loss which, unless otherwise constitutionally provided, shall include the appraised value of the property and all costs of relocation, inconvenience, and otherwise incurred as a result of the expropriation.

Under the proposed constitutional amendment, any property which is not used for the purpose for which it was expropriated within 15 years after the expropriation and which is offered for sale would be first offered to the owner from whom the property was expropriated or his heirs at the current appraised value and, if the offer is not accepted within ninety days, the expropriating authority would be authorized to sell the property to any other person.

The proposed amendment shall be submitted to the voters on September 30, 2006.

COURTS

Senate Bill 645 by Senator Mount (Act 621) consolidates the civil and criminal courts of Orleans Parish and the clerks of the respective courts into the 41st Judicial District Court, establishing one clerk of court for the parish, to be elected in 2010, and transferring all the duties, powers, and functions of the former offices to the consolidated office. The bill provides that the 41st Judicial District shall have the following four sections - a criminal, civil, domestic relations, and juvenile division. However, the juvenile section shall not become effective until the terms of office of the judges of the Juvenile Court of Orleans parish expire and the court is abolished. The bill abolishes the offices of the custodian of notarial records, the register of conveyances, and the recorder of mortgages effective January 1, 2009, transferring their respective duties and functions to the clerk of the civil district court.

To facilitate the consolidation of the new judicial district, the bill requests that the Judicial Council review the proposed law and make recommendations to the legislature not later than March 7, 2007 relative to the number of district court judges in Orleans Parish necessary to effectively and efficiently serve the administration of justice in the parish and that the Judicial Council recommend such reduction of judges by attrition based upon retirement.

Senate Bill 645 creates the Consolidated Judicial Expense Fund which shall be used for the administration or functions of the courts and judges of the newly created judicial district. The bill further creates the Consolidated Review Committee consisting of the chief judge of the civil district court and two judges designated by him, the chief judge of the criminal district court and two judges designated by him, and the juvenile judge with the most seniority to review and require an audit of all the funds of the courts and judges of the city or parish courts of Orleans Parish and identify all obligations and debts of the courts. After such review, the committee shall provide recommendations on the appropriate funding levels and sources for funding the courts and the appropriate method of consolidating all court funds and obligation to the Senate Committee on

Judiciary A and the House Committee on Judiciary not later than January 1, 2008. The committee shall be responsible for the allocation of the funds in the consolidated expense fund.

Additionally, the proposed bill abolishes the separate office of the civil sheriff and the criminal sheriff in Orleans parish and creates one sheriff for the parish to be elected at the election for parochial and municipal officers in Orleans parish in 2010. The newly elected sheriff shall be responsible for the merger and consolidation of the offices of the civil and criminal sheriff within his office and shall develop a plan with procedures for the realignment, distribution, assignment, consolidation, and coordination of the powers, duties, functions and responsibilities of each office.

House Bill 391 by Representative Bruneau (Senate calendar - subject to call) would have addressed the issue of judicial consolidation in Orleans Parish, but was limited to a consolidated judicial fund and would not have provided for the consolidation of the courts. The bill would have required the transfer and consolidation of various expense fund of the civil and criminal district court, the juvenile court for Orleans Parish, and the First and Second City Courts of New Orleans to the newly created Consolidate Judicial Expense Fund, effective January 1, 2007. The administration and control over the expenditure of the funds would have been vested in a board consisting of three judges from the civil district court, three judges from the criminal district court, one judge from the juvenile court and one judge from the first and second city courts of New Orleans selected by a majority of both courts sitting en banc.

LIMITATION OF LIABILITY

The aftermath of Hurricanes Katrina and Rita and the consequent relief efforts by a variety of organizations and volunteers resulted in the introduction of several pieces of legislation introduced to limit the liability of such persons and organizations. **House Bill 70 by Representative Durand (Act 244)** provides for a limitation of liability for death or injury caused by any health care provider who gratuitously and voluntarily provides care during a declared state of emergency in an area subject to such declared state of emergency unless such death or injury was intentional or caused by a grossly negligent act of the provider. Also addressing voluntary care given during a state of emergency, **House Bill 453 by Representative Toomy (Act 696)** provides that a health care provider who voluntarily provides care gratuitously to the recipient in areas subject to a declared state of emergency shall not be civilly liable and further provides that such providers from other states who are employed by a corporate entity must be licensed in their home state, be in good standing, and have in their personal possession their license and photo identification.

Currently, a public entity is responsible for damages caused by the condition of buildings within its care and custody if such entity had notice of the defect and did not remedy it. Because of the vast devastation and consequent problems of Hurricanes Katrina and Rita, much of the damage was neither readily discernable or easily repaired. **Senate Bill 621 by Senator Murray (Act 545)** provides that, except for gross negligence or willful and wanton misconduct, there would be no cause of action based soled upon the liability imposed under such present law provisions when the damage has arisen from either of the hurricanes, including after effects of either hurricane and post-

hurricane restoration, repair, cleaning, and construction,. The provisions would have retroactive application to August 26, 2005 and expire on August 30, 2008.

HEALTH/DEATH-DYING

Under present law a person must have been absent for five years to be presumed dead. In the aftermath of hurricanes Katrina and Rita, there remain many persons who are missing and unaccounted for. **House Bill 309 by Representative Walker (Act 259)** provides that when the absence of a person commenced between August 26, 2005 and September 30, 2005 and was related to or caused by either of the hurricanes and the absent person is not currently charged with either a federal or state felony offense, the period of absence after which a person shall be presumed dead shall be two years.

CHILDREN/MARRIAGE

Senate Bill 154 by Senator N. Gautreaux (Act 110) requires that a military service member on active duty who misses his authorized visitation due to military obligations shall be afforded compensatory visitation on a day-for-day basis for the days he has lost if he requests it and if the court determines it is in the best interest of the child. The Act requires that the service member requesting compensatory visitation and the custodial or domiciliary parent are required to negotiate and equitable schedule for such visitation. However, if the parents are unable to reach an equitable schedule, then the requesting parent may petition the court to adjust the visitation order to require the compensatory visitation.

In response to federal provisions, **House Bill 215 by Representative Doerge (Act 743)** provides for the definition of "pre-natal neglect" which means the unlawful use of a controlled dangerous substance by a mother during pregnancy, which results in symptoms of withdrawal in the infant or the presence of a controlled substance in the infant's body. The provisions require that a physician who has cause to believe that a mother of an infant has used a controlled dangerous substance during pregnancy to order a toxicology test upon such infant, without the consent of the infant's parents or guardian, to determine if there is evidence of pre-natal neglect. If positive tests should result in evidence of pre-natal neglect, the physician requesting such tests would be required to report the results in accordance with current child abuse or neglect provisions. The provisions require that all identifying formation be obliterated from negative test results unless the parent approved the inclusion of the information and further prohibits the admissibility of positive test results in a criminal prosecution.

Present law provides for a judgement of divorce when the parties have lived separate and apart for 180 days either prior to the rule to show cause or prior to the filing of the petition for divorce. **House Bill 1379 by Representative Alexander (Act 743)** requires that the spouses live separate and apart for 365 days in order to obtain a divorce if there are minor children of the marriage. The act provides an exception if the court finds that one party has sexually or physically abused the other spouse or a child of that spouse or that a protective order or an injunction has been issued against the other spouse for abuse. In such a case, a divorce may be granted after living

separate and apart for 180 days.

PROPERTY

Currently, the ownership of certified or declared blighted property in a municipality having a population of 470,000 or more, according to the latest federal decennial census, may be acquired by the prescription of three years without the need of just title or possession in good fail, requiring that all ad valorem taxes, interest, and penalties due and payable shall be paid in full. Additionally, there are current provisions for appeals, for notification to the owner, for priority among competing adjoining property owners, and for time limitation for rehabilitation or acquisition or certificates of use and occupancy.

House Bill 40 by Representative Richmond (Act 30) provides that an affidavit by the New Orleans Redevelopment Authority stating that all appeal delays have run and that the judgment is final, filed together with a copy of the judgment declaring or certifying the property as blighted prior to August 29, 2005, shall satisfy the requirement of filing an affidavit by the possessor as required by present law. The act further provides that any property acquired under the new provisions which is still in the possession of the redevelopment authority on or after January 1, 2010, shall become subject to all taxes, interest, and penalties due.

JUDGES

The Judicial Council of the Supreme Court of Louisiana is required to provide standards and guidelines to apply in determining the necessity of creating any new judgeship or other judicial officer. Current law requires that a designee of the council provide information to the legislature, through its appropriate standing committees, as to the necessity of creating a new judgeship or judicial officer before any bill which proposes to create such an office is acted upon by the legislature.

Senate Bill 42 by Senator Lentini (Act 16) authorizes the Judicial Council to conduct a review of judicial districts and, not later than March 1, 2007, provide information and recommendations to the legislature on the appropriate number of district court judgeships within each district, based upon caseload, population, or other pertinent factors.

Coastal Restoration



by: Jerry Jones
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The catastrophic effects of hurricanes Katrina and Rita put coastal issues in the forefront of legislative concerns during the 2005 First Extraordinary Session and 2006 First Extraordinary and Regular sessions. State lawmakers addressed coastal-related issues in numerous legislative instruments, and efforts continue at the federal level to secure much-needed funding for rebuilding, restoration, and protection.

2005 First Extraordinary Session - **Senate Bill 71 by Senator Dupre (Act 8)** reorganized the duties of certain state agencies to create the Coastal Protection and Restoration Authority and provide for development and implementation of a comprehensive coastal and hurricane protection plan. **Senate Bill 27 by Senator Dupre (Act 69)** is a proposed constitutional amendment to be submitted for voter approval in the fall of 2006 providing that certain federal revenues received by the state generated from Outer Continental Shelf oil and gas activity shall be credited to a coastal protection fund and used only for certain purposes.

- **Studies - House Concurrent Resolution 61 by Representative Robideaux (enrolled)** requests the Department of Transportation and Development and the Department of Natural Resources to study the feasibility of the construction of a coastal protection highway stretching from the Texas border to New Orleans. **Senate Resolution 10 by Senator Michot (enrolled)** requestes the Department of Natural Resources and the Department of Transportation and Development in conjunction with other public and private entities to conduct a feasibility study on the construction of a coastal barrier and intracoastal highway. **Senate Resolution 22 by Senator Murray (enrolled)** requestes certain levee boards and parish governing authorities work together and devise a coordinated plan to achieve a long-term solution for flood, hurricane, and coastal protection for the citizens of southeast Louisiana.
- **Memorializations to Congress - Senate Concurrent Resolution 8 by Senator Adley (enrolled)** memorializes Congress to extend Louisiana's seaward boundary in the Gulf of Mexico to twelve geographical miles. **Senate Concurrent Resolution 41 by Senator Cain (enrolled)** requests Congress to change the coastal line by which the state receives tax and mineral revenues from three miles out to twelve miles. **House Concurrent Resolution 34 by Representative Odinet (enrolled)** memorializes Congress to suspend dredging the Mississippi River Gulf Outlet and to begin the process of closing the waterway. **House Concurrent Resolution 36 by Representative Jefferson (enrolled)** memorializes Congress to waive the local share presently required for funding of levee improvements. **House**

Resolution 18 by Representative K. Carter (enrolled) memorializes Congress to enjoin the United States Army Corps of Engineers from engaging any contractor in the reconstruction of the levees in the New Orleans area if investigations of levee failures indicate that such contractor performed substandard design or construction work.

2006 First Extraordinary Session - **Senate Bill 9 by Senator Boasso (Act 43)** is a proposed constitutional amendment to be submitted for voter approval in fall of 2006 to authorize the establishment of certain regional flood protection authorities. **Senate Bill 8 by Senator Boasso (Act 1)** is enabling legislation for the constitutional amendment that would reorganize the governance and structure of certain levee districts in accordance with the establishment of a regional flood protection authority. **Senate Bill 4 by B. Gautreaux (Act 10)** created and provided for the Coastal Louisiana Levee Consortium. **House Bill 29 by Representative Lancaster (Act 29)** modified the date for submission to voters of Act 69 from the 2005 Extraordinary Session. **House Bill 47 by Representative Triche (Act 32)** provided relative to certain levee districts operating in Lafourche Parish. **House Bill 52 by Representative Martiny (Act 6)** established the Hurricane Flood Protection, Construction, and Development Priority Program in the office of public works, hurricane flood protection and intermodal transportation within the Department of Transportation and Development. **House Bill 70 by Representative Jefferson (Act 36)** required the office of emergency preparedness to promulgate standards and regulations for local governments relative to mandatory evacuations.

- Memorializations to Congress - **Senate Concurrent Resolution 16 by Senator C. Romero (enrolled)** memorializes Congress to authorize the prompt construction of hurricane and tidal water protection for southwest Louisiana. **Senate Concurrent Resolution 27 by Senator Murray (enrolled)** memorializes Congress to expedite funding to Louisiana for recovery efforts, to expeditiously complete the needed repair to the levee system in the greater New Orleans area, to provide for the prompt construction of hurricane and tidal water protection for south Louisiana, and to provide assistance with coastal restoration and marsh management. **House Concurrent Resolution 24 by Representative Odinet (enrolled)** memorializes Congress to mandate the closure of the Mississippi River Gulf Outlet. **House Concurrent Resolution 32 by Representative Hutter (enrolled)** memorializes Congress to close the Mississippi River Gulf Outlet.

2006 Regular Session - **Senate Bill 26 by Senator Dupre (Act 66)** authorizes the Coastal Protection and Restoration Authority to serve as local sponsor for hurricane, storm damage reduction and flood control projects in coastal Louisiana and enter into certain contracts. **Senate Bill 27 by Senator Dupre (Act 853)** is a proposed constitutional amendment to provide relative to the amount of compensation for the taking of property for certain hurricane protection projects. Its enabling legislation is **Senate Bill 64 by Senator Dupre (Act 567)**. Also, **Senate Bill 229 by Senator Dardenne (Act 854)** provides for the deposit of a portion of the proceeds of tobacco securitization into the Coastal Protection and Restoration Fund, and repeals the fund previously receiving these proceeds. **Senate Bill 269 by Senator Dupre (Act 652)** provides relative to public bid laws for

certain projects to restore or rehabilitate certain levees. **Senate Bill 664 by Senator Dupre (Act 626)** provides relative to acquisition of land for certain coastal conservation, restoration and protection plans and projects. **Senate Bill 635 by Senator Dupre (Act 548)** provides relative to coastal resources and coastal zone management.

House Bill 308 by Representative Kleckley (Act 686) requires the Louisiana Recovery Authority to prepare a study by September, 2006, assessing the nature and extent of damage to each parish impacted by hurricanes Katrina and Rita., and further provides relative to submission for legislative approval proposals by such Authority for hurricane recovery costing ten million dollars or more. **House Bill 452 by Representative Dove (Act 181)** requires levee districts in the coastal zone to submit annual reports regarding levee elevations. **House Bill 829 by Representative Baldone (Act 776)** provides relative to legal servitudes for the construction and maintenance of levees. **House Bill 1086 by Representative Dove (Act 297)** provides relative to barrier islands and requires the Department of Natural Resources to submit an annual report on the status of barrier island projects and needs. **House Bill 1249 by Representative Odinet (Act 425)** provides relative to oyster leases impacted by coastal protection projects.

House Concurrent Resolution 193 by Representative Pitre (enrolled) approves the Fiscal Year 2006-2007 Coastal Wetlands Protection and Restoration Plan.

- **Studies - House Concurrent Resolution 49 by Representative Dove (enrolled)** requests the Coastal Protection and Restoration Authority to increase the emphasis on barrier islands in the overall plan for coastal restoration and hurricane protection. **House Concurrent Resolution 80 by Representative Jefferson (enrolled)** requests the Coastal Protection and Restoration Authority to study and report on all available technology to create an integrated water management and hurricane protection system. **Senate Resolution 106 by Senator Dupre (enrolled)** requests a study of the feasibility of establishing a standing committee on coastal protection and restoration. **House Resolution 105 by Representative Baldone (enrolled)** requests the House Committee on House and Governmental Affairs to study the feasibility of creating a committee on coastal protection and restoration. **House Study Request 7 by Representative Hebert (Approved)** requests the House Transportation Committee to study the feasibility of constructing and maintaining a hurricane protection levee along the Gulf of Mexico in southwest Louisiana.
- **Memorializations to Congress - Senate Concurrent Resolution 72 by Senator Dupre (enrolled)** memorializes Congress to immediately authorize the Morganza to the Gulf Hurricane Protection Project, and urges and requests U.S. Army Corps of Engineers to include such recommendation in its pending interim report to Congress. **Senate Concurrent Resolution 83 by Senator Boasso (enrolled)** memorializes Congress to include Plaquemines Parish in the federal plan to invest funds for levee re-enhancement in south Louisiana. **Senate Resolution 19 by Senator C. Romero (enrolled)** memorializes Congress to enact H.R. 4761, the "Domestic Energy Production through Offshore Exploration and

Equitable Treatment of State Holdings Act of 2006." **House Concurrent Resolution 38 by Representative Hutter (enrolled)** memorializes Congress to close the Mississippi River Gulf Outlet and requests the Louisiana congressional delegation to introduce legislation to achieve the closure. **House Concurrent Resolution 62 by Representative Dove (enrolled)** memorializes Congress to amend the Stafford Act to allow emergency funds to be used to restore and stabilize barrier islands. **House Concurrent Resolution 107 by Representative Dove (enrolled)** memorializes Congress to fund a storm surge barrier at Fourchon. **House Concurrent Resolution 108 by Representative Dove (enrolled)** memorializes Congress to redefine and narrow certain passes of barrier islands. **House Concurrent Resolution 182 by Representative Dove (enrolled)** memorializes Congress to require the U.S. Corps of Engineers to evaluate federal and nonfederal tidal levees in south Louisiana and to fully fund upgrading hurricane tidal flood protection. **House Concurrent Resolution 205 by Representative Richmond (enrolled)** memorializes Congress to establish a 12-mile limit for Louisiana.

Commerce & Consumer Protection

by: *Jeff Oglesbee*
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On August 29, 2005 Hurricane Katrina made landfall and devastated the lives of thousands of Louisiana citizens and businesses located in the greater New Orleans area. Nearly a month later, Hurricane Rita added to the misery and devastation as it rolled through southwestern Louisiana. Seeking to address numerous issues vital to the recovery and revitalization of the state of Louisiana and her weary citizens, Governor Kathleen Blanco and the Louisiana legislature came together in two historic special sessions to begin the healing.

In addition to the focus on hurricane recovery, the legislature also handled various other measures which affected the areas of commerce and consumer protection.

HURRICANE RECOVERY

As the hurricanes shockingly demonstrated, many of the residential structures located in south Louisiana were ill-prepared for the intense winds associated with the storms. **Senate Bill 44 of the First Extraordinary Session of 2005 by Senator Hollis (Act 12)** established a mandatory state uniform construction code for Louisiana. In addition to establishing the Louisiana State Uniform Construction Code Council which will be responsible for adopting and amending a mandatory statewide construction code, the legislation also required the emergency adoption and enforcement of wind and flood mitigation requirements in the eleven most severely impacted parishes. The remainder of the state will be required to implement and enforce the statewide code beginning January 1, 2007.

Another important issue to homeowner's in the affected region revolved around the handling of insurance settlement funds. As a condition of most mortgages, insurance settlement funds were made jointly payable to both the homeowner and the mortgage company. **Senate Bill 31 of the First Extraordinary Session of 2006 by Senator Schedler (Act 14)** required that if such funds were to be held by the mortgage company for more than thirty days as repairs were being made by the homeowner, then the settlement funds must be placed in an interest-bearing account, with such interest accruing to the benefit of the homeowner. Rather than maintain their mortgage and make necessary repairs to their home, many homeowners simply wanted the option to pay-off their loans and move on with their lives. **House Bill 4 of the First Extraordinary Session of 2006 by Representative Lafonta (Act 21)** allows the homeowner to request in writing that any excess funds received from an insurance settlement must be returned to the homeowner within 30 days.

Seeking to protect consumers from unknowingly purchasing water-damaged vehicles, **House Bill 11 of the First Extraordinary Session of 2005 by Representative Smiley (Act 42)** required any insurance company that acquired ownership of a water-damaged vehicle to apply for a certificate of destruction, following settlement of the claim, and to arrange to have the vehicle dismantled, sold for useable parts, or crushed. In a related matter, the Senate Commerce, Consumer Protection, and International Affairs held hearings during the 2006 Regular Session to investigate the awarding of a contract to remove flooded vehicles from public property in south Louisiana. As of this date, a contract to remove the flooded vehicles has been awarded and removal has begun in the greater New Orleans area.

In the days and weeks following Hurricane Katrina, communication systems in south Louisiana were either overwhelmed or completely destroyed and severally hampered rescue and recovery efforts. Seeking to statutorily enact Governor Kathleen Blanco's executive order KBB 2006-4 which created the "Statewide Interoperable Communication System Executive Committee", **Senate Bill 739 by Senator Boasso (Involuntarily deferred House Judiciary)** would have created the office of interoperability with the office of homeland security and emergency preparedness and would have been charged with developing and implementing a comprehensive statewide communications interoperability plan involving local, state, and federal agencies. Likewise, **House Bill 540 by Representative Burns (pending Senate Commerce) and House Bill 619 by Representative Burns (pending Senate Commerce)** would have placed specific requirements on the governor's office of homeland security and emergency preparedness to develop an emergency communications system.

TELECOMMUNICATIONS/UTILITIES

One of the more intensely debated issues during the 2006 Regular Session, **House Bill 699 by Representative Montgomery and Senator Ellington (VETOED)** would have created the Competitive Cable and Video Services Act. As initially proposed, both the cable industry and local government were opposed to the measure which would replace the local franchising of television services with a statewide franchise system. Following much negotiation and debate, the legislation was amended to clarify that local franchise fees would continue to be paid, would provide an additional fee to be paid to local government in order to compensate for the loss of certain in-kind services, and would permit cable companies to opt-out of their existing franchise agreements and apply for a statewide franchise agreement. It was anticipated that this legislation would have spurred on greater competition in the cable and video service industry and will improve services and reduce rates for the consumer.

Attempting to assist electric utility companies still recovering from losses sustained as a result of hurricanes Katrina and Rita, **House Bill 887 by Representative Pinac and Senator Hollis (Act 64)** established the Louisiana Electric Utility Storm Recovery Securitization Act which will allow an electric utility to take advantage of certain IRS regulations by bonding out future "storm recovery charges" to be imposed on consumers and borrowing against such funds at a reduced rate. The Louisiana Public Service Commission will retain their ability to examine and approve any

request from a utility to impose such "storm recovery charges" prior to obtaining such bonds. By utilizing this procedure, the consumer will benefit since the utility will have to borrow less money to make the necessary repairs. Likewise, in order to allow utilities to be eligible to receive certain federal disaster and recovery funds, **Senate Bill 8 of the First Extraordinary Session of 2005 by Senator Murray (Act 1)** recognized that the restoration and rebuilding of electrical and gas utilities following a natural disaster is a valid public purpose and is in the best interest of the citizens and businesses of the state of Louisiana.

One unintended consequence of the extended declaration of emergency issued by Governor Blanco was a complete prohibition against all telemarketing activity in the state. In particular, this complete prohibition preventing companies which had an existing business relationship with a consumer from contacting them and providing them with important information immediately following the hurricanes. **House Bill 1137 by Representative Pinac (Act 418)** will allow certain defined telemarketing activity during a state of emergency declared by the governor, in addition to making certain technical changes to the state "Do Not Call" program.

Finally, **Senate Bill 211 by Senator Murray (pending Senate Commerce) and House Bill 1188 by Representative Lafonta (pending Senate Commerce)** would have exempted local governments from the Local Government Fair Competition Act for a limited time in order to offer free wireless Internet service to its citizens. It was anticipated that in addition to providing another avenue for local government to communicate with its citizens immediately following a gubernatorially declared disaster or emergency, first responders in the area would be able to better communicate with each other through the wireless service.

CONSUMER PROTECTION

The legislature addressed a variety of issues related to consumer protection during the 2006 Regular Session. One issue of substantial interest was **Senate Bill 642 by Senator Ellington (Act 550)** which exempts any person selling property through an Internet-based trading platform from the regulations of the Louisiana Auctioneers Licensing Board. The issue was originally raised following an effort by the board to license certain eBay "trading assistants" who sell merchandise on behalf of other people.

In an effort to assist consumers who wish to resell unwanted admission tickets, **House Bill 1299 by Representative Montgomery and Senator Ellington (Act 238)** amends the state "anti-scalping law" by allowing any person with an unwanted admission ticket to sell it for above face value through the organizer of the event or the operator of the location where the event is being held. The legislation specifically prohibits the reselling for above face value of any university sports event ticket allocated to a Louisiana legislator or a student of the university.

As part of a continuing effort to protect Louisiana citizen's from unwanted computer intrusion, numerous measures were introduced to further prohibit and penalize such activity. **Senate Bill 641 by Senator Michot (Act 549)** will prohibit "phishing" activity and provide civil penalties

for violators. "Phishing" is a particularly devious method of identity theft which is carried out through the creation of a website that seems to represent a legitimate company. The visitors to the site, thinking they are buying something from a real business, submit their personal information to the site. The criminals then use the personal information for their own purposes, or sell the information to other criminal parties.

House Bill 690 by Representative Schneider and Senator Michot (Act 392) establishes a criminal penalty of up to 10 years in prison or fined \$25,000, or both for the willfully and knowingly transmitting of spyware, adware, or other forms of malware onto computers. In addition to the criminal penalties, any violation will also be considered an unfair trade practice and subject the violator to additional civil penalties.

BANKING/FINANCIAL INSTITUTIONS

Several pieces of legislation were offered during the 2006 Regular Session in the area of banking to address the powers and duties of the commissioner of financial institutions, to "clean-up" various other statutes under the supervision of the office of financial institutions ("OFI"), as well as other related concerns.

Although not widely enforced, numerous mortgages obligated homeowners who sought to payoff their loans following the hurricanes to pay a pre-payment penalty. **House Bill 602 by Representative Pinac (Act 188)** will prohibit prepayment penalties for consumer credit transactions and residential mortgage loans when such loans are paid in connection with a gubernatorially declared disaster from proceeds obtained from an insurance settlement. Another related measure, **House Bill 448 by Representative Marchand (Act 475)** authorizes the commissioner spend existing funds to publicize deferment and repayment options being offered following a gubernatorially declared disaster and to prohibit a lending institution from requiring payment-in-full following such a deferment period.

House Bill 1269 by Representative Ritchie (Act 236) clarifies the authority of the commissioner to obtain certain state and federal criminal data as it relates to an applicant for licensure. **Senate Bill 344 by Senator Hollis (Act 456)** adds to the information that the commissioner may disclose at his discretion, including certain statistical information and actions taken by the commissioner related to the denial, suspension, or revocation of a license.

Senate Bill 95 by Senator Broome (Act 510) establishes the Louisiana Habitat for Humanity Loan Purchase Program Act within the La. Housing Finance Agency (LHFA) which will provide for a partnership under which the LHFA could purchase homeowner loans from habitat affiliates in order to assist low-income individuals and families, and particularly individuals and families who have mental or physical disabilities, in accessing and acquiring affordable housing.

Finally, **Senate Bill 743 by Senator Murray (Subj. to call - House final passage)** would have created the Louisiana Motor Vehicle Title Loan Act which would have allowed for short-term

loans secured by a vehicle certificate of title at interest rates not to exceed 25% per month for a maximum of a 10-month period. The amount of the loan would be limited to either the value of the vehicle or \$3,000, whichever was less. It was argued that this legislation would have filled the gap for persons with no-credit or bad credit who were in need of a short-term loan.

MISCELLANEOUS

In an effort to streamline government procedures for businesses, **House Bill 203 by Representative Pinac (Act 153)** will enable a business entity to convert from one type of business organization to another type without going through a dissolution process. For example, a business entity which was organized as a corporation could convert to a limited liability company after meeting certain requirements.

Seeking to provide additional disclosure to consumers, **House Bill 119 by Representative Pinac (Act 333) and House Bill 787 by Representative Pinac (Act 280)** will provide for the use of a uniform purchase agreement form to be used by realtors and the use of a uniform sales and finance contract for sales of motor vehicles, respectively.

Addressing a problem encountered following the hurricanes, **House Bill 96 by Representative Hutter (Act 330)** will require funeral establishments to affix certain identifying information on all caskets which will be used for burial.

Hoping to avoid another tragedy similar to one which occurred in New Orleans during which an entire family perished in a apartment fire, **Senate Bill 6 by Senator Shepard (Act 557)** will require that any mattress or box spring sold at retail after January 1, 2007 must be fire retardant in accordance with rules and regulations promulgated by the state fire marshal.

Finally, seeking to protect the unique and distinctive culture and lifestyle of south Louisiana, **Senate Bill 525 by Senator Nick Gautreaux (Act 124)** will restrict the use of the terms "Cajun" and "Louisiana Creole" to services or goods which are substantially connected with, or have been substantially transformed in the state of Louisiana. The commissioner of agriculture will be authorized to enforce the newly enacted "Cajun and Creole Goods and Consumer Protection Law."

Constitutional Amendments

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Flood protection, levees, expropriation, severance taxes, homestead exemptions, tax assessors, judges, schools, state officials, retirement, and constitutional funds are areas in our constitution on which voters will be asked to approve in the next statewide election.

FLOOD PROTECTION

Recognizing the importance for regional coordination to control flooding **Act 43 of the First Extraordinary Session of 2006 (Senate Bill 9 by Senator Boasso)** authorizes the legislature to establish regional flood protection authorities with territorial jurisdiction being limited to parishes and levee districts situated entirely or partially within the coastal zone of the state. Each authority exercises its powers, duties, and functions for the purpose of constructing and maintaining levees, levee drainage, flood protection, and hurricane flood protection within the territorial jurisdiction of the authority.

If the a regional flood protection authority includes areas in which there are one or more levee districts, then the creation of the regional authority is not to affect the authority of the respective levee district (a) to levy taxes in such areas nor prohibit the levy of taxes provided by the proposed amendment in such areas, (b) to employ and provide for its employees, or (c) to own, construct, and maintain its property.

Each authority can impose an authority-wide property tax provided the tax is approved by a majority of the electors within the territorial limits of the authority as well as a majority of the electors in each parish contained within the authority. In addition, the legislature may appropriate up to \$500,000 annually to regional flood protection authorities from the Coastal Protection and Restoration Fund.

Another aspect of Act 43 is that the governing authority of a levee district created after January 1, 2006 is authorized to annually levy a tax on all property not exempt from taxation situated within the alluvial portions of the district subject to overflow provided such is approved by a majority of the electors of the district who vote in an election held for that purpose; if the district is comprised of territory in more than one parish, then approval by a majority of the electors who vote in each parish comprising the district is also required.

COASTAL PROTECTION AND RESTORATION

Act 854 of the 2006 Regular Session (Senate Bill 229 by Senator Dardenne) requires that the treasurer transfer 20% of funds received from any securitization, occurring after July 1, 2006,

of tobacco settlement funds into Coastal Protection and Restoration Fund and authorizes the legislature to appropriate up to 20% of this amount to the Barrier Island Stabilization and Preservation Fund to be used for purposes of the Louisiana Coastal Wetlands Conservation and Restoration Program.

EXPROPRIATION

The recent case of *Kelo v. City of New London*, 125 S. Ct. 2655 (2005) decided by the Supreme Court of the United States involved the use of eminent domain to transfer land from one private owner to another to further economic development. The court held that condemnation of privately owned property by the city of New London, Connecticut so that it could be used as part of a comprehensive redevelopment plan was a permissible "public use" under the "takings clause" of the Fifth Amendment to the United States Constitution.

While the constitution prohibits property from being taken or damaged by the state or its political subdivisions except for public purposes and with payment of just compensation, **Act 851 of the 2006 Regular Session (Senate Bill 1 by Senator McPherson)** provides that, unless specifically authorized by the legislature as assistance to local industry for specific purposes, property shall not be taken or damaged by the state or its political subdivisions for public purposes: (a) for predominant use by any private person or entity; or (b) for transfer of ownership to any private person or entity.

"Public purpose" is constitutionally limited to the following:

- (a) A general public right to a definite use of the property.
- (b) Continuous public ownership of property dedicated to one or more of the following objectives and uses:
 - (i) Public buildings in which publicly funded services are administered, rendered, or provided.
 - (ii) Roads, bridges, waterways, access to public waters and lands, and other public transportation, access, and navigational systems available to the general public.
 - (iii) Drainage, flood control, levees, coastal and navigational protection and reclamation for the benefit of the public generally.
 - (iv) Parks, convention centers, museums, historical buildings and recreational facilities generally open to the public.
 - (v) Public utilities for the benefit of the public generally.
 - (vi) Public ports and public airports to facilitate the transport of goods or persons in domestic or international commerce.
- (c) The removal of a threat to public health or safety caused by the existing use or disuse of the property.

The proposed amendment further provides that neither economic development, enhancement of tax revenue, or any incidental benefit to the public shall be considered in determining whether the taking or damaging of property is for a public purpose. It also provides that, unless provided

differently in the constitution, the full extent of loss shall include, but not be limited to, the appraised value of the property and all costs of relocation, inconvenience, and any other damages actually incurred by the owner because of the expropriation.

The last major exception contained Act 851 is that the bona fide homestead is not subject to expropriation under provisions of the constitution regarding assistance to local industry which may be undertaken, with legislative authorization, by any political subdivision, public port commission, or public port, harbor, and terminal district.

Compensation for Takings

Compensation paid, under **Act 853 of the 2006 Regular Session (Senate Bill 27 by Senator Dupre)**, for the taking of, or loss or damage to, property rights for the construction, enlargement, improvement, or modification of federal or non-federal hurricane protection projects, including mitigation related thereto, is not to exceed that required by the Fifth Amendment of the Constitution of the United States. These provisions do not apply to compensation paid for a building or structure that is destroyed or damaged by an event for which a presidential declaration of major disaster or emergency was issued, if the taking occurs within three years of such event.

Compensation, paid by levee districts, with respect to lands and improvements actually used or destroyed in the construction, enlargement, improvement, or modification of federal or non-federal hurricane protection projects, including mitigation related thereto, is not to exceed that required by the Fifth Amendment to the Constitution of the United States.

Expropriation Procedure

Act 859 of the 2006 Regular Session (House Bill 707 by Rep. Farrar) requires the state or its political subdivisions, prior to any lease or sale of expropriated property, to offer the property to the original owner or his heir or successor in title provided the expropriated property has been held for not more than 30 years. Excluded from this provision are leases and operation agreements for port facilities, highways, qualified transportation facilities and airports. The property is to be offered to the original owner or his heirs or successors at the current fair market value after which time the property can only be transferred by competitive bid open to the general public.

Expropriated property held for more than 30 years, may be sold or transferred as otherwise provided by law.

Also provides a procedure for declaration of expropriated property to be declared surplus property by the state or its political subdivisions or by petition of the original owner, his heirs, or successors.

ASSESSORS

The Board of Assessors for Orleans Parish is abolished and Orleans Parish have a single tax assessor under to be elected at the same time as municipal officers in Orleans Parish **Act 863 of the**

2006 Regular Session (Senate Bill 141 by Senator Duplessis).**JUDGES**

Act 860 of the 2006 Regular Session (House Bill 13 by Representative Greene) reduces the time that a person must be domiciled in a judicial district prior to running for a judgeship from two years to one year.

Changes the requirement that the person have been admitted to practice law in this state from five years preceding election to the following:

- (1) For the supreme court or a court of appeals - ten years.
- (2) For a district court, family court, parish court, or court having solely juvenile jurisdiction - eight years.

Retains the requirement that these judges engage in the practice of law while sitting as a judge.

Act 862 of the 2006 Regular Session (House Bill 206 by R. Carter) authorizes the establishment of new judgeships for district courts with new the divisions having with limited or specialized jurisdiction within the territorial jurisdiction of the district court and to provide for subject matter jurisdiction over family or juvenile matters.

STATE OFFICIALS

A limitation is placed on persons serving in a statewide office when a vacancy occurs. **Act 858 of the 2006 Regular Session (House Bill 716 by Representative Beard)** provides that if a vacancy occurs in the office of the lieutenant governor or a statewide elected office other than that of the governor and the unexpired term exceeds one year, then the person filling the vacancy, whether the appointed lieutenant governor or the first assistant, will serve only until the vacancy is filled by election at the next regularly scheduled congressional or statewide election. If no congressional or statewide election is available within one year of the vacancy, the office is to be filled by election at a special election called by the governor.

SCHOOLS

Act 861 of the 2006 Regular Session (House Bill 48 by Representative White) includes the Central community school system to the list of municipal school systems for purposes of funding under the MFP. The bill also contains a provision that no state dollars be used to discriminate or have the effect of discriminating in providing equal educational opportunity for all students.

Financial Burden

The prohibition provisions regarding increasing the financial burden of a political subdivision as they relate to schools systems is addressed in **Act 855 of the 2006 Regular Session (Senate Bill 296 by Senator Quinn)**. Under Act 855, no law requiring increased expenditures

within a city, parish, or other local public school system for any purpose shall become effective within the system only as long as the legislature appropriates funds for the purpose to the affected system and only to the extent and amount that such funds are provided, or until a law provides for a local source of revenue within the school system for the purpose and the affected school board is authorized by ordinance or resolution to levy and collect such revenue and only to the extent and amount of such revenue.

The prohibitions of Act 855 do not apply to the following:

- (a) A law requested by the school board of the affected school system.
- (b) A law defining a new crime or amending an existing crime.
- (c) A law enacted and effective prior to the adoption of the amendment of this Section by the electors of the state in 2006.
- (d) A law enacted to comply with a federal mandate.
- (e) Any instrument adopted or enacted by two-thirds of the elected members of each house of the legislature.
- (f) A law having insignificant fiscal impact on the affected school system.
- (g) The formula for the Minimum Foundation Program nor to any instrument adopted or enacted by the legislature approving such formula.
- (h) Any law relative to the implementation of the state school and district accountability system.

SEVERANCE TAX

Severance tax allocations are distributed to each parish in which the mineral or time is located based on a formula in the constitution. **Act 864 of the 2006 Regular Session (House Bill 714 by Representative Gallot)** provides that, beginning July 1, 2007, the maximum one-fifth allocation of severance taxes on all natural resources other than sulphur, lignite, or timber is increased from \$750,000 to \$850,000. This amount will be increased each July first, beginning in 2008, by the average annual increase in the Consumer Price Index for all urban consumers as published by the U.S. Department of Labor for the previous year as calculated by the Revenue Estimating Conference.

HOMESTEAD EXEMPTION

Act 852 of the 2006 Regular Session (House Bill 389 by Representative Triche) extends the homestead exemption to property owned by a trust and removes the requirement that this trust be an irrevocable trust.

RETIREMENT

Under **Senate Bill 258 by Senator Boasso (Failed - Pending in House Conference)** the state or governing authority of any state retirement system would have prohibited from taking any action causing the creation of additional unfunded accrued liability without providing at the time of creation a new, additional funding source therefor which will completely eliminate the created unfunded accrued liability within five years of such creation.

The bill further stipulated that any legislative enactment regarding future benefits also not contain a benefit provision for members of a state retirement system having an actuarial cost as determined by the legislative actuarial note attached to the bill providing the benefit be approved by the legislature or the governor unless a new, additional funding source sufficient to pay all such actuarial cost within five years of the effective date of the benefit provision is identified in such enactment.

USE OF PUBLIC FUNDS

Among the constitutional exceptions to the prohibition involving the loan, pledge, or donation of funds, credit, property, or things of value of the state or a political subdivision are the following:

- (1) Investments in stocks or a portion of the state-funded permanently endowed funds of a public or private college or university , not exceeding 35% of the public funds endowed as provided by **Act 856 of the 2006 Regular Session (House Bill 345 by Representative Cazayoux)**.
- (2) Investment in equities of a portion of the Medicaid Trust Fund for the Elderly, not to exceed 35% of the fund which is provided in **Act 857 of the 2006 Regular Session (House Bill 406 by Representative Daniel)**.



Corrections

by: *Dennis Weber*
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Senate Bill 2 By Senator N. Gautreaux (Act 103) increases criminal penalties for sexual crimes and offenses involving juveniles under the age of 13.

The penalties for the below listed offenses have been adjusted to the following degrees:

R.S. 14:43.1 Sexual battery

Whoever commits the crime of sexual battery on a victim under the age of 13 when the offender is over the age of 17, shall be punished by imprisonment at hard labor for not less than 25 years nor more than life imprisonment. At least 25 years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Upon completion of the term of imprisonment imposed, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

R.S. 14:43.2 Second degree sexual battery

At least 25 years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Upon completion of the term of imprisonment imposed, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

R.S. 14:43.3 Oral sexual battery

At least 25 years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Upon completion of the term of imprisonment imposed, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

R.S. 14:78.1. Aggravated incest

A person convicted of aggravated incest on a victim under the age of 13 when the offender is over the age of 17, shall be punished by imprisonment at hard labor for not less than 25 years nor more than life imprisonment. At least 25 years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Upon completion of the term of imprisonment imposed, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

R.S. 14:81. Indecent behavior with juveniles

Whoever commits the crime of indecent behavior with juveniles on a victim under the age of 13 when the offender is over the age of 17, shall be punished by imprisonment at hard labor for not less than 25 years nor more than life imprisonment. At least 25 years of the sentence imposed

shall be served without benefit of parole, probation, or suspension of sentence. Upon completion of the term of imprisonment imposed, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

R.S. 14:81.1 Pornography involving juveniles

Whoever violates the provisions of (offense) shall be punished by imprisonment at hard labor for not less than 25 years nor more than life imprisonment. At least 25 years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Upon completion of the term of imprisonment imposed, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

R.S. 14:81.2 Molestation of a juvenile

Whoever commits the crime of molestation of a juvenile on a victim under the age of 13, shall be punished by imprisonment at hard labor for not less than 25 years nor more than life imprisonment. At least 25 years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Upon completion of the term of imprisonment imposed, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

This Act is known as "The Mary Jean Thigpen Law," in memory of Mary Jean a four year old who was murdered on November 12, 2001, by a multiple sexual offender.

Senate Bill 187 by Senator Jones (failed to pass) would have authorized inmates under the jurisdiction of the sheriffs of each parish and inmates of a community rehabilitation center operated by DPS&C to participate in a work release program. The current statute denied inmates who were convicted of certain drug offenses (small amounts of substances) to participate in the work release program. The group of offenders who may now engage in work release in now expanded to offenders convicted with a limited amounts of drugs.

Senate Bill 50 by Senator Marionneau (Substituted as Senate Bill 741, remained in committee) addressed the problem of protestors disturbing a burial of person by shouting or demonstrating at a funeral. This statute would have prohibited protesting within 500 feet of any church cemetery, funeral or funeral establishment within one hour prior to the commencement of any funeral and until one hour following the cessation of any funeral. A person who violated this statute could have received a fine of up to \$10,000.00 and or imprisonment of up to five years.

House Bill 306 by Representative Faucheux (referred to House committee on criminal justice) would have provided that diminution of sentence for "good time" shall be at a rate of 30 days for every 30 days in actual custody except for an inmate convicted a first time of a crime of violence as defined by present law (R.S. 14:2(13)) who shall earn diminution of sentence at a rate

of three days for every 17 days in actual custody. This bill would have offered inmates an opportunity to earn additional "good time" during a natural disaster recovery effort if the inmate assists with recovery he may earn 150 days of "good time" for every 30 days served.

House Bill 75 by Representative Cazayoux (referred to the Senate committee on Judiciary C) would have enacted Code of Criminal Procedure Article 163.2 relating to chemical tests for intoxication. It provided for a search warrant for bodily samples to test for intoxication for the period of time the warrant is in effect. It specified who can issue the warrant and under what circumstances. The bill also provides for immunity for health care providers assisting with the execution of the warrant. A person would not have been able to refuse a chemical test when a search warrant for bodily samples has been issued.

Senate Bill 198 by Senator Jones (referred to the Senate committee on Judiciary B) would have reduced the number of votes required by the Board of Pardons to grant a pardon. Four members of the board are necessary to conduct business and three votes are now the requirement to grant a pardon.

House Bill 9 by Representative Smiley (Act 72) adds "aggravated incest" to the list of enumerated crimes of violence. "Crime of violence" means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon. The following enumerated offenses and attempts to commit any of them are included as "crimes of violence".

House Bill 51 by Representative Schneider (Act 51) increases penalties for the crime of unlawfully prescribing, distributing, dispensing or assisting in illegally obtaining controlled dangerous substances. The penalty is five years, with or without hard labor and a fine of up to \$50,000.

Senate Bill 517 by Senator Schedler (subject to call Senate final passage) would have required electronic monitoring of sex offenders with the cost to be borne by the party required to register as a sex offender.

Any person residing in this state, or who moves into this state after having been convicted of an offense under the laws of another state or under federal law which is equivalent to a sex offense and who is required to register for life, with the sheriff of the parish of his residence or with the chief of police of the municipality in which he resides, would have been required to continuously have on his person, commencing upon registration with the sheriff or chief of police, a location tracking electronic monitoring device.

The sheriff or chief of police could have charged a fee to the registrant for the cost of the electronic monitoring device which fee may include the costs associated with monitoring the resident's location.

Any person who failed or refused to wear a location tracking electronic monitoring device, when required to do so, would have been guilty of a misdemeanor punishable by a fine of \$500 and imprisonment for six months in the parish jail without the benefit of probation, parole, or suspension of sentence.



Crimes/Criminal Procedure

by: Tracy Sudduth
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Senate Bill 2 by Senator N. Gautreaux (Act 103) to be known as "The Mary Jean Thigpen Law" retains prior law regarding the crime of sexual battery, but increases the penalty if the victim is under the age of 13 and the offender is 17 years of age or older to imprisonment at hard labor for not less than 25 years nor more than life imprisonment. Requires that at least 25 years be served without benefit of parole, probation, or suspension of sentence. Requires the offender, upon the completion of the term of imprisonment, to be monitored by DPS&C through the use of an electronic monitoring device for the remainder of his natural life.

Act 103 retains prior law regarding the crime of second degree sexual battery, but increases the penalty if the victim is under the age of 13 and the offender is 17 years of age or older to imprisonment at hard labor for not less than 25 years nor more than life imprisonment. Requires that at least 25 years be served without benefit of parole, probation, or suspension of sentence. Requires the offender, upon the completion of the term of imprisonment, to be monitored by DPS&C through the use of an electronic monitoring device for the remainder of his natural life.

Act 103 retains prior law regarding the crime of oral sexual battery, but increases the penalty if the victim is under the age of 13 and the offender is 17 years of age or older to imprisonment at hard labor for not less than 25 years nor more than life imprisonment. Requires that at least 25 years be served without benefit of parole, probation, or suspension of sentence. Requires the offender, upon the completion of the term of imprisonment, to be monitored by DPS&C through the use of an electronic monitoring device for the remainder of his natural life.

Act 103 retains prior law regarding the crime of indecent behavior with juveniles, but amends the penalty if the victim is under the age of 13 and the offender is 17 years of age or older to imprisonment at hard labor for not less than two years nor more than 25 years. Requires that at least two years be served without benefit of parole, probation, or suspension of sentence.

Act 103 retains prior law regarding the crime of pornography involving juveniles, but changes the penalty if the offender photographs, videotapes, films, or visually reproduces any sexual performance involving a child under the age of 17; or if the offender solicits, promotes, or coerces a child under the age of 17 for the purpose of photographing, videotaping, filming, or visually reproducing any sexual performance. In those cases, the penalty is imprisonment at hard labor for not less than 25 years nor more than life imprisonment. Requires that at least 25 years be served without benefit of parole, probation, or suspension of sentence. Requires the offender, upon the completion of the term of imprisonment, to be monitored by DPS&C through the use of an electronic monitoring device for the remainder of his natural life.

Act 103 retains prior law regarding the crime of molestation of a juvenile, but increases the penalty if the victim is under the age of 13 and the offender is 17 years of age or older to imprisonment at hard labor for not less than 25 years nor more than life imprisonment. Requires that at least 25 years be served without benefit of parole, probation, or suspension of sentence. Requires the offender, upon the completion of the term of imprisonment, to be monitored by DPS&C through the use of an electronic monitoring device for the remainder of his natural life.

Act 103 requires the sexual offender to pay the cost of electronic monitoring, unless DPS&C determines that he is unable to pay all or any portion, in which case, DPS&C shall pay for the monitoring from monies appropriated or otherwise available for such purpose.

House Bill 4 by Representative McDonald (Act 325) retains the prior law provisions for the crime of molestation of a juvenile, except when the victim is under the age of 13 years. In that case, **Act 325** provides for imprisonment at hard labor for not less than 25 years nor more than life imprisonment. Requires at least 25 years of the sentence imposed to be served without benefit of probation, parole, or suspension of sentence. Following completion of the term of imprisonment of 25 years to life, **Act 325** requires the offender to be monitored by the DPS&C through the use of electronic monitoring equipment for the remainder of the natural life of the offender.

Act 325 amends the prior law for the crime of aggravated incest to provide when the victim is under the age of 13 years and the offender is age 17 years of age or older, the offender shall be sentenced to a term of imprisonment of not less than 25 years nor more than life, at least 25 years of the sentence shall be served without benefit of parole, probation, or suspension of sentence. **Act 325** provides for electronic monitoring of the offender.

Act 325 requires the sexual offender to pay all or a portion of the costs of the monitoring, unless DPS&C determines that he is unable to pay all or any portion, in which case DPS&C shall pay from money appropriated or otherwise available for the purpose.

Senate Bill 253 by Senator N. Gautreaux (Act 118) provides that aggravated kidnapping of a child is the unauthorized taking, enticing, or decoying away and removing from a location for an unlawful purpose by any person other than a parent, grandparent, or legal guardian of a child under the age of 13 years with the intent to secret the child from his parent or legal guardian.

Senate Bill 164 by Senator Mount (subject to call - senate final passage) would have prohibited any person, regardless of age, who is operating a motor vehicle under an intermediate license or a permanent license, from using a cellular telephone for any purpose while operating a motor vehicle for a period of one year commencing from the date of the initial issuance of the intermediate license or the permanent license. **Senate Bill 164** would also prohibit any person under the age of 17 from using a cellular telephone while operating a motor vehicle.

House Bill 64 by Representative Dorsey (Act 137) creates the crime of harboring or concealing a sexual offender, sexually violent predator, or child predator. **Act 137** provides penalties of a fine of not more than \$5,000 or imprisonment for not more than five years, at least two years having to be served without benefit of parole, probation, or suspension of sentence.

Senate Bill 48 by Senator Fontenot (Act 565) prohibits the sale, distribution, or possession of a legend drug without prescription or order. **Act 565** does not apply to the sale, delivery, or possession by drug wholesalers or drug manufacturers whose possession of any legend drug is in the usual course of business or employment. **Act 565** requires a prescription or order to be issued for a legitimate medical purpose by one authorized to prescribe the use of such legend drugs for legal possession. **Act 565** further provides that a prescription issued to a drug abuser or habitual user of legend drugs, not in the course of professional treatment, is not a prescription within the meaning and intent of this proposed law. **Act 565** provides that no person shall knowingly or intentionally acquire or obtain possession of a legend drug by misrepresentation, fraud, forgery, deception or subterfuge. Violators of **Act 565** shall be imprisoned, with or without hard labor, for not more than five years and may be sentenced to pay a fine of not more than \$5,000.

Senate Bill 502 by Senator Heitmeier (pending house committee) would create the crimes of price gouging during a state of emergency or disaster proclaimed by the governor or a proclaiming officer and provides for the elements of the crime of price gouging. **Senate Bill 502** would provide penalties for the crime of price gouging of a fine of not more than \$2,000 or imprisonment, with or without hard labor, for not more than two years, or both. **Senate Bill 502** would provide penalties for attempting the crime of price gouging of a fine of not more than \$500 or imprisonment for not more than six months, or both.

House Bill 1364 by Representative Thompson (Act 805) retains prior law of disturbing the peace and adds the following regarding funerals:

- (1) Intentionally engages in any act or any utterance, gesture, or display designed to disrupt a funeral, funeral home viewing, funeral procession, wake, memorial service, or burial of a deceased person.
- (2) Blocks, impedes, inhibits, or in any other manner obstructs or interferes with access into or from any building or parking lot of a building in which a funeral, wake, memorial service, or burial is being conducted, or any burial plot or the parking lot of the cemetery in which a funeral, wake, memorial service, or burial is being conducted.

Act 805 provides for penalties involving funerals of a fine of not more than \$100 or imprisonment for not more than six months, or both.

Senate Bill 641 by Senator Michot (Act 549) creates the "Louisiana Anti-Phishing Act" which provides that a person may not, with the intent to engage in conduct involving the fraudulent

use or possession of another person's identifying information:

- (1) Create a Web page or Internet domain name that is represented as a legitimate online business without the authorization of the registered owner of the business; and
- (2) Use that Web page or a link to the Web page, that domain name, or another site on the Internet to induce, request, or solicit another person to provide identifying information for a purpose that the other person believes is legitimate.

Act 549 prohibits a person from sending or causing to be sent, with the intent to engage in conduct involving the fraudulent use or possession of identifying information, to an electronic mail address held by a resident of this state an electronic mail message that:

- (1) Is falsely represented as being sent by a legitimate online business.
- (2) Refers or links the recipient of the message to a Web page that is represented as being associated with the legitimate online business.
- (3) Directly or indirectly induces, requests, or solicits the recipient of the electronic mail message to provide identifying information for a purpose that the recipient believes is legitimate.

Act 549 authorizes that the following persons may bring a civil action for violations of:

- (1) A person engaged in the business of providing Internet access service to the public who is adversely affected by the violation.
- (2) An owner of a Web page or trademark who is adversely affected by the violation.
- (3) The attorney general.

Act 549 provides that a person bringing an action may:

- (1) Seek injunctive relief to restrain the violator from continuing the violation.
- (2) Recover damages in an amount equal to the greater of:
 - (a) Actual damages arising from the violation.
 - (b) \$100,000 for each violation of the same nature or both.
- (3) Seek both injunctive relief and recover damages.

Act 549 provides that a court may increase an award of actual damages to an amount not to exceed three times the actual damages sustained if the court finds that the violations have occurred with a frequency as to constitute a pattern or practice. **Act 549** authorizes a plaintiff who prevails to recover reasonable attorney fees and court costs.

House Bill 100 by Representative Martiny (Act 142) adds child day care centers to drug-free zones that have enhanced criminal penalties for violations of the controlled dangerous substances law.

House Bill 572 by Representative Cravins (Act 186) creates the Sex Offender Assessment Panel within the Department of Public Safety and Corrections. Authorizes the secretary of the department to create not more than three sex offender assessment panels to evaluate every offender who has been convicted of a sex offense and who is to be released from custody to determine if he is a sexually violent predator. **Act 186** further provides that each offender determined to be a sexually violent predator shall be required to register and provide community notification as a sex offender for the duration of the life of the offender and to be monitored by electronic monitoring by the department for the remainder of his natural life. **Act 186** requires the sexual offender to pay all or a portion of the costs of the monitoring, unless DPS&C determines that he is unable to pay all or any portion in which case DPS&C shall pay. **Act 186** applies to any sex offender convicted or released from custody of DPS&C on or after Aug. 15, 2006.

Senate Bill 612 by Senator Mount (Act 663) provides that the office of motor vehicles is entitled to the criminal history record and identification files of the Louisiana Bureau of Criminal Identification and Information regarding persons seeking a driver's license or obtaining a special sex offender identification card. **Act 663** requires that any driver's license or special identification card issued to a sex offender contain a restriction code and the words "sex offender" printed in orange. The sex offender driver's license shall be valid for one year and be renewed each year after reregistration with the bureau. **Act 663** requires the bureau to transmit electronically the information received as requested on such applicant to the office of motor vehicles for the renewal of such license or card. **Act 663** applies to all sex offenders required to register with the La. Bureau of Criminal Identification and Information, regardless of the date of conviction. Failure to obtain or renew a sex offender identification card is punishable by a fine of not less than \$100 and not more than \$500, or imprisoned for not more than six months, or both. **Act 663** requires the secretary of the Department of Public Safety and Corrections to implement rules and regulations in accordance with the APA to implement a Predator Alert System.

Senate Bill 572 by Senator Jones (Act 71) provides that in the jury selection process, the state and the defendant may exercise all peremptory challenges available to each side, respectively, prior to the full compliment of jurors being seated and before being sworn in by the court and the state or the defendant may exercise any remaining peremptory challenge to one or more of the jurors previously accepted. Provides that no juror be sworn in until both parties agree on the jury composition or have exercised all challenges available to them unless otherwise agreed on by the

parties.

Senate Bill 566 by Senator Chaisson (Act 466) provides that when a surety has cause to bring an action in nullity or to set aside a bond forfeiture in several cases that are similarly situated by facts and legal issues, he may file such actions as one accumulative action, in summary proceedings and in the section of the criminal court where those cases are pending. The surety has the burden of proving that the cumulation of the actions is appropriate and in the interest of justice. **Act 466** provides that all cumulative actions must be mutually consistent and employ the same form of procedure. **Act 466** provides that when the court lacks jurisdiction of or when venue is improper as to one of the actions cumulated, that action shall be dismissed. **Act 466** provides that the surety is not liable for his failure to perform when it is caused by a fortuitous event that makes performance impossible. **Act 466** provides that a motion seeking relief must be filed within 12 months from the date of the fortuitous event, excluding legal delays. **Act 466** authorizes a defendant or the surety to seek to have the judgment of bond forfeiture set aside by filing a motion in the criminal court of record and after contradictory hearing with the district attorney and with satisfactory proof to the court that a fortuitous event has occurred and such event has made his performance required under the contract impossible to perform. **Act 466** provides that, as to bail bond forfeitures for which the notices of bond forfeiture were mailed between February 28, 2005, and September 21, 2005, the defendant or the surety may seek to have a judgment of bond forfeiture set aside by filing a motion in the criminal court record and after contradictory hearing with the district attorney and with satisfactory proof to the court that after reasonable effort to recover the wanted fugitive, the location and return of the wanted fugitive was made impossible by hurricanes Katrina or Rita, then the judgment of bond forfeiture shall be set aside and the surety released from the obligations of the bail contract.

House Bill 760 by Representative Scalise (Act 275) retains the provisions of prior law that provide that the governor, parish president, or chief law enforcement officer during declarations of emergency or disaster in response to the emergency or disaster may suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles, but provides that these powers do not authorize the seizure or confiscation of any firearm or ammunition from any individual who is lawfully carrying or possessing the firearm or ammunition. **Act 275** provides that a peace officer who is acting in the lawful discharge of the officer's official duties may disarm a person if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual. The peace officer shall return the firearm to the individual before discharging that individual unless the officer arrests that individual for engaging in criminal activity or seizes the firearm as evidence pursuant to an investigation for the commission of a crime.

House Bill 637 by Representative Martiny (Act 191) provides that current spousal witness privilege does not apply in a criminal case in which one spouse is charged with a crime against the person of the other spouse, or a crime against the person of a child, or either including, but not limited to, the violation of a preliminary or permanent injunction or protective order for a violation of protective orders.

House Bill 1007 by Representative Baldone (Act 220) provides that a person convicted of looting that occurred during a state of emergency not have the benefit of diminution of sentence for good behavior.

House Bill 1381 by Representative Burrell (Act 441) creates the crime of prohibited sale of video or computer games to minors. **Act 441** provides that an interactive video or computer game may not be sold, leased, or rented to a minor if the trier of fact determines all of the following:

- (1) The average person, applying contemporary community standards, would find that the video or computer game, taken as a whole, appeals to the minor's morbid interest in violence.
- (2) The game depicts violence in a manner patently offensive to prevailing standards in the adult community with respect to what is suitable for minors.
- (3) The game, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

Act 441 provides for violations of a fine of not less than \$100 nor more than \$2,000, or imprisonment, with or without hard labor, for not more than one year, or both.

Culture, Recreation & Tourism



CULTURE

by: Ann S. Brown
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2006 Regular Session Highlights:

House Bill 680 by Representative Baylor, (Act 62) re-creates DCRT by extending its existence for two more years. Provides that the department's new termination date shall be July 1, 2009.

House Concurrent Resolution 239 by Representative Glover (enrolled) requests that DCRT create a state heritage program to recognize and distinguish significant cultural, historic, and natural resources within the state. Acknowledges and recognizes the people, enterprises, and communities that transform cultural skills, knowledge, and ideas into economically productive goods, services, and places which are of vital importance to the economy of Louisiana.

"CAJUN" AND "LOUISIANA CREOLE" CULTURE

Senate Bill 525 by Senator N. Gautreaux (Act 124) creates the "Cajun and Louisiana Creole Goods and Services Consumer Protection Law". Provides for the adoption, appropriation and establishment of the "Cajun" and "Louisiana Creole" certification marks. Restricts the use of the terms "Cajun" and "Louisiana Creole" to services or goods which originate in, are substantially connected with, or have been substantially transformed in the state.

Senate Bill 573 by Senator N. Gautreaux (Act 661) provides that the terms "Cajun" and "Louisiana Creole" refers to the unique and distinctive culture and lifestyle associated with Louisiana.

House Bill 1102 by Representative St. Germain (House Final Passage) would have provided relative to the improper use of the term "cajun" and prohibits use of the term "cajun" if commercial advertising or promotion misrepresents the nature, characteristics, qualities, or geographic origin of goods, including agricultural goods, services, or commercial activities.

House Bill 1117 by Representative St. Germain (Senate Committee) would have created the "Cajun Goods and Services Consumer Protection Law" and established a certification mark, to be owned by the state, which represents the term "cajun".

House Concurrent Resolution 10 by Representative LaFleur (enrolled) commends Floyd's Record Shop in Ville Platte, which is the oldest recorded music store in Louisiana, upon its 50th anniversary. Recognizes and records for posterity Floyd's Record Shop's contributions to the

Creole and Cajun heritage and culture.

CULTURAL ENTITIES

House Bill 1083 by Representative Thompson (House Floor) establishes the Stage of Stars Museum in Caddo Parish within the Dept. of State as a historical, cultural, scientific, and educational institution with the purpose of researching, collecting, preserving, and presenting objects of art and the like that reflect the social, cultural, and economic history of Shreveport's Municipal Auditorium.

House Concurrent Resolution 112 by Representative Toomy (enrolled) designates the German-American Cultural Center in Gretna as the official German-American Cultural Center for the state.

House Concurrent Resolution 22 by Representative Smiley (enrolled) commends Sorrento, a small municipality located in the southern portion of Ascension Parish, upon the 50th anniversary of its incorporation. Sorrento is settled by descendants of the French Acadians who brought their ancestors' culture and traditions to this area.

RECREATION

*by: Todd Parker
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AMUSEMENTS/TICKETS

Current law provides that all admission tickets to any athletic contest, dance, theater, concert, circus, or other amusement shall have the price printed on the face of the ticket, that the printed price is the total price of each ticket which includes any charges the subscriber must pay to purchase the ticket, and prohibits any person from selling an admission ticket for an amount in excess of the price of the ticket.

House Bill 1299 by Representative Montgomery (Act 238) instead provides that the price required to be printed on the face of the ticket is the price paid for the ticket, excluding any order processing and delivery charges. It provides that nothing shall prohibit the resale or offering for resale via the Internet of an admission ticket, at any price, to an athletic contest, dance, theater, concert, circus, or other amusement, if the organizer of the event and the operator of the location where the event is occurring authorize admission tickets to such event to be resold for more than the price printed on the face of the ticket. If such resale is authorized, any admission ticket to the event may be resold or offered for resale through any web site if such web site's operator guarantees a full refund of the amount paid for the ticket under certain conditions. The resale provisions do not apply

to university sports event tickets specially allocated to Louisiana legislators and student tickets issued by Louisiana universities for sporting events.

RESERVOIRS

House Bill 1129 by Representative Thompson (Act 357) creates the Poverty Point Reservoir Development Fund. It authorizes appropriation from the fund for support of the operation, maintenance, improvement, and expansion of the Poverty Point Retirement Development Community and the Black Bear Golf Course.

TOURISM

by: Joe Guillory
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Proclamations

Senate Concurrent Resolution 97 by Senator Hines (enrolled), recognizes May 24, 2006, as Tourism Awareness Day.

Humanities

House Concurrent Resolution 239 by Representative Glover (enrolled), requests the La. Dept. of Culture, Recreation and Tourism to create a state heritage program to recognize and distinguish significant cultural, historic, and natural resources.

Tourist Commissions

Senate Bill 469 by Senator Schedler (Act 537), changes the name of the East St. Tammany Events Center District to the Northshore Harbor Center District, and provides that the executive director of the St. Tammany Parish Tourist and Convention Commission will be a member of board.

House Bill 162 by Representative Hill (Act 252), relative to the Beauregard Parish Tourist Commission and the Beauregard Parish Covered Arena Authority Parish, increases the maximum rate of hotel occupancy tax authorized to be levied by the parish tourist commission from 2% to 4%. Also provides that the Beauregard Parish Covered Arena Authority, which is subject to audit by the legislative auditor, shall not be required to report its expenditure of funds received to the Southwest Convention and Visitors Bureau.

House Bill 237 by Representative Bruce (Act 161), specifies that appropriations from the DeSoto Parish Visitor Enterprise Fund shall be limited to the DeSoto Parish Tourism Commission.

House Bill 296 by Representative Cazayoux (Act 166), permits the Pointe Coupee Parish Visitor Enterprise Fund collections to be used for tourism-related purposes instead of planning, development, or capital improvements of tourism sites.

House Bill 470 by Representative Doerge (Act 182), relative to Webster Parish, increases the maximum rate of hotel occupancy tax authorized to be levied by the Webster Parish Convention and Visitors Commission from 2% to 4%.

House Bill 605 by Representative Salter (Act 189), creates the Red River Tourism Commission composed of Red River Parish and authorizes the commission to levy and collect a tax not to exceed 3% upon the occupancy of hotel rooms, motel rooms, and overnight camping facilities within the jurisdiction of the commission.

House Bill 625 by Representative John Smith (Act 483), changes the name of the West Louisiana Tourist Development Region to Five Parishes West and changes the composition of such region.

House Concurrent Resolution 128 by Representative Durand (enrolled), creates and provides for the Tri-Parish Tourism Development Advisory Commission to study and make recommendations relative to regional tourism development in the parishes of Iberia, Lafayette, and St. Martin.

Museums

Senate Bill 601 by Senator N. Gautreaux (Act 614), establishes the Louisiana Military Hall of Fame and Museum in Abbeville.

Senate Concurrent Resolution 49 by Senator Mount (enrolled), commends and express support for the creation of the National Hurricane Museum and Science Center in southwest Louisiana.

Tax Free Shopping Program

House Bill 393 by Representative Hammett (Act 76), changes the termination date of Louisiana Tax Free Shopping Program, a sales tax refund program for foreign visitors to the state, from 2007 to 2009.

Historic Districts

House Bill by Representative LaBruzzo (Act 245), designates the corridor along Metairie Road, beginning at the Jefferson Parish-Orleans Parish line and extending to the west along Metairie Road to its intersection with Severn Avenue and including the properties on both sides of Metairie Road, as the "Old Metairie Road Business and Cultural District." Requires DOTD to erect appropriate sign markers at the east and west boundaries of the district and at locations along the route of the district.

House Concurrent Resolution 132 by Representative Katz (enrolled), requests the Dept. of Transportation and Development to erect signs along Interstate 20 near the Mill Street exit in West Monroe indicating the location of Antique Alley and to facilitate the erection of the Monroe Garden Club welcome sign.

Economic Development



by: *Jeff Oglesbee*
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Prior to the extreme devastation caused by hurricane's Katrina and Rita, the state of Louisiana had experienced numerous successes in the area of economic development, particularly in the burgeoning field of film and television development. As Louisiana continues its recovery, the legislature has addressed various issues of concern related to economic development.

HURRICANE RECOVERY

Of particular concern immediately following the hurricanes were numerous statutorily imposed deadlines. Several executive orders issued by Governor Blanco temporarily suspended these deadlines in order to give the business community an opportunity to make assessments and continue their recovery from the storms. One such measure, **House Bill 6 by Representative Pinac of the 2005 First Extraordinary Session (Act 15)**, extended the investment deadlines for a certified Louisiana capital company from December 2005 until March 2006. Likewise, **House Concurrent Resolution 8 by Representative Lafonta (enrolled)** extended the time for which a business may participate in the Small and Emerging Business Development Program from seven years to ten years.

Immediately following the hurricanes, numerous businesses located in the affected parishes lost a majority of their workforce as their employees were forced to evacuate and temporarily relocate out-of-state. **Senate Bill 208 by Senator Michot (subject to call - Senate Final Passage)** would have altered the Louisiana Quality Jobs Program to allow those returning employees to qualify as a "new direct job" and enable the company to receive tax credits. Rather than legislatively change the requirements, **Senate Concurrent Resolution 115 by Senator Michot (enrolled)** requests the Department of Economic Development to administer the program in order to assist companies meeting the qualifications of the program attempting to recover from damage caused by hurricanes Katrina or Rita.

Providing safe and secure housing has been a primary concern following the hurricanes. One effort to assist in the recovery, **Senate Bill 207 by Senator Michot (subject to call - House final passage)** would have expanded the term "residential type development" for purposes of the Louisiana Enterprise Zone Act to include multi-family housing business. It is anticipated that this would have encouraged the construction of new multi-housing projects.

SMALL BUSINESS ASSISTANCE

A key component of the state's overall economic development policy, Louisiana small

businesses were particularly affected by the devastation caused by hurricanes Katrina and Rita. The legislature introduced several measures in an effort to provide some relief to this vital industry.

Senate Bill 94 by Senator Michot (pending House Appropriations) would have enacted the Small Business Restoration and Revitalization Act of 2006. The legislation would have enabled independently owned and operated Louisiana business to be guaranteed a percentage of restoration and revitalization contracts being awarded by the state of Louisiana. It is anticipated that this legislation would have helped level the playing field for Louisiana's small business community which is trying to compete with national and global companies who are actively involved in the restoration and revitalization work available in the state. Another proposal, **House Bill 1323 by Representative Burrell (pending House Commerce)** would have created the office of Small Business Enterprises and Government Contract Procurement Enhancement. This new office would have been responsible for developing a plan and to implement programs to provide an opportunity for greater participation by small businesses and entrepreneurs in public contracts and to identify and remove barriers to equal participation by these qualified small businesses and entrepreneurs.

Finally, **House Bill 1325 by Representative Burrell (Act 434)** establishes the mentor-protégé program which would be responsible for enabling the growth or formation of viable small businesses throughout Louisiana. One vital aspect of the program would be to enable economically disadvantaged businesses to break down barriers and build their own economic self-sufficiency and capacity. Another important element of the program includes the development of the capacity to compete for public and private sector contracting and purchasing opportunities.

FILM, TELEVISION, AND MUSIC DEVELOPMENT

One continuing bright spot for Louisiana's economic growth has been the film and television industry. **House Bill 400 by Representative M. Jackson (Act 346)** adds to the duties and responsibilities of the office of film and television development to include digital media and music. This expansion will also restructure the commission by placing it under the supervision of the secretary of the Dept. of Economic Development as the office of entertainment industry development. The new office will also be obligated to establish a partnership with the Department of Culture, Recreation and Tourism and the La. Music Commission in order to provide collaboration between the office, the commission, and the department to advance, through strategic initiatives, the film, television, and music entertainment industries in Louisiana.

A more targeted initiative, Senate Bill 155 by **Senator Marionneaux (Act 574)** creates the Louisiana Capital Area Economic Development (LACAEDA) Film Commission in order to develop the capital area as a film, video, and television production center and market its locations, resources, and personnel to motion picture and television production companies. Rather than competing with New Orleans area for film and television productions, it is anticipated that the LACAEDA film commission will work in harmony with the office of entertainment industry to promote the unique filming locations spread throughout the capital area region. Similar measures, **House Bill 1349 by Representative Scalise (pending House Commerce committee) and Senate Bill 735 by Senator Quinn (pending Senate Local & Municipal committee)** would have created a Metropolitan Area

Economic Development Commission which would have developed film, video, and television production centers in parishes with a population between 425,000 and 475,000.

MISCELLANEOUS

Senate Bill 662 by Senator Michot (Act 624) creates the Louisiana Immersive Technologies Enterprise Commission which will partner with the Department of Economic Development, the Lafayette Economic Development Authority, and the University of Louisiana at Lafayette to engage in collaborative research involving immersive technologies and to further economic development of businesses and industries utilizing technologies.

Finally, **House Bill 1130 by Representative Richmond (Act 839) and Senate Bill 665 by Senator Schedler (pending Senate final passage)** authorizes any combination of contiguous parishes or separate municipalities to create local or regional economic development districts in order to make such parishes and municipalities more self-reliant in funding economic development activities in their area.



K-12 Education

by: *David Smith*
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Having made adjustments to the Minimum Foundation Program formula required to provide for the revised financing of school systems following the impacts of Hurricane Katrina and Hurricane Rita during the First Extraordinary Session of 2005 in November, no other major matter in the elementary and secondary education arena made significant progress through the First Extraordinary Session of 2006 in January. However, a variety of ideas were considered during the 2006 Regular Session.

ACCOUNTABILITY

The school and school district accountability system that began in the late 1990s has continually been implemented with adjustments along the way to fold Louisiana's system into the requirements of the No Child Left Behind federal requirements. Schools and school districts have overall made impressive progress as students have stepped up to the challenge of high stakes testing. The testing program called the Louisiana Educational Assessment Program, or LEAP, however, continues to be legislative challenged. **Senate Bill 439 by Senator Fields (pending Senate committee)** would have continued the requirement for all such tests and continues provisions for remediation and support of students who do not achieve proficiency levels. The bill would have prohibited, however, the use of LEAP test scores, including the high school graduation tests, as the sole criteria for not promoting or graduating a student.

Pursuant to the accountability program, some school systems included a large percentage of schools that were found to be not providing the educational result expected and required. In 2003, the legislature created the Recovery School District and defined and provided for the transfer to the Recovery School District such failed schools. In 2004, the legislature went on to define and provide for a local school system when the whole system is found academically in crisis. In that year, the legislature provided for the transfer of a significant portion of the local school boards power to the superintendent of schools and insulated the superintendent from retribution on the part of the school board. Last year, in 2005, the legislature provided for the direct transfer of all the schools performing poorly in a system in academic crisis to the Recovery School District.

The result of the 2005 enactment was to render portions of the 2004 legislation no longer necessary. **House Bill 310 by Representative Tucker (Act 687)** eliminates all the provisions of the 2004 act that transfer significant power of the local board to the superintendent and retains those portions, including the definitional portions that are critical to the meaning of the 2005 act transferring all failed and failing schools to the Recovery District.

CURRICULUM

Considerable focus was placed on the need to integrate vocational skill training into secondary programming during this session. **Senate Bill 749 by Senator Nevers (Act 668)** requires the State Board of Elementary and Secondary Education and the Board of Supervisors of the Louisiana Community and Technical College System to provide for the establishment of at least two partnerships between technical and/or community colleges and public school systems to pilot the provision of articulated and reciprocal technical training to potential high school dropouts beginning with the 2007-2008 school year. Provides for scaling up the number of pilots to all those that are viable in the following year and require that every student have access to such a program by the 2010-2011 school year. The bill requires BESE and the LCTCS board to meet together and establish the basis for schools under their jurisdiction to reciprocally provide articulated postsecondary technical college credit and Carnegie unit credit toward high school graduation for successful completion of units of training regardless of whether the training occurred in a community or technical college or a public secondary school. It requires the basis to be established no later than Jan. 1, 2007 and specifies elements that are to be considered and included in such basis.

The bill requires BESE to send the basis and any other directions and information for the accomplishment of partnership agreements to all local school boards and each public secondary school not under the jurisdiction of a local board and requires the LCTCS board to send the same information to each community and technical college. Thereafter, every community and technical college is required to notify every school board and every public secondary school not under the jurisdiction of a local board located in its service area of the technical training programs offered at the institution. Each local board and representatives of a community and/or technical college are required to meet together toward the goal of establishing partnerships to implement programs of technical training for shared students aimed at enrolling not less than 10% of the potential dropouts identified by the local board. Requires that the partnership agreements that are formed be reported to BESE and the LCTCS board. Provides that those partnerships that have been formed be invited to participate in a pilot year, 2007-2008. Provides participants be selected by BESE. Provides for reporting on the pilots and provides for scaling up the number of pilot programs in subsequent years.

Each local board and the governing authority of any other participating secondary school is authorized to seek and expend any and all funds made available for such purpose, including donations. Additionally, the bill requires BESE to: adopt rules pursuant to the APA for incorporating recognized completer programs alternative to high school graduation into a range of programming available to shared students and adopt rules necessary to permit enrollment of LCTCS students in programs offered on high school campuses and the LCTCS board to: adopt rules regarding incorporating credit for courses taken on a high school campus by LCTCS students into the completion of LCTCS board programs, adopt rules as it relates to having secondary students on LCTCS campuses, and provide assistance to local boards and leadership in the development of the minimum standards of technical and skill programs.

This desire to leverage available services and incorporate vocational training into the secondary curriculum is matched by **House Bill 1023 by Representative Hutter (Act 99)** in which the LCTCS board is required to cooperate and work together with BESE to improve linkages and career and technical education pathways between high schools and community and technical colleges.

Finally on this same topic, **House Concurrent Resolution 77 by Representative Fannin (enrolled)** requests the High School Redesign Commission to consider and include in its recommendations the role and importance of vocational education programs in preparing high school students to pursue postsecondary education, industry-based training or certification, an apprenticeship, the military, or immediate entrance into a career field.

Geography was also a curriculum element of concern in both houses. **Senate Bill 489 by Senator Smith (Act 462)** and **House Bill 940 by Representative Crane (pending House committee)** provides that the state shall, consistent with its agreement with the National Geographic Society of Washington, D.C., undertake a program to improve geography education by implementing a program consistent with activities promoted by Louisiana Geography Education Alliance to promote and provide for programs of professional development for teachers and the provision of class room materials. The bill also provides for the creation of a regional partnership program called the Louisiana Geography Education Initiative Program and provides for a council to undertake the steps necessary.

EMPLOYEES

Continuing in addressing the concerns for school employees displaced by the hurricanes, **Senate Bill 115 by Senator Murray (pending Senate committee)** would have required that not later than July 1, 2006, each local school board impacted by Hurricane Katrina or Hurricane Rita develop and adopt rules and policies for use when rehiring employees and provide a hiring preference to former teachers, full-time secretaries, teacher's aides, school clerks, custodians or other employees who were displaced by the hurricanes.

Several years ago, the first of three laws that provide a \$5000 a year increase in salary for national board certification for teachers, counselors, and school psychologists was passed. Each has a deadline for the award of the credential. **House Bill 167 by Representative Badon (Act 151)** changes the date by which an otherwise eligible school counselor must have been awarded the initial National Board of Certified Counselors credential from July 1, 2007, to July 1, 2013. **House Bill 175 by Representative Badon (Act 253)** changes the date that an otherwise eligible teacher must have been awarded the initial National Board of Professional Teaching Standards certificate from July 1, 2007, to July 1, 2013. **House Bill 210 by Representative Badon (Act 73)** changes the date prior to which an otherwise eligible school psychologist must have been awarded the initial National School Psychology Certification Board credential from July 1, 2006, to July 1, 2013.

To facilitate the conduct of work done by various boards, **House Bill 800 by Representative Trahan (Act 774)** requires, by not later than the beginning of the 2006-2007 school year, that each local school board adopt policies and procedures providing leave with pay for any school system employee who is an elected member of the Board of Trustees of the Teachers' Retirement System of La. or the Board of Trustees of the La. School Employees Retirement System, an elected or appointed member of the State Board of Elementary and Secondary Education (BESE), or an appointed member of any task force, commission, or other advisory body established by BESE so that such employee may attend meetings of the entity and any committees thereof on which the employee serves.

In terms of assuring the safety of students and addressing the concern of local school board with issues of liability **House Bill 1082 by Representative Walsworth (Act 723)** requires that, prior to hiring any employee, each local public school board shall request the applicant for such employment to sign a statement that provides procedures for the disclosure of information by the applicant's current or previous employer, if such employer is a local public school board, relative to all instances of sexual misconduct, as defined by BESE, with students as committed by the applicant, if any, and releases the applicant's current or previous employer, if such employer is a local public school board, and any school employee acting on behalf of such employer from any liability for providing any information. The bill goes on to require each local board to request, in writing, that the applicant's current or previous employer, if such employer is a local public school board, provide the information if such information exists and make available to the hiring school board copies of all documents as contained in the applicant's personnel file maintained by such employer relative to such instances of sexual misconduct, if any. Requires a response within 20 days and provides that any school employee acting on behalf of such board who in good faith discloses any information pursuant to is immune from civil liability for having disclosed such information.

Currently the law provides that employees be permitted to respond in writing to any document in their personnel file. That law was effective September 1, 1987. **House Bill 1184 by Representative M. Powell (Act 300)** adds that such opportunity also shall apply to any document placed in the employee's file on or before Sept. 1, 1987 .

House Bill 234 by Representative Richmond (Act 825) requires that, by not later than Nov. 1, 2006, each local public school board adopt policies prohibiting any teacher employed by the board from recommending that a student be administered a psychotropic drug, suggesting any specific mental health diagnosis for a student, or using a parent's or guardian's refusal to consent to the administration of a psychotropic drug to a student or to a psychiatric evaluation, screening, or examination of a student as grounds for prohibiting the student from attending any class or participating in any school-related activity or as the sole basis of accusations of child abuse or neglect against the parent or guardian.

FUNDING

Article VI, Section 14 of the constitution currently protects all political subdivisions, except

local school boards from the implementation of an law, executive order, or rule or regulation that requires increased expenditures unless it is approved or requested by the governing authority of the effected political subdivision unless the funding or the potential for local creation of funding is made available unless the law, order or rule is one of a specified kind, or unless it is enacted or adopted by a two-thirds vote of the elected members of both houses. **Senate Bill 296 by Senator Quinn (Act 855)** essentially extends similar protection to local school boards and systems as to the enactment of laws with the same type of exceptions as are applicable to other political subdivisions, except the authority of a local school bards to permit an unfunded mandate by resolution. It adds to the list of laws not effected by this limitation, laws relative to the Minimum Foundation Program as required by the constitution, and laws relative to any instrument adopted or enacted by the legislature approving such formula, and any law relative to the implementation of the state school and district accountability system.

The Recovery School District operates with the funding that would otherwise have been available to the local school systems as it relates to the schools transferred. **Senate Bill 484 by Senator Murray (pending Senate committee)** would have specified that the Recovery School District is subjects to any expenditures and/or liabilities corresponding with the securing of federal or grant funding. In addition to the transfer of funding from the local system to the Recovery School District, the bill required that a portion of all related liabilities also be transferred to the recovery district in an amount proportional to the number of schools transferred from a school system in relation to the total number of schools operated by the school system during the year immediately proceeding the transfer of such schools as well as a proportionate share for bonded indebtedness, unemployment and healthcare benefits .

In a continuing effort to address the need for funding public schools on an equitable basis in a fashion that addresses the needs of the system and the need to continue to address the transitional issues created by the impact of the hurricanes, the State Board of Elementary and Secondary Education developed and adopted a new formula on June 5, 2006 and the legislature considered it as **House Concurrent Resolution 290 by Representative Crane (enrolled)** with an estimated implementation cost of \$2.622 billion This formula is based on the May 1, 2006 official student count and provides for a minimum funded membership for those school districts that have student losses of greater than 10% on that day as compared to the membership prior to the hurricanes. It provides for two adjustments during the year, one on October 1 and again on February 1, 2007. This formula increases the weight for at-risk students from 17% to 19% and adds a small weight of .05% for students with limited English proficiency. It increases the special per pupil allotment to support the increased costs of retirement, health insurance, and energy/fuel from \$60 per student in SCR 29 to \$80.

Senate Bill 737 by Senator Jones (Act 632) creates a special fund in the state treasury to be known as the Teachers Education Incentive Program Trust Fund to provide additional incentives for qualified classroom teachers to locate and teach in disadvantaged and undeserved geographical areas of the state by encouraging and increasing the availability of such teachers for the benefit of children in public elementary and secondary schools.

House Bill 163 by Representative Walsworth (pending House committee) would have revised the constitution regarding the establishment by BESE of the annual formula from one annually developed and adopted to be used to determine the cost of a minimum foundation program (MFP) of education in all public elementary and secondary schools as well as to equitably allocate the funds to parish and city school systems to one used to annually developed and adopted as provided by law for such purposes.

As it relates to funding local public education **House Bill 504 by Representative M. Powell (pending House committee)** proposed a constitutional amendment to provides that for any prospective fiscal year for which the official forecast exceeds the official forecast for the current fiscal year, as evidenced by the adoption of the official forecast for purposes of adoption of the state budget for the ensuing fiscal year, the legislature shall appropriate from the state general fund for the prospective year an amount equal to 10% of the difference in the forecasts for the current year and the prospective year, to provide for a state salary supplement and associated employer retirement contributions to be paid to and on behalf of classroom teachers in La. public elementary and secondary schools.

PARENTS

The recent experiences with the spread of spinal meningitis is addressed by **Senate Bill 448 by Senator Broome (Act 122)** which requires local school boards to provide parents and guardians with information about meningococcal disease and the effectiveness of the vaccination. The bill permits such healthcare information to be provided through the school system's website, student handbook or other appropriate means of dissemination of information and shall be updated annually if new information on such disease is available. The bills requires that this information include the causes, symptoms and means by which meningococcal disease is spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

Addressing the same issue on the higher education side, **House Bill 768 by Representatives Strain and Pinac (Act 711)** and **House Bill 154 by Representative Strain (Act 251)** combine to require vaccination against meningococcal disease as a condition of registration at a public or nonpublic postsecondary educational institution. House Bill 768 provides that this requirement will be implemented on a staged prioritized schedule established by the secretary of the Department of Health and Hospitals based on ensuring a sufficient availability of the required vaccine.

Trying to address that lack of involvement of some parents in the education of their children, **Senate Bill 564 by Senator Quinn (assigned to House Education)** would have required certain procedures be adopted to encourage parents and legal guardians who habitually fail to attend scheduled parent-teacher conferences or fail to participate in scheduling parent-teacher conferences. The bill provided for the withholding of the report card of the student whose parents or legal guardian fails to attend at least one scheduled parent-teacher conference or fails to agree to schedule such conferences and establishes a procedure for the implementation of the requirement.

House Bill 780 by Representative McDonald (Act 279) addresses the La. Student Tuition

Assistance and Revenue Trust Program to add some flexibility to the official timing of the receipt of funds to be invested to that checks and electronic funds transfers through the ACH Network, or its successor, received for deposit in a variable earnings option shall be invested by the state treasurer in fixed earnings prior to the trade date. Provides that all earnings from such investments from the beginning of the program shall be the property of the state and shall be deposited in the Variable Earnings Transaction Fund to be used by the authority to pay a financial institution's charges and any loss in value between the purchase and redemption of units in a variable earnings option resulting from a check deposit or ACH Network transfer that, subsequent to the trade date, is not honored by the financial institution on which it was drawn.

SCHOOL BOARDS/SYSTEMS

Following the creation of the city of Central and the path established by the creation of the Baker City School System and the Zachary Community School System, Senator Fontenot and Representative White introduced the proposed constitutional amendment and companion bill to permit and provide for the establishment of the Central Community School System. **Senate Bill 177 by Senator Fontenot (Withdrawn)** and **House Bill 48 by Representative White (Act 861)** proposed a constitutional amendment to provide that for the effects and purposes of Art. VIII, §13, the Central community school system in East Baton Rouge Parish shall be regarded and treated as a parish and shall have the authority granted parishes. **House Bill 48 by Representative White (Act 861)** and **Senate Bill 410 by Senator Fontenot (withdrawn)** establishes a separate school system and school board for the Central community in East Baton Rouge Parish and provides for the the geographic boundaries of the school system and the election of the school board.

Senate Bill 308 by Senator Murray (Act 455) and **House Bill 916 by Representative Ansardi (pending House floor)** authorizes the Recovery School District which has all the rights and responsibilities of ownership regarding all land, buildings, facilities, and other property that is part of the school being transferred, to sell, lease or exchange such property to the governing authority of any independent secondary school which has operated a school academically approved by the BESE for not less than twenty-five years prior to August 29, 2005, in an area subject to an emergency declaration of the governor as a result of devastation resulting from a hurricane and which is in need of property or facilities in which to locate a school because it was rendered uninhabitable by the hurricane and cannot be restored to a habitable condition prior to the beginning of the next semester following the hurricane at a price or lease or exchange based on the value that is determined by averaging the market value appraisal of three appraisers.

Senate Bill 539 by Senator Ullo (Act 606) directs each local school board to employ a business manager or CFO, who has the qualifications established by rules promulgated by BESE. and provides that any currently employed business manager or CFO who does not meet the qualifications established by the board has seven years from the date the final rules are published to meet the required qualifications.

Senate Bill 701 by Senator Jones (Act 630) requires BESE, upon the request of a school system with fewer than 5000 students to provide technical assistance to the system in determining

the potential financial impact of a proposed charter school on the operation of the system.

House Bill 800 by Representative Trahan (Act 774) requires, by not later than the beginning of the 2006-2007 school year, that each local school board adopt policies and procedures providing leave with pay for any school system employee who is an elected member of the Board of Trustees of the Teachers' Retirement System of La. or the Board of Trustees of the La. School Employees Retirement System, an elected or appointed member of the State Board of Elementary and Secondary Education (BESE), or an appointed member of any task force, commission, or other advisory body established by BESE so that such employee may attend meetings of the entity and any committees thereof on which the employee serves.

House Bill 1233 by Representative J. R. Smith (pending Senate final passage) would have provided that the establishment of military charter schools using the exception in the law regarding the percentage of "community" students who are at risk is limited to those that receives its initial charter prior to July 1, 2006, except for such a school located in a parish with a population of more than 475,000 persons or in a parish with a population between 26,000 and 30,000.

TOPS

The number of changes to the TOPS scholarship program has slowed down to a point in the 2006 session where the most interest and controversy was concerning bills heard but deferred in the committee of the original house.

Senate Bill 280 by Senator Fields (pending Senate committee) would have required that to be eligible to receive a TOPS award beginning with the 06-07 school year a student have an annual adjusted gross family income as reported to the administering agency that does not exceed 100% of the poverty guidelines established by the U.S. Dept. of Health and Human Services under the authority of 42 U.S.C. 9902(2).

Senate Bill 330 by Senator Marionneaux (pending Senate committee) proposed changing the programs from a scholarship to a loan forgiveness program beginning with the high school graduates of the 2006-2007 school year. Provided that a TOPS loan will be made to students who intend to pursue an academic undergraduate degree or skill or occupational training from an eligible postsecondary institution. Provides that the establishment of the new loan forgiveness program will in no way affect any student who graduated from high school during the 2005-2006 school year or before and who received a TOPS award under the original TOPS program. Required, under the loan forgiveness program, for students who do not meet certain requirements, to repay the full amount of the loan with repayment commencing 12 months after eligibility for a loan has terminated or six months after full-time attendance at a postsecondary institution has ended. Provided however, that after a student has completed eligibility, or upon graduation, and before such repayment begins, for the full amount of the loan and the interest accrued thereon to be forgiven, provided the student completed and met all the requirements to maintain continued state payments of a loan.

VOUCHERS

Senate Bill 689 by Senator Dardenne (pending Senate committee) and **House Bill 301** by Representative Burns (pending House final passage) both proposed the establishment of the Vouchers for Students in Failing Schools Pilot Program as a four-year pilot program beginning with the 2006-2007 school year for any student in grade kindergarten through five who is attending, or would be attending, a public school in the school district where the student resides in a parish with a population of at least 475,000 persons and such school has been identified as a failing school as defined by BESE pursuant to board policies for the school and district accountability system.

Postsecondary Education

by: *David Smith*
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General

During the 2006 1st Extraordinary Session no bills were introduced dealing with Postsecondary Education, although, continuing discussions were ongoing relative to the damage sustained by colleges and universities in physical plant destruction and in loss of students, staff and personnel due to hurricanes Katrina and Rita. Great hope was placed in federal government help and anticipation of the effects on the states revenue stream.

Board of Regents and Colleges and Universities

In order to assist certain independent institutions from certain licensing and annual registration requirements **Senate Bill 186 by Senator Hines (Act 316)** exempted from registration and licensure any institution that was a member of the Louisiana Association of Independent Colleges and Universities on January 1, 2001.

So as to remove any perceived encroachment on the constitutional authority of postsecondary systems to appoint presidents of their respective college or university system, **Senate Bill 530 by Senator Fields (Act 463)** removed the authority of the Board of Regents to confirm the appointments of postsecondary systems presidents, thus eliminating any potential question concerning constitutional infringement.

House Concurrent Resolution 223 by Representative Crane (enrolled) requests the Board of Regents, in collaboration with the public postsecondary education management boards, to study the feasibility of the implementation of an alternative leave program for unclassified and academic personnel employed in postsecondary education institutions as an option to the sick and annual leave that is currently provided to such employees and to report study findings and recommendations. The resolution requires that such study include the following components relative to the alternative leave program: (1) All sick and annual leave shall be combined into a Paid Time Off bank. (2) All academic personnel appointed on a fiscal year basis and all unclassified personnel shall accrue leave in a Paid Time Off bank. (3) Accrual of leave, including limits on maximum accrual, shall be as defined by each public postsecondary education institution. (4) Leave accrued in the Paid Time Off bank may be used for the purpose of rest, relaxation, vacation, or personal or family illness and needs as defined by each public postsecondary education institution. (5) In addition to the Paid Time Off bank, all academic and unclassified personnel shall accrue sick leave in an Extended Sick Leave bank and such leave may be used for personal or family illness as defined by each public postsecondary education institution. (6) Accrual of extended sick leave, including limits on maximum accrual, shall be as defined by each public postsecondary education institution. (7) Accrued leave in a Paid Time Off bank for which unclassified and academic personnel may be paid

upon separation from employment shall not exceed 300 hours.

Tops

Senate Bill 280 by Senator Fields (assigned to Senate Education Committee) and Senate Bill 330 by Senator Marionneaux (assigned Senate Education Committee) both attempted to address concerns as to the inequities and increased costs associated with the Tuition Opportunity Program For Students (TOPS) currently running in excess of \$120,000,000 annually. Senator Fields sought to address the problem of funding a program where students of families with incomes in excess of certain federal income guidelines who may well be able to provide and afford a college education for their children are utilizing a state funding mechanism to subsidize such education. The bill further would have required LOSFA to take all administrative action necessary to expedite full implementation and also required LSFAC to disseminate information to students and others regarding program changes in the most timely manner. Senator Marionneaux's bill sought to address similar concerns of costs by incorporating the concept that some students, who without an obligation to account for state funds expended for their education, may not be as dedicated to completing their education. Senator Marionneaux sought to create an incentive for students to give serious consideration prior to enrolling in college by requiring a student who failed to complete their studies to repay moneys received from TOPS. The concept was to change TOPS into a loan program where if the student satisfactorily completed his educational requirements the tuition loan would be forgiven, thus providing an incentive to complete college. Both bills by Senator Fields and Senator Marionneaux would have required a student to complete specific high school courses, maintain a certain grade point average and receive acceptable ACT score requirement that are necessary to receive a TOPS award.

Educational workforce development

In keeping with the goal of insuring a population which will be able to meet the demands of the modern work force, **Senate Bill 749 by Senator Nevers (Act 668)** requires articulated and reciprocal programs of technical training for students shared between secondary schools and community and technical and community colleges and provided for incentives to address dropouts with technical training. The legislation would establish partnerships between technical and/or community colleges and public school systems to provide for an articulated and reciprocal technical training for potential high school dropouts beginning with the 2007-2008 school year and require that every student have access to such a program by the 2010-2011 school year. Every community and technical college would be required to notify every school board and every public secondary school not under the jurisdiction of a local board located in its service area of the technical training programs offered at the institution. Further, it requires to implement programs of technical training for shared students aimed at enrolling not less than 10% of the potential dropouts identified by the local board. Additionally, requires BESE to adopt rules pursuant to the APA for incorporating recognized completer programs alternative to high school graduation into a range of programming available to shared students. It further, required the adoption of rules necessary to permit enrollment of LCTCS students in programs offered on high school campuses and to incorporate credit for courses taken on a high school campus by LCTCS students into the completion of LCTCS board programs. Additionally, BESE is to provide assistance to local boards and leadership in the

development of the minimum standards of technical and skill programs.

Over riding concerns were expressed by the legislature and educators relative to the seemingly epidemic nature of our students failing to peruse career opportunities beyond high school. **House Bill 1023 by Representative Hutter (Act 99)** requires the Board of Supervisors of Community and Technical Colleges to work with the Board of Elementary and Secondary Education to improve linkages and career and technical pathways between high schools and community and technical colleges, including but not limited to the following:(1) Aligning existing career and technical education programs to more industry-driven programs.(2) Expanding career and technical education programs and related opportunities for high school students.(3) Creating articulated courses and programs between high schools and community and technical colleges.

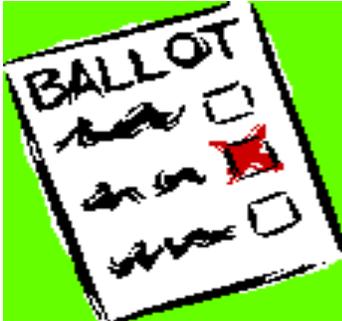
Fund/Funding

To enable institutions of higher learning to maximize earnings potential on endowed funds an amendment to the constitution was introduced as **House Bill 345 by Representative Cazayoux (Act 856)** together with the enabling legislation **House Bill 830 by Representative Cazayoux (Act 717)** to provide such latitude. These bills were designed to permit public colleges or universities to invest publicly funded permanently endowed funds in the stock of any corporation listed on the New York Stock Exchange, the American Stock Exchange, provided that the total investment in such stocks at any one time shall not exceed 35% of the market value of all endowed funds of the public college or university.

In order to provide for a more accurate allowance for costs associated with administering the Louisiana Quality Education Support Fund (8g fund) **House Bill 591 by Representative Crane (Act 703)** increased the current of the annual limit appropriated to the Board of Regents and BESE for administrative costs from no more than 3% or \$800,000, whichever was smaller to no more than 3% of the average annual amount of actual expenditures by each board for the most recent three previous fiscal years for which actual expenditures are available. This enabled these boards to receive funding sufficient to adequately administer the fund.

Elections

by: *Tabitha Irvin-Gray*
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2006 1ST Extraordinary Session

Senate Bill 16 by Senator Jones (Subject to call - House final passage) would have specified that a voter who is temporarily displaced from his parish of residence by a gubernatorially declared state of emergency, who registered to vote by mail on or before October 5, 2004 but prior to September 5, 2005 and who has not previously voted in the parish in which he is registered, may exercise the right to vote when he submits with the application to vote by mail an affidavit attesting that he is temporarily displaced from his parish of residence, that he is eligible to vote in his parish of residence and that he expects to be out of his parish of registration during early voting and on election day. Required that affidavit be signed before a notary and or witnesses, and that it is made under penalty of perjury. Terminated this authorization on and after July 16, 2006. After the expiration of the authority, any voter who voted absentee by mail who had not voted in person during early voting or at the polls on election day shall not be considered to have previously voted in person in the parish in which he is registered and the requirement to do so applies.

Senate Bill 22 by Senator Shepherd (Act 3) adds a requirement enabling early voting to be done by voters registered and eligible to vote in any municipal election conducted pursuant to such an emergency plan prior to July 16, 2006, at any office of the registrar in any parish with a population of 104,000 or more according to the most recent federal decennial census. Requires the secretary of state to report in writing to the Senate and House governmental affairs committees on the steps taken.

Senate Concurrent Resolution 10 by Senator Jones (Assigned to House & Governmental Affairs Committee) would have created a task force to gather information to identify and locate displaced Louisiana citizens.

House Bill 12 by Representative Jefferson (Act 2) extends the exemption from the requirements to a person who has been temporarily displaced from his parish of residence by a gubernatorially declared state of emergency, who registered by mail on or before Sept. 24, 2005, when he also submits with the application to vote by mail an affidavit attesting that he is temporarily displaced from his parish of residence by reason of a gubernatorially declared state of emergency, that he is eligible to vote in his parish of residence, that he is not registered to vote in another jurisdiction, and that he expects to be out of his parish of registration during early voting and on election day. An affidavit shall be signed before a notary or two witnesses, and if signed before two witnesses, that such witnesses shall also sign the affidavit, which shall be made under penalty of perjury for providing false or fraudulent information. The provision is effective until July 16, 2006.

Upon expiration, a voter who has voted by mail shall not be considered to have voted in his parish of residence for purposes of present law and shall be subject to present law requirement of first voting in person at the polls or appearing or voting at the office of the registrar prior to voting absentee by mail. The registrar of voters, upon receipt of an application to vote absentee by mail by a displaced person pursuant to proposed law, to verify that such person has not registered to vote in another jurisdiction or state by contacting the appropriate election official in the jurisdiction where the applicant has requested for his absentee by mail ballot to be sent. Requires the registrar, if he determines that such person has registered to vote in another jurisdiction, to not allow such applicant to vote absentee by mail and to proceed with applicable provisions of present law relative to challenge and cancellation of voter registration.

House Bill 28 by Representative Lancaster (Act 28) removes provisions for a special statewide election on April 29, 2006, for the purpose of submitting constitutional amendments to the electors of the state.

2006 REGULAR SESSION

In an attempt to preserve the voting rights of citizens displaced by Hurricane Katrina, Senators Jones and Fields authored several bills that could possibly prevent citizens from being disenfranchised. Our Senior Senators were not alone in their efforts, Reverend Jessie Jackson testified before the committee attesting to the need for the bills. **Senate Bill 86 by Senator Jones (Act 569)** extend's Saturday time for early voting to 4:30 p.m. **Senate Bill 166 by Senator Jones (Assigned to Senate and Governmental Affairs)** was an attempt to allow certain displaced persons who have registered by mail on or after October 5, 2004, but prior to Sept. 25, 2005, to vote absentee by mail without first voting in person at the polls or appearing or voting at the office of the registrar during or following a gubernatorially declared state of emergency. Forty-five days prior to an election, the secretary of state shall deliver absentee ballots to the registrar's office for displaced voters residing outside of their voting district due to the disaster. Each registrar shall mail the necessary instructions, certificates, ballots and envelopes to each displaced voter without a request at the address provided by the secretary of state. **Senate Bill 167 by Senator Jones (Assigned to Senate and Governmental Affairs)** attempted to conduct an election pursuant to an emergency plan, which requires relocation of polling places and a voter attempting to vote at a polling place he is not manually assigned on election day and it is determined by the registrar of voters that the voter is eligible to vote and has not voted absentee by mail or during early voting. The voter may vote by paper ballot at that polling place provided the paper ballot relates to the same voting district as the precinct he is registered. The registrar of voters shall authorize a commissioner at the poll to allow the voter to vote after the voter completes and signs the affidavit of voter form. **Senate Bill 278 by Senator Fields (Assigned to Senate and Governmental Affairs)** was a failed attempt to permit a person to vote in person on election day if they appear at the polling place in which they reside, to show proof of residence and complete a registration form which includes an oath. The proof of residence may be shown by providing state's driver's license or identification card provided by the Department of Motor Vehicles, a copy of a residential lease or utility bill with photo identification, or student identification card from a post secondary institution along with a current student fee statement. **Senate Bill 433 by Senator Fields (Subject to Call - Senate Final**

Passage) would have allowed a registered voter who registered by mail to vote by mail without first voting in person provided he executes an affidavit either before a notary or before two attesting witnesses in which the voter declares his eligibility and his expectation that he will be out of the parish on election day.

In all of the confusion with Hurricane Katrina and Rita, the Senate Committee on Governmental Affairs conducted several meetings asking FEMA to appear before the committee to speak on why they would not release and the secretary of state was not allowed to release the names and addresses of the citizens displaced from Louisiana. **Senate Bill 637 by Senator Jones (Withdrawn from the Files of the Senate)** would have required any election official to make available a list of names and temporary addresses or other contact information of persons displaced from the parish in which they are eligible to vote, in the same fashion as voter registration lists are made available, to elected officials representing any part of such district or any candidate for office in such district. The secretary of state nor any other elected official is precluded from releasing the list to elected officials or candidates or the public any list described prior to the effective date. **House Bill 587 by Representative Jefferson (Act 269)** adds a provision relative to qualifications for voting that specifies that a person who has been involuntarily displaced by a gubernatorially declared state of emergency shall not be considered to have vacated his residence unless he has either established a new domicile or changed his registration address to a new address outside the voting district. In the event the qualifications for an office include a residency or domicile requirement, any person who has been involuntarily displaced from his place of residence or domicile by the effects of a gubernatorially declared state of emergency shall not be considered to have vacated his domicile or residence for purposes of qualifying for or holding office, unless he has established a new domicile or changed his registration to an address outside the voting district for the office he seeks. This bill will be effective upon signature of governor or lapse of time for gubernatorial action.

Senate Bill 688 by Senator Dardenne (Subject to call - House Referral) would have changed the date of the presidential preference primary and other elections held at the same time from the second Tuesday in March to the second Saturday in February, except when the second Tuesday of February is a legal holiday, in which case provides for the presidential preference primary and other elections held at the same time to be held on the third Saturday in February. It further, changed the qualifying period for such elections from the last Wednesday in January to the second Wednesday in December. SB 688 would authorize a municipal governing authority to hold a primary election for municipal and ward officials on the second Tuesday in March and the general election on the third Saturday in April under the conditions that the municipal governing authority be responsible for all election expenses and reimburse the secretary of state for any costs incurred in such elections and written notice to the secretary of state that it will hold such elections not later than 90 days prior to the primary election date. The dates for the following elections other than the presidential preference primaries which are held on the same day is changed: elections of municipal and ward officers in municipalities with a population of less than 475,000 that are not elected at the same time as the governor or members of congress; special elections to fill a newly created office or a vacancy in an office, except the office of state legislator or representative in congress; and, one

of the dates for conducting bond, tax, or other election at which a proposition or question is to be submitted to the voters.

House Bill 909 by Representative Bruneau (Act 403) Omnibus Election Code

- Authorizes the secretary of state to enter into cooperative agreements with other states to share voter registration information for purpose of determining whether a voter is registered in more than one state. Requires a registrar to attempt to verify if a person requesting to vote absentee by mail under certain provisions for absentee voting has not registered in the place where he is asking for his ballot to be sent.
- Authorizes the registrar to utilize a temporary office to discharge his duties until an office that meets the present law requirements becomes available, if the office or branch office of the registrar is destroyed, inaccessible, or unsafe during or following a gubernatorially declared state of emergency. Requires that such temporary office be located within the parish, or if none available, then in an immediately adjacent parish, or if none available, then in the nearest parish in which there is an accessible and safe location.
- Requires that every attempt shall be made to recreate any original records of the registrar that are destroyed as a result of catastrophic loss or damage. Provides that computer records from the secretary of state's database shall be deemed the original records until the records can be recreated.
- Provides for procedures for if there is a parish wide shortage of commissioners (or absentee by mail and early voting commissioners) due to an emergency. Allows commissioners from other parishes to serve in the parish with the shortage.
- Provides for a parish governing authority to locate multiple precincts in a polling location if it determines that to do so would be efficient, cost effective, and convenient to voters.
- Provisions removing references to certain voting machines, equipment and paraphernalia, will become effective 1/1/07 when the new machines will be in use.

Environment

by: *Cathy Wells*
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Waste Tires

Senate Bill 567 by Senator Malone (Subject to call - Senate calendar) would have phased out the Waste Tire Program and fees on the purchase of tires in three years.

Senate Bill 609 by Senate Fontenot (Subject to call - Senate calendar) would have phased out the Waste Tire Program in three years and provided for the payment of "undisputed obligations" prior to the closure of the program.

Senate Bill 630 by Senator Fontenot (Subject to call - Senate calendar) would have transferred the Waste Tire Program to DOTD in three years and phased out the fees on the purchase of tires in three years.

Senate Bill 726 by Senator Marionneaux (House Committee) would have prohibited payment from the Waste Tire Fund to any waste tire processor who did not receive payments from the fund prior to March 1, 2004 until undisputed obligations owed to the waste tire processors have been paid in full.

House Bill 55 by Representative McDonald (Act 821) requires the secretary of DEQ to promulgate rules and regulations to provide for the exemption from the fee for tires removed from a Louisiana-titled vehicle and sold by a scrap or salvage yard.

Permits

Senate Bill 292 by Senator Fontenot (Act 586) authorizes the secretary of DEQ to develop and implement a program to expedite the processing of permits, modifications, licenses, registrations, or variances for environmental permit applicants who may request such services and requires the secretary to adopt rules in accordance with the APA which include a notice that indicates such permit is an expedited permit.

House Bill 870 by Representative Damico (Act 779) establishes the fee structure for expedited permits authorized in SB 292.

House Bill 970 by Representative Jack Smith (Act 837) waives the permit requirement for haulers of debris generated by Hurricane Katrina and Hurricane Rita until 12/31/07.

Senate Bill 209 by Senator Fontenot (Act 115) authorizes DEQ to develop regulatory

permits for certain water discharges provided certain conditions are met.

Senate Bill 250 by Senator Fontenot (Act 117) requires that certain administrative completeness review on permit application is to be made with 60 days after the application is submitted, except where additional time is required to correct information or deficiencies in the application. Changes the number of days from 410 days to 300 days for a final decision on the permit applications for new facilities and applications for substantial permit modifications, except where additional time is required for the applicant to revise or supplement technical information or deficiencies in the application, or for adjudicatory or judicial proceedings, or for required review by EPA. Prohibits the extension for consideration of comments from exceeding 45 days.

Landfills

House Bill 877 by Representative Damico (Act 718) authorizes DEQ to assess a fee of twenty cents per ton on construction and demolition waste deposited.

Senate Bill 594 by Senator Shepherd (Senate Committee) would have required, that if and when the secretary of DEQ permits a Type III construction and demolition solid waste disposal facility in any parish with a population of over 475,000 persons, 10% of all tipping fees be deposited into a Mitigation Fund created by the respective parish governing authority for the remediation and restoration of contamination in and around any Type III construction and demolition solid waste disposal facility in such parishes. In addition, required such respective parish governing authority to adopt an ordinance for the distribution of such fees.

Senate Bill 683 by Senator Fontenot (Senate Committee) would have required DEQ to perform a solid waste capacity assessment.

Senate Bill 718 by Senator Chaisson (House Committee) would have required the secretary of DEQ to determine the present capacity for the acceptance of anticipated construction and demolition debris related to Hurricane Katrina of all Type I, Type II, and Type III permitted landfills in the parishes with populations based on the most recent federal decennial census within any of the following ranges: not less than 26,000 nor more than 30,000 persons, not less than 44,000 nor more than 48,500 persons, not less than 60,000 nor more than 70,000 persons, or not less than 450,000 persons. Would have required each affected parish governing in order to facilitate the capacity assessment to, by August 1, 2006, submit a written parish waste plan to DEQ specifying how the respective parish will dispose of the waste generated within each such parish as a result of Hurricane Katrina.



Ethics

by: *Kim Manning*
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2006 1st Extraordinary Session

House Bill 6 by Representative St. Germain (Act 22)

allows individual public employees to receive donations of up to \$10,000 from a pre-approved list of not-for-profit organizations from August 29, 2005 through December 31, 2006. Act 22 also requires the disclosure of such contributions to the Board of Ethics.

Prior to this legislation, the Board of Ethics had stated that according to current law, “If employees received donations directly, it would violate the provisions of law which prohibit public employees from receiving anything of economic value beyond salary and benefits.”

Several amendments were added to the original bill by both the House of Representatives and Senate which altered the proposed list of not-for-profit organizations and funds available within not-for-profit organizations. The following is the final list as it appears in the Act:

Louisiana Wildlife and Fisheries Foundation, the Louisiana Wildlife Agents Association, Inc., the Louisiana Trooper Foundation, Inc., the Louisiana Troopers Relief Fund, Inc., the Hurricane Relief Fund Foundation, LLC, the Louisiana Sheriffs Emergency Relief Fund, the Louisiana State Fireman’s Association, the National Association of Motor Vehicle Boards and Commissions, the LSU Charity Hospital Relief Fund within the LSU Foundation, Inc., the New Orleans Police Foundation, Inc., the NDAA Hurricane Katrina Prosecution Relief Fund within the National District Attorneys Association, the Federation of Tax Administrators, the LATEC Charities, Inc., the LA DOTD Employee Hurricane Relief Fund of the LA DOTD Federal Credit Union, the National Association of Social Workers, the Service Employees International Union Hurricane Relief Fund of the Service Employees International Union, the American Association of Airport Executives-Airport Council International North American-Katrina Fund, and the Friends of the Frontline, Inc.

House Bill 49 by Representative Ansardi (Act 33) allows for the governing authority of Jefferson Parish to let a single contract which combines the design and construction phase for hurricane and flood control projects undertaken in preparation for the 2006 hurricane season. Act 33 provides for adoption of an ordinance by the governing authority for a design-build program and sets the procedures, as well as limitations regarding the design-build contract.

2006 Regular Session

Senate Bill 83 by Senator Jones (Act 7) changes the current retention requirements of the supervisory committee of the Board of Ethics from six years to three years for campaign finance reports.

Senate Bill 210 by Senator Jones (Act 517) is relative to the Code of Governmental Ethics for a public employee who is an attorney to allow for participation in a program established to reduce the burden of a student loan debt. The limit is set for up to \$3,000.00 per year to be credited against a qualified student loan debt provided by a former law student.

Senate Bill 263 by Senator Hines (Act 524) excludes pharmaceutical samples as a “thing of economic value” from the Code of Governmental Ethics. SB 263 defines “pharmaceutical samples” as samples provided to physicians or other health care professionals for administration and dispensation to a patient at no cost to the patient.

Senate Bill 307 by Senator Jones (Act 525) prohibits a former employee from providing certain services to his former employer for a period of two years following termination of his employment under the Code of Governmental Ethics.

Senate Bill 382 by Senator Dardenne (indefinitely postponed on House final passage) would have eliminated authority for elected officials to be offered or accept gifts of cultural and sporting events. This measure would have eliminated the exception in the ethics code that allows legislators and other elected officials from accepting “tickets to sporting and cultural events” at no cost. Many legislators debated in committee and on the floor the issue that in a time when many Louisiana citizens have sacrificed greatly and many life-altering events have taken place - now is the time for the legislature to make some sacrifices.

Senate Bill 541 by Senator Ullo (Act 607) does not prohibit a former employee of the Louisiana School for the Deaf from providing sign language and interpreting services to his former employer on a contractual basis following termination of his employment under the Code of Governmental Ethics.

House Bill 109 by Representative Bruneau (Act 368) changes the definition of “lobbyist” and prohibits a person from entering into a contract to act in a representative capacity for the purposes of lobbying the legislature without registering or filing a supplemental registration which provides the name and address of the person by whom he is employed or engaged or whose interests he represents pursuant to such contract and provides that any person who violates this prohibition has engaged in misrepresentation sufficient to void the contract.

House Bill 130 by Representative Lancaster (Act 334) replaces the dean of H. Sophie Newcomb College of Tulane University with the president of Tulane University on the nominating committee which nominates the persons for the positions on the Board of Ethics.

House Bill 311 by Representative Bruneau (Act 373) requires the Board of Ethics to provide notice to certain agency heads or governing authorities of an investigation, hearing, or consent opinion related to a public servant's reprisal against an employee for disclosure of improper acts. Requires the employee's agency to cooperate with the board's investigation and be a party to the board's actions.

House Bill 1205 by Representative St. Germain (Act 422) amends Act 22 of the 2006 1st Extraordinary Session which allows individual public employees to receive donations of up to \$10,000 from a pre-approved list of not-for-profit organizations from August 29, 2005 through December 31, 2006. Act 422 increases the limits from \$10,000 to \$25,000 and prohibits any donation or funds from a single not-for-profit organization to exceed \$10,000 to one public employee.



Finance

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STATE HIGHWAY IMPROVEMENT FUND

Proceeds from state truck and trailer registration and license fees and taxes have been being deposited into the state general fund, after satisfying the requirements of the Bond Security and Redemption Fund and the State Highway Fund No. 2. **House Bill 728 by Representative Lambert Act (708)** requires that those remaining proceeds will now be deposited into a newly created State Highway Improvement Fund on a phased-in basis:

- (1) For FY 2007-2008, 25%
- (2) For FY 2008-2009, 50%
- (3) For FY 2009-2010, 75%
- (4) For FY 2010-2011 and thereafter, 100%.

The monies in the State Highway Improvement Fund will be used exclusively by the Department of Transportation and Development for state road projects which do not qualify for federal funding. Projects shall include design, preventive maintenance, rehabilitation, restoration, and improvement for those certain state roads.

The dedication of the proceeds will result in a loss to the State General Fund of \$44.3 million each fiscal year (after the 4-year phase in of the transfer). It should be noted, however, that in recent years the legislature had already been appropriating State General Fund monies to be used to improve those same state road projects that are ineligible for federal aid.

SABINE RIVER AUTHORITY

Legislation was introduced giving authority for the Sabine River Authority to forego any payments made on its outstanding debt owed to the state with regard to General Obligation bonds issued in 1975. Act 453 of the 2005 Regular Session allowed the Authority to forego its remaining debt of \$8.6 million less any amounts paid prior to July 1, 2008. **House Bill 657 by Representative Salter (Act 706)** forgives the debt less any payments made prior to July 1, 2006.

HODGES GARDEN

The privately-owned Hodges Garden, Park and Wilderness Area in Sabine Parish is donated to the state of Louisiana through **House Bill 658 by Representative Salter (Act 832)**. Although the state takeover has been in the works for over a year, this bill is the official instrument allowing the state to accept the donation. The Department of Culture, Recreation and Tourism, through its Office of State Parks, will run the park, a popular tourist spot in the northwestern part of Louisiana. The legislation also authorizes the Department of Culture, Recreation and Tourism to exchange one

10-acre tract of immovable property for another 10-acre tract, both in Jefferson Parish, and to then donate one of the tracts to Jefferson Parish for purposes of tourism promotion and economic development for the benefit of both the state and the parish.

SUPPLEMENTAL PAY

Deputy sheriffs, firefighters, and municipal police who meet certain criteria receive supplemental payments from the state in the amount of \$300 per month. Legislation was considered during the 2006 Regular Session to increase the pay to \$425 a month. Although **Senate Bill 527 by Senator Heitmeier (Assigned to Senate Finance)** and **House Bill 899 by Representative Alario (Assigned to Senate Finance)** did not pass the legislature because of the \$27 million fiscal cost, assurances were made that the matter would be a priority in next year's budget deliberations.

INVESTMENT AUTHORITY

Although Louisiana has traditionally been conservative in the type of investments allowed for state funds, there has been a move in recent years to allow a portion of certain funds, such as the Louisiana Education Quality Trust Fund, to be invested in equities, or stocks. Legislation during the 2006 Regular Session included **House Bill 345** and **House Bill 830 by Representative Cazayoux (Acts 856 and 717)** authorizing the investment in stocks of up to 35% of certain endowed funds of institutions of higher education. Also, **House Bill 406 by Representative Daniel (Act 857)** authorizes the investment in equities of a portion (up to 35%) of the Medicaid Trust Fund for the Elderly.

COURT FEES

Bills which imposed new court cost fees or increased existing fees were considered by the Senate Finance Committee. Judicial Council approval had previously been obtained for increases in **House Bill 57 by Toomy (Act 243)** and **Senate Bill 643 by Senator Theunissen (Act 620)**. Approval by the Council had not been obtained for increases in **House Bill 92 by Representative Daniel (Act 328)** and **House Bill 807 by Representative Kennard (Subject to Call - Senate Final Passage)**. However, both bills were amended to provide that no fees would become effective without approval of the Judicial Council, unless the Council fails to approve or reject the fees within 30 days after the effective date of the act. The fees in House Bill 92 are intended to provide funding for building a new courthouse in the 19th Judicial District, Parish of East Baton Rouge. The fees in House Bill 807 were to be used solely to defray operational costs of the East Baton Rouge Coroner's Office.

HURRICANE RECOVERY

The Louisiana Recovery Authority (LRA), previously created by executive order of the governor, was established in state law by passage of **House Bill 59 by Representative Alario (Act 5)** during the First Extraordinary Session of 2006. Placed within the governor's office, the 33-member Authority is charged with developing a statewide road map for rebuilding after the storms. The law requires legislative input, oversight, and approval of LRA plans for rebuilding and expenditure of recovery funds. The Joint Legislative Committee on the Budget will routinely review

the plans and expenditures of the Authority, and if the expenditure exceeds \$10 million, the legislature must approve the spending by mail ballot if members are not in session and by legislative instrument if they are in session.

APPROPRIATIONS

The General Appropriation bill (**House Bill 1 by Representative Alario - Act 17**) provides for the ordinary operating expenses of state government for Fiscal Year 2006-2007. The bill contains \$7.3 billion in State General Fund and total means of financing of \$26.7 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 1208 by Representative Alario (Act 642)** contains supplemental appropriations for FY 2005-2006. Both the general appropriation and supplemental appropriation bills contain significant federal funding provided for hurricane relief.

Gaming



by: *Camille Sebastien Perry*
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Senate Bill 66 by Senator Cravins (Senate final passage-subject to call) would have enacted the Louisiana Pari-Mutuel Live Racing Facility Casino Gaming Control Act which would have authorized the licensing and conduct of casino games at the live horse race track in St. Landry Parish provided that the people of St. Landry Parish approved casino gaming at such track at an election held for such purpose. The bill defined "Casino Game" as games traditionally known as, blackjack, baccarat, poker, Texas hold'em, Caribbean stud poker, pai gow poker, roulette, craps, or any other variation or composite of such games or other games similar in form or content approved by the board. It authorized the board to approve other casino games when requested by the licensee and after an appropriate hearing or trial run is held to determine whether such game is suitable for casino use and in the best interests of the public. The bill also would have provided for regulatory, rulemaking, licensing, suitability, investigatory, and penalty provisions regarding casino gaming at the live racing facility and set out criteria for its operation. The designated gaming area in the eligible facility would have been limited to 15,000 square feet and no other gaming device other than casino games and authorized pari-mutuel wagering devices and equipment would have been allowed in the casino gaming area. Additionally, the bill specified that no casino gaming may be conducted until and unless the legislature provides by law for the imposition, collection, and disposition of taxes on net casino game proceeds and the fees necessary to administer the requirements of this Act and the dedication of a fixed percentage of net casino gaming proceeds to supplement purses for races run at the live meetings at the eligible facility and to the Louisiana Thoroughbred Breeders Association and the Louisiana Quarter Horse Breeders Association for use as awards for breeders of accredited Louisiana-bred horses and for promotion of the Louisiana horse breeding industry.

Senate Bill 353 by Senator Murray (Act 591) deletes all of the present law limitations regarding the number of slot machines which may be operated at the eligible facility in Orleans Parish and authorizes the facility to have a maximum of 700 slot machines. By amendment added in House Committee, the bill also increases the amount of proceeds of slot machines operated at live horse racing facilities to be deposited in and credited to the Greater New Orleans Sports Foundation Fund from \$350,000 to an amount not to exceed \$1,000,000 of funds from proceeds. By amendment adopted on the House Floor, the bill also increases the amount of proceeds of slot machines operated at live horse racing facilities to be deposited in and credited to the Beautification and Improvement of the New Orleans City Park Fund from one million three hundred thousand dollars to two million of funds from proceeds.

Senate Bill 528 by Senator Adley (notice given subject to call-House final passage) requires any person found by the board to have the ability to exercise a significant influence over

a licensee, permittee, or casino gaming operator to supply all information requested by the board or division to the board or division and grants a licensee, permittee, or casino gaming operator a right to request a hearing on a determination of significant influence when the board finds that a person has the ability to exercise a significant influence over a licensee, a permittee, or the casino gaming operator. Such hearing is to be requested within ten days of the division's request to submit to suitability and the hearing is to be conducted by the hearing officer within thirty days of the request for such hearing and the hearing is to be limited to a determination of significant influence. The bill further provides that there is no right of appeal from the determination of significant influence, but reserves the appeal rights of all parties should the division initiate any subsequent administrative action against a licensee, permittee, or casino gaming operator. Amendments adopted by House Committee includes the opinion of the division when determining who has the ability to exercise a significant influence over a licensee.

Senate Bill 695 by Senator Cravins (Vetoed by the Governor) would have authorized monies in the Gaming Control Fund to be appropriated to support the functions of the Louisiana Racing Commission and to provide a plan of health and disability insurance for Louisiana jockeys. The bill would have required the Louisiana Racing Commission, out of monies specifically appropriated annually to the commission, to establish a plan for the provision of health and disability insurance for Louisiana jockeys. The plan was to be administered by the Jockey's Guild, Inc., and would have provided for a minimum contribution by the jockeys of 25% of the cost of the program. However, to be eligible the jockeys would have been required to pay or provide for such contribution. Additionally, the bill would have prohibited any appropriation for purposes of the plan from being taken from monies appropriated pursuant to Act 707 of the 2006 Regular Session for operations of the Louisiana Racing Commission. The bill would also have increased the amount of proceeds of slot machines operated at live horse racing facilities to be deposited in and credited to the Greater New Orleans Sports Foundation Fund from \$350,000 to an amount not to exceed \$1,000,000 of funds from the proceeds.

House Bill 56 by Representative Johns (Act 136) provides a limitation of liability for horse racing, racetracks, and licensed training centers from the inherent risks of equine activities if they provide a specific warning to participants and additionally expands the definition of "participant" in existing law to include horses who are stabled, training, or running on a racetrack or at a licensed training center and any jockey, exercise person, trainer, owner or employees, and agents thereof.

House Bill 1149 by Representative Triche (failed House final passage) would have authorized certain licensed premises to make available tables and areas of the licensed premises separated for adult patronage only for the purpose of conducting promotional poker tournaments at restaurants and bars, and it would have provided for conditions for conducting the tournaments.

House Concurrent Resolution 151 by Representative Martiny (enrolled) requests that the Louisiana State Law Institute review and make recommendations for revisions to Title 27 of the Louisiana Revised Statutes of 1950, the Gaming Control Law, necessitated by the enactment of Act No. 7 of the First Extraordinary Session of 1996. Provides that the recommendations be made to

the House Committee on Administration of Criminal Justice and the Senate Committee on Judiciary B by March 1, 2007.

House Concurrent Resolution 240 by Representative Lafleur (enrolled) requests the Louisiana Gaming Control Board to conduct a comprehensive study of the financial impact of Hurricanes Katrina and Rita, the rebuilding and revitalization of the Mississippi Gulf Coast, and the potential of legalization of gaming in Texas to the economy of the state of Louisiana and to report its findings along with possible legislative recommendations to and make recommendations to the House Committee on Administration of Criminal Justice and the Senate Committee on Judiciary B by April 1, 2007.

Video Poker

Senate Bill 337 by Senator Cravins (Act 42) provides for an exception to the requirement of maintaining an on-site restaurant at a qualified truck stop facility for reason of force majeure affecting the ability to maintain the on-site restaurant for a reasonable period of time as determined by the division following the interruption of such ability.

The bill also requires the board or division to allow a video poker licensee to temporarily turn in his license for reasons of force majeure affecting his ability to operate the business described in the application for an indefinite period of time as determined by the division. The bill further permits the licensee to renew a turned in license and requires the license be returned to the licensee within 10 days of completion of a compliance inspection by the division and the division finds that the licensee is capable of resuming business operations and is in compliance with all applicable physical amenities and permit requirements. Additionally, the bill requires the board or division to terminate the device operation fees when a licensed device is destroyed as the result of force majeure and in such case, the device operation fees will terminate in the quarter following the quarter in which the device was destroyed.

Senate Bill 345 by Senator Murray (pending in Senate Committee) would have required that the franchise fee of 22 ½% required to be paid by the device owner at a pari-mutuel wagering facility would be calculated after the deduction of net device revenue derived from the operation of devices at the pari-mutuel wagering facility.

Senate Bill 522 by Senator Cheek (Act 818) provides that a person licensed to operate video draw poker devices at his licensed establishment and the device owner may promote or encourage the play of the video draw poker devices in any manner, but limits the value of the promotion to an amount not to exceed the maximum payout set by the internal mechanism of the video draw poker device, and requires that it not be based solely upon the value of a single winning hand played on the video draw poker device. The bill further provides that no prize for any promotion may provide food to any patron free of charge or below the cost to the licensee or the device owner.

Senate Bill 542 by Senator Jones (pending Senate Committee) would have prohibited the transfer of ownership of five percent or more of a licensee or an establishment licensed to operate video poker devices unless the gaming board determines that the transferee is suitable and approves the transfer.

Senate Bill 611 by Senator Adley (Act 616) requires a person applying for a license for the placement of video draw poker devices at a truck stop facility to publish, before any required re-zoning, construction application, or construction is made, notice of his intention to build a truck stop which may qualify as a qualified truck stop facility to have video poker devices. Requires the notice to be published on two separate days in the official journal of the parish where the facility is to be located and in another newspaper with a larger circulation within the parish other than the official journal of the parish, if there is one. The bill also requires each person to also provide notice to the local governing authority in its parish or district. The notice shall include the following:

- (1) Prominent placement in the newspaper in a section other than the classified advertisement or public notice section.
- (2) Formatting in a box with a bolded outline.
- (3) A size of not less than two inches by four inches.
- (4) Print in bold face type.

The failure to timely accomplish such publication makes an application for a licensed truck stop null, void, and of no effect. The bill additionally provides that if land requires re-zoning to accommodate the establishment of a qualified truck stop facility and the parish re-zoning requirements require the posting of a sign, the sign contain the information that the re-zoning is for a truck stop. By amendments adopted by the House floor, the bill now also provides that the provisions of the Act shall not be construed to apply to any person who has applied to a local governing authority for authorization to construct a truck stop facility, including but not limited to an application for a certificate of compliance with applicable zoning ordinances, building codes or occupational licenses prior to June 1, 2006.

Senate Bill 675 by Senator Malone (pending in Senate committee) would have provided that no license shall be issued for the operation of video draw poker devices at a qualified truck stop facility in any precinct in Bossier Parish to any applicant who has not received a license prior to April 1, 2006, unless a proposition to authorize the operation of video draw poker devices at the qualified truck stop facility has been approved by a majority of the electors of any precinct who vote thereon in an election called and held for that purpose. The bill would also have provided that any applicant for a license to operate video draw poker devices at a qualified truck stop facility would be required to make application to the governing authority of Bossier Parish and upon receipt of the application, the governing authority of Bossier Parish at its next meeting would order a referendum election to be held to determine whether or not the operation of video draw poker devices at the

qualified truck stop facility shall be conducted and licensed therein. It required an election to be held on the next date authorized by the election code falling not less than 45 days after the meeting and such election would have to be held in accordance with the election code provisions governing proposition elections. Such an election could not be held more than once in a four-year period.

If a majority of the electors voting in the election voted not to permit the operation of video draw poker devices at the qualified truck stop facility in the precinct, then no license would be issued to conduct the operation of video draw poker devices at the truck stop facility, and the operation of video draw poker devices would not be permitted at that facility in that precinct. If a majority of the electors voted to allow the operation of video draw poker devices at a qualified truck stop facility, then the operation of video draw poker devices at the qualified truck stop facility would proceed as authorized by law.

This bill was heard in the Senate Committee on Senate and Governmental Affairs and was reported favorably. However, the bill was recommitted to Judiciary B on the Senate floor where it remains at present.

House Bill 79 by Representative Townsend (Act 747) exempts a video poker licensee from processing fees for filing a new application for truck stop licenses and processing fees for new applications for three machines establishments and racing facilities when filing an application for a transfer of ownership among subsidiaries if all of the following are applicable:

- (1) The only change in the license is an application for a change in the corporate structure of the licensee.
- (2) All persons associated with the licensee or parties to a license have previously submitted personal history and personal financial information with an application for a license to operate video draw poker devices, and those same persons were previously found suitable, have not changed, and remain associated with the licensee.
- (3) The ownership of the licensed establishment has not changed.
- (4) The applicant has completed an affidavit in a form approved by the board which certifies that there have been no changes to the prior qualification and suitability information previously submitted to the board and required by the board in making the initial determination that the applicant was qualified and suitable for licensing.
- (5) The applicant has submitted any other releases, affidavits, documents, or information required by the board for the issuance of the additional license.

Additionally, the bill provides that these provisions will not limit the ability of the state police or gaming board to investigate suitability if there is a need and authorizes the adoption of rules by the gaming control board in accordance with the APA. Senate Committee amendments include an exemption for a licensee when filing an application for a transfer of ownership among a parent corporation or its subsidiaries.

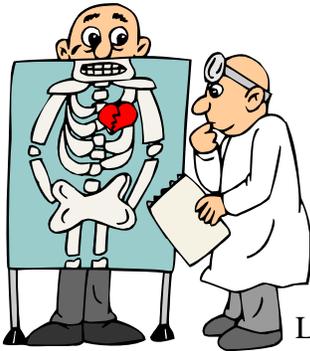
House Bill 426 by Representative Wooton (Act 759) requires the licensee of an establishment licensed to operate video poker machines who requests the division to disable the machines in the establishment to also provide the notice of such request to the device owners. Additionally, the bill authorizes the division to promulgate rules to implement such process.

Charitable Gaming

House Bill 1315 by Representative Martiny (subject to call-Senate final passage) would have amended provisions relating to the operation of electronic video bingo machines and specifically provided that a maximum of 35 machines can be operated at any location and further provides that no pull-tabs, bingo paper, or bingo cards shall be sold or electronic video bingo machines operated except during the designated time period of the charitable organization's session. Additionally, the bill provided that electronic video bingo machines may be available for play at premises licensed by present law during the licensed six-hour session at which no less than 10 games of call bingo or keno are played with a minimum of \$200 total prize amounts being awarded.

The bill also increased the rate of compensation for an employee helping to conduct bingo games to not more than \$12.50 and not more than \$75 per session and provides that payments to workers not exceed 40% of the aggregate net gaming revenue for any two fiscal quarters with payment in excess of 40% for any two fiscal quarters constituting grounds for suspension or revocation. The bill further provided that no person under the age of 18 shall assist in the holding, operation, or conducting of electronic or video bingo games and prohibits a person under the age of 21 from playing an electronic video bingo machine.

By Senate Committee amendment, the bill also added a requirement that electronic bingo machines display only the game of bingo and not contain any entertainment display features such as simulation of slot reels, card games, or any animated display other than bingo cards and bingo balls except those machines for which an application for operation was made and approved prior to June 13, 2006.



Health & Hospitals

by: Alan Miller
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HURRICANE RESPONSE

Hurricanes Katrina and Rita were particularly devastating to Louisiana's healthcare delivery system. Several hospitals, nursing homes, doctors' offices and clinics were severely damaged. The evacuation that displaced hundreds of thousands of Louisiana's citizens decimated the healthcare workforce. In the greater New Orleans area, staffed hospital beds and licensed nursing home beds are now at half the level prior to the storms. According to the Department of Health and Hospitals, over half of the doctors in the greater New Orleans area have been displaced, and the number of "safety net" clinics has been reduced from 90 to 19. Much as the healthcare legislation filed during the 2005 Regular Session of the Legislature dealt with hurricane response.

At the urging of the secretary of the United States Department of Health and Human Services, Michael Leavitt, **House Concurrent Resolution 127 by Representative Durand (enrolled)** creates the Louisiana Health Care Redesign Collaborative that will serve as an advisory body to the secretary of the Louisiana Department of Health and Hospitals for the development of recommendations and plans for the redesign of the Orleans Region's health care system. The collaborative will be guided by a charter agreed on and signed by its members. The collaborative will submit a final report to the secretary of DHH, the governor, the committees on health and welfare of the Senate and House of Representatives, the Louisiana Recovery Authority, the secretary of DHHS and the public by December 31, 2007. The legislation also created a committee to focus on health issues relative to areas affected by Hurricane Rita.

Senate Bill 529 by Senator Jackson (Act 540) sets forth evacuation procedures and protocol for the evacuation of nursing homes in the event of a hurricane. Nursing homes must submit emergency plans to the Department of Health and Hospitals by August 1, 2006. The plan must identify the proposed sheltering host site, the company providing transportation to the host site, and the staffing patterns for evacuation. DHH will now assist nursing homes with the transportation or placement of its resident with medically complex needs, if the nursing home is unable to find satisfactory placement. The Department of Social Services will also assist nursing homes in locating an alternative sheltering site if the home's original sheltering host site is unavailable. The parish or local homeland security and emergency preparedness will further assist nursing homes in the evacuation when the home encounters transportation problems. The legislation also allows for the nursing home and the state to seek reimbursement of costs related to an evacuation and subsequent sheltering.

House Bill 1001 by Representative Gray (Act 410) creates the Care for Evacuated patients Program for the payment, not to exceed the Medicare DRG rate, for medical care provided by nonstate hospitals to indigent patients who have been evacuated from state hospitals.

Senate Bill 571 by Senator McPherson (assigned to Senate Health and Welfare committee) sought to authorize the state health officer to appoint a state medical examiner to address problems due to mass fatalities.

ABORTION

Due to recent changes in the composition of the United States Supreme Court, several bills seeking to limit or prohibit abortions were filed.

Senate Bill 33 by Senator Nevers (Act 467) prohibits abortions except when necessary to save the life of the mother or to prevent serious permanent impairment of a life-sustaining organ of the pregnant woman. However, the legislation will only become effective upon a U. S. Supreme Court decision that reverses Rove v. Wade, in whole or in part, or the adoption of an amendment to the U. S. Constitution that allows states to prohibit abortions.

House Bill 1382 by Representative Crowe (pending Senate final passage - subject to call) sought to require physicians to orally inform a woman seeking an abortion about the availability of anesthesia or analgesics that can be administered to the fetus prior to the procedure resulting in an abortion.

PHARMACIES, PRESCRIPTIONS AND IMMUNIZATIONS

House Bill 153 by Representative Johns (Act 676) creates a prescription drug monitoring program. The program will consist of an electronic system for the monitoring of controlled dangerous substances and other drugs of concern dispensed in the state or dispensed to an address in the state in order to identify and prevent diversion of these controlled substances and drugs without impeding their appropriate use by the person to whom the controlled substance or drug is prescribed. The Board of Pharmacy will work with an advisory board come up with the plan.

Senate Bill 19 by Senator McPherson (Act 643) and **House Bill 1235 by Representative Labruzzo (Act 797)** both liberalize donations of unused prescription drugs to charitable or other pharmacies, such as penal institution pharmacies.

House Bill 768 by Representative Strain (Act 711) implementa the requirements concerning immunization of college students against meningococcal disease. The first priority shall be first-time students living on campus. Beginning in the fall of 2006, these students must be immunized, unless there is an insufficient supply of the vaccine.

House Bill 1262 by Representative Salter (Act 801) increases the dispensing fee pharmacies are paid by the Department of Health and Hospitals to \$15 per prescription dispensed

to Medicaid recipients, subject to the Centers for Medicare and Medicaid Services (CMS) approval and legislative appropriation.

DEVELOPMENTAL DISABILITIES

Senate Bill 746 by Senator Broome (Act 555) provides that the proceeds from the sale of DHH property previously operated by the office for citizens with developmental disabilities shall be deposited and credited into a special fund called the Community and Family Support System Fund. Monies that will be deposited into the fund can only be used to increase the number of recipients receiving waiver services.

House Bill 687 by Representative Jackson (Act 350) requires the secretary of DHH to develop a plan to establish human service districts in all areas of the state where none currently exist. Currently, Human Service Districts in Jefferson parish, the Florida parishes, and the Metropolitan (New Orleans) area. **Senate Bill 125 by Senator Dupre (Act 449)** establishes the South Central Louisiana Human Services Authority and **Senate Bill 727 by Senator Ellington (Act 631)** establishes the Northeast Delta Human Services Authority.

Homeland Security Military Affairs

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HOMELAND SECURITY

Governor's Office of Homeland Security and Emergency Preparedness. One of the major initiatives of the First Extraordinary Session of 2006 was the reorganization of homeland security and emergency preparedness office in the office of the governor. Prior to the hurricanes of 2005, the Military Department of Louisiana was charged with all those duties under the direction of the Louisiana National Guard Adjutant General. **(Act 35) House Bill 61 by Representative Thompson** provides for a director of the office, during a gubernatorially declared disaster of emergency, the authority to expend funds for emergency protective measures even if there is no budget authority or funds available. It also requires all state agencies and department to comply with directives from the office relating to emergency planning and operations.

Emergency Evacuations. Another part of the administration package of homeland security proposals of the First Extraordinary Session of 2006 was **(Act 36) House Bill 70 by Representative Jefferson** which required that the new office of homeland security to promulgate standards and regulations for local governments when a mandatory evacuation is ordered by the state. The Act calls for plans to evacuate and shelter person with special needs such as the elderly, tourists and those without personal transportation.

Status Reports On Status Of Emergency Management Capabilities. More of the homeland security package of the First Extraordinary Session of 2006 was **(Act 39) House Bill 88 by Representative Gray** which requires local governments to have specific plans for their areas for evacuation and shelter of displaced persons. The measure also requires the state office of homeland security to report biennially to the governor, the president of the senate, the speaker of the house and the chairperson of both the house and senate committees have appropriate jurisdiction no later than February 1 of every odd-numbered year on the status of emergency management capabilities of the state and its political subdivisions.

Martial Law. A move during the special session to require martial law during declared emergencies died on the senate calender. **Senate Bill 29 by Senator Adley (assigned to Senate Natural Resources)** would have been effective during mandatory evacuations only and would have applied only to those areas covered by the mandatory evacuation.

During the 2006 Regular Legislative Session, follow-up legislation to the creation of the Governor's Office of Homeland Security and Emergency Preparedness was filed. **(Act 442) House Bill 1388 by Representative Thompson** creates regions for homeland security and emergency

preparedness across the state and requires the state attorney general to legally represent the new office. A very important part of the measure also requires the state and local offices to follow the principles outlined in the National Incident Management System (NIMS). The bill also provides for staffing of the Governor's Office of Homeland Security and Emergency Preparedness. Both houses passed the bill and as the session entered its final days, the measure sat on the governor's desk and awaited her signature into law.

Pet Evacuation. One of the more emotional issues to be heard during the regular session was a bill requiring the state office of homeland security and emergency preparedness and each parish homeland security and emergency preparedness agency to formulate emergency operation plans for the humane evacuation, transport and temporary sheltering of service animals and household pets in times of emergency or disaster. **(Act 615) Senate Bill 607 by Senator Fontenot** passed the full senate relatively intact in its original form. However the bill was heavily amended in the house and requirements for formulation of emergency plans for pet evacuation were removed. Local governments would be assisted by the state office with evacuation of pets. The final version of the bill requires the state office to assist in the identification of pet shelters and assist in the development of an identification system for evacuated animals. The bill also requires the state office to coordinate the development and establishment of requirements for volunteer assistants who perform pet evacuations and the sheltering and care of such animals. Another part of the measure requires any pet-related emergency operations plans be submitted to the state office and to the Department of Agriculture and Forestry. Service animals would have to meet the definition of service animals in the Americans with Disabilities Act.

Communications Interoperability Both the governor and the legislature agreed that a major problem during Hurricanes Katrina and Rita was the loss of communications between first responders, law enforcement officials and emergency preparedness personnel. However, a bill requiring the Governor's Office of Homeland Security and Emergency Preparedness to develop a rapid communication system for times of disaster or emergencies for communications between state government, local governments and the citizenry. **House Bill 619 by Representative Burns (assigned to Senate Commerce)** would have required development of a communication system that included an all-hazards emergency alert system between all branches of state and local government and communication by state and local authorities directly to the media, citizens of the state, all branches of law enforcement, emergency responders and hospitals and nursing homes from a centralized Internet-based control center. The bill passed the house but died in the Senate Commerce, Consumer Protection and International Affairs Committee late in the regular session. Another communications proposal, **House Bill 540 by Representative Burns (assigned to Senate Commerce)** would have required the Governor's Office of Homeland Security and Emergency Preparedness to develop a private encrypted microwave fiber and/or satellite network using an Internet protocol. That bill also was passed by the house but died in the Senate Commerce, Consumer Protection and International Affairs.

Emergency Shelters. **House Bill 278 by Representative Martiny (Act 683)** require's that any sex offenders forced to evacuate and seek shelter elsewhere must notify the local sheriff of their sex offender status when they enter an emergency shelter.

VETERANS AFFAIRS

Operation Iraqi Freedom. **House Concurrent Resolution 262 by Representative Walsworth (enrolled)** requests the Veterans Affairs Commission to develop a plan for an Iraq War Memorial and to report to the legislature regarding the proposed plan not later than December 31, 2006.

Human Resources

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WAGE ISSUES

Senate Bill 700 by Senator Jones (Subject to call - House final passage) sought to raise the state's minimum wage to \$6.15 per hour.

House Bill 194 by Representative Hunter (failed Senate final passage) proposed a gradual increase of the minimum wage beginning in

October 2006 culminating with a minimum wage of \$6.15 per hour on July 1, 2007. The bill also provided that if the federal minimum wage increases to an amount greater than the amounts set out in the bill, the federal minimum wage will take precedence in Louisiana.

UNEMPLOYMENT COMPENSATION

Senate Bill 217 by Senator Nevers (Act 116) and its companion bill, **House Bill 608 by Representative Bowler (Subject to Call - House final passage)** provides that unemployment compensation benefits paid as a result of hurricanes Katrina and Rita won't be charged against employers' experience rating. Current law requires that the almost \$700 million in benefits paid to employees who lost their jobs because of the hurricanes be collected and charged to all employers through the social charge tax that Louisiana businesses pay every quarter. SB 217 and HB 608 propose that the benefits paid won't be recouped by spreading the charges to Louisiana employers.

WOMEN'S WAGES

House Bill 144 by Representative Hunter (Failed House final passage) sought to create the "Louisiana Equal Pay for Women Act," which closely tracks the federal Equal Pay Act. The state law would apply to public or private employers with four or more employees within Louisiana. It would prohibit those employers from discriminating on the basis of sex by paying one employee less than another employee of the opposite sex for the same or substantially similar work on jobs requiring equal skill, effort, education, and responsibility that are performed under similar working conditions.

In addition, the bill sought to make it unlawful for an employer to fire or discriminate against an employee for inquiring about, disclosing, comparing, or otherwise discussing employees' wages. The bill also would require covered employers to maintain records documenting the name, address, occupation, and wages paid to each employee for at least three years. An employee with a claim against an employer under the proposed law may seek the same relief already available under the Louisiana Employment Discrimination Law.

SEXUAL ORIENTATION DISCRIMINATION

Senate Bill 98 by Senator Shepherd (Subject to call - Senate final passage) sought to enlarge the group of individuals protected under the state's employment discrimination law. Current law protects applicants or employees from discrimination on the basis of race, color, religion, sex, national origin, age, or disability status.

Senate Bill 98 would make it unlawful for covered employers, those with 20 or more employees (but excluding religious organizations), to discriminate against applicants or employees because of their actual or perceived sexual orientation. Sexual orientation is defined as "being or perceived as being, heterosexual, homosexual, or bisexual or being perceived as having a gender-related self-identity, appearance, or behavior whether or not associated with a person's sex at birth." The bill includes a provision permitting employers to require employees to adhere to reasonable workplace appearance, grooming, and dress standards provided that employees are allowed to appear and dress consistently with their gender identity.

SMOKE-FREE WORKPLACE

Senate Bill 742 by Senator Marionneaux (Act 815) creates the "Louisiana Clean Indoor Air Act." Louisiana employers with at least four employees must provide a smoke-free workplace for all employees unless the workplace is otherwise exempted. The bill also seeks to prevent smoking in public places, including but not limited to restaurants, buildings, shopping malls, retail stores, theaters, and indoor sports arenas.

NONCOMPETES

House Bill 1330 by Representative Johns (Act 436) seeks to prohibit any contract or provision entered into between a car salesman and his employer restraining the salesman from selling or manufacturing cars or owning an automobile dealership.

Information Technology

by: Gary Schaefer
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ADMINISTRATIVE PROCEDURE

Senate Bill 81 by Senator Jones (Act 646) allows law enforcement officers to appear as witnesses in administrative hearings held by the Dept. of Public Safety and Corrections by telephone, video conference, or similar communication.

Senate Bill 84 by Senator Jones (Pending Senate Judiciary A) would have allowed the administrative law judge to conduct adjudications or conferences in person or by telephone, video conference, or similar communication equipment, and administer oaths in such proceedings and continue an adjudication in any case adversely affected by a gubernatorial declaration of an emergency disaster.

APPROPRIATIONS

House Bill 1 by Representative Alario (Act 17) 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—\$4,000,000 (An additional \$9,000,000 for enhanced super computing capability throughout the LONI network and to supplement the initiative.)

Governor's Biotechnology Initiative—an initiative to provide research dollars for biotechnology projects (e.g., neurobiotechnology activities)—\$3,800,000.

Governor's Information Technology Initiative—an initiative to conduct research and develop new technologies to advance information technology—\$18,000,000, plus \$2,000,000 for LSU Center for Computation and Technology.

Louisiana Technology Park—a nonprofit, public-private organization that serves as a high-tech incubator—\$2,800,000.

Department of Education's Classroom Technology Program—This program includes the Louisiana Virtual School and Title 3 Technology Challenge activities, which are designed to increase the use of technology and computers in Louisiana public school systems (K-12).—\$18,400,000. In addition, the Louisiana Virtual School is budgeted at \$3,000,000 for fiscal year ending 2007. This includes new funding from 2 sources: a grant of \$800,000 from BellSouth (via the state Department of Education); and a grant of \$400,000 from BESE's 8(g) Fund. The Louisiana Virtual School provides instructional services to public high schools throughout the state where such instruction would not otherwise be available due to a lack of funding and/or qualified instructors to teach the courses.

COMMERCIAL REGULATIONS

Senate Bill 96 by Senator Michot (Reported by Substitute, became SB 641) would have created the Anti-Phishing Act.

Senate Bill 641 by Senator Michot (Act 549) creates the Anti-Phishing Act, and provides for civil action, injunctive relief and money damages.

House Bill 679 by Representative Scalise (Pending Senate Commerce) would have created the Louisiana Anti-Phishing Act.

House Bill 798 by Representative Hutter (Act 201) creates the Anti-Phishing Act, prohibits unauthorized solicitation of identifying information by e-mail, and provides for money damages.

CONSUMER PROTECTION

House Bill 690 by Representative Schneider (Act 392) prohibits transmitting spyware, adware, or other forms of malware onto computers and provides for fines and imprisonment or both.

CREDIT/CONSUMER

House Bill 294 by Representative M. Guillory (Pending House Commerce) would have required customer authorization for a state bank to draft an account by means of a remotely created check.

CRIME/PUNISHMENT

Senate Bill 133 by Senator N. Gautreaux (Pending House Administration of Criminal Justice) would have required electronic monitoring of sex offenders, by courts or the parole board, as a condition of release of any sexual offender for probation, parole, suspension of a sentence, or as the result of a sentence being shortened for "good time."

Senate Bill 164 by Senator Mount (Pending Senate Final Passage, Subject to Call) would have prohibited the use of hand-held cellular phones, or other mobile telecommunication devices, by anyone under the age of eighteen while operating a motor vehicle.

Senate Bill 517 by Senator Schedler (Pending Senate Final Passage, Subject to Call) would have required electronic monitoring of certain sex offenders with the cost to be borne by the party required to register as a sex offender.

Senate Bill 612 by Senator Mount (Act 663) increases the penalties for certain sex offenses and provides for a Predator Alert System that supports e-mailing and text messaging to state and local police when a predator has been released from prison.

House Bill 63 by Representative Dorsey (Pending House Administration of Criminal Justice) would have increased the criminal penalties for the crime of molestation of a juvenile when the victim was under the age of twelve, and would have required the offender to be monitored by the Dept. of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of the natural life of the offender.

House Bill 410 by Representative M. Guillory (Act 176) protects persons from identity theft, protects aged or infirm from theft, and imposes fines and imprisonment with or without hard labor or both.

House Bill 572 by Representative Cravins (Act 186) requires a sexually violent predator (as provided for in Chapter 3-D of Title 15 of the Louisiana Revised Statutes) and a child sexual predator be monitored through the use of global positioning system technology by the Dept. of Public Safety and Corrections for the remainder of his natural life. The sexual offender is required to pay all or a portion of the costs of the GPS-monitoring.

House Bill 599 by Representative Dove (Pending House Administration of Criminal Justice) would have provided for global positioning satellite monitoring by the Dept. of Public Safety and Corrections of certain sex offenders for the duration of their life.

House Bill 1095 by Representative Burns (Pending House Administration of Criminal Justice) would have increased the criminal penalties for the crime of molestation of a juvenile when the victim was under the age of twelve, and would have required the offender be monitored by the Dept. of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

House Bill 1125 by Representative Dartez (Act 224) provides for the crime of indecent behavior with juveniles and adds as an element of the crime the transmission of an electronic textual communication or an electronic visual communication depicting lewd or lascivious conduct, text, or images to any person reasonably believed to be under the age of 17 and reasonably believed to be at least two years younger than the offender. It shall not be a defense that the person who actually receives the transmission is not under the age of 17.

CRIMINAL PROCEDURE

Senate Bill 523 by Senator Shepherd (Involuntarily Deferred House Administration of Criminal Justice) would have required persons who were convicted of identity theft to register with local law enforcement in the same manner and means as a sex offender is required to register. The bill would have required first time offenders to register for ten years, repeat offenders to register for life, and would have provided civil penalties for failure to register including imprisonment with or without hard labor.

House Bill 968 by Representative Martiny (Reported by Substitute and became HB 1140) would have created the Louisiana Repository for Unidentified and Missing Person Information Program and database, which would have been compatible with the FBI's computer software.

House Bill 1140 by Representative Martiny (Act 227) creates the Louisiana Repository for Unidentified and Missing Person Information Program and Database, to serve as the central repository for unidentified human remains and missing persons information, to assist in the identification of such remains of persons, to support law enforcement and criminal justice agencies, and for humanitarian purposes.

House Bill 1335 by Representative Glover (Act 241) provides for penalties for the crime of identity theft against persons sixty years of age or older, or disabled persons, and provides for fines and/or imprisonment with or without hard labor.

ELECTIONS

House Bill 674 by Representative Waddell (Act 349) authorizes the secretary of state to develop and implement a pilot program for the conduct of early voting in additional locations within certain parishes, and requires a report that reviews the pilot program, including a description of the types of technology utilized, the costs involved, whether any problems arose, and examination of the voter turnout during the pilot program, and any recommendations for legislation.

EMERGENCY PREPAREDNESS

Senate Bill 136 by Senator Murray (Pending Senate Judiciary B) would have authorized the governor's office of homeland security and emergency preparedness to develop and implement a community hazard alert network. The network would have utilized both cellular and wire telephone technology to alert the public of the existence of an existing or imminent natural or technical hazard or community emergency, such as the approach of a hurricane and the issuance of a voluntary or mandatory evacuation, a terrorist attack, a biological, chemical, or nuclear hazard. The network would have utilized cellular telephone technology to alert all cellular phones, regardless of the telephone carrier, located in the area of an existing or imminent natural or technical hazard.

House Bill 619 by Representative Burns (Pending Senate Commerce) would have required the governor's office of homeland security and emergency preparedness to be responsible for developing a rapid communication system for times of disaster or emergencies for communication between state and local government and between state and local government and the citizenry of the state; and would have required the components of the wireless communication system to support text messaging, e-mail, Internet access, cellular capability, satellite phone and satellite radio with two-way send/receive capability, desktop alert applications, and prerecorded voice messages and text pager messages.

FUNDS/FUNDING

Senate Bill 237 by Senator Malone (Act 519) requires payments to the office of mineral resources to be made by check or electronic wire transfer, and requires a payor of royalty whose total monthly payment is \$50,000 or more to pay the royalty payment by electronic wire transfer.

GAMING

House Bill 1194 by Representative Daniel (Pending House Civil Law and Procedure) would have provided that debts incurred through Internet gaming do not have to be repaid.

HUNTERS/HUNTING

Senate Bill 171 by Senator McPherson (Pending Senate Final Passage, Subject to Call) would have prohibited Internet hunting or computer-assisted hunting.

House Bill 49 by Representative Strain (Pending House Natural Resources) would have prohibited Internet hunting or computer-assisted hunting.

House Bill 52 by Representative Hammett (Act 745) prohibits computer-assisted hunting, which means the use of a computer or other device, equipment, or software to control remotely the aiming and discharging of a firearm or weapon that allows a person not physically present at the location of that firearm or other weapon to hunt or shoot an animal.

House Bill 1059 by Representative Thompson (Pending House Natural Resources) would have prohibited Internet hunting or computer-assisted hunting.

INTERNET

Senate Bill 5 by Senator Cain (Act 556) prohibits an Internet service provider from disclosing personal information (e.g., e-mail address, physical location, financial data, bank information, telephone number, driver's license or social security number) unless the subscriber gives permission either in writing or by electronic mail to the provider that the provider may disclose information.

Senate Bill 211 by Senator Murray (Pending Senate Commerce) would have exempted local governments who offer a wireless Internet network from the requirements of the Local Government Fair Competition Act.

Senate Bill 244 by Senator Michot (Pending House Final Passage, Subject to Call) would have enacted the Computer Spyware Protection Act to protect owners and operators of computers in Louisiana from the use of spyware and malware that was deceptively or surreptitious installed on the owner's or the operator's computer, and would have provided for fines and civil actions.

Senate Bill 640 by Senator Duplessis (Act 619) authorizes political subdivisions to sell surplus movable property on the Internet.

House Bill 1174 by Representative Lafonta (Involuntarily Deferred House Commerce) would have created the Municipal Wireless Internet Act to promote reliable and effective interoperability between local public safety and national communications networks.

House Bill 1188 by Representative Lafonta (Pending Senate Commerce) would have exempted local governments that offer a wireless high-speed Internet access and network under certain conditions during a gubernatorial declared state of emergency from the requirements of the Local Government Fair Competition Act.

House Bill 1339 by Representative E. Guillory (Pending House Education) would have required BESE to develop a secure on-line student information system for the parents of high school students to: access student grades, assignments, attendance, conduct, missed work, news, events, and any other information as BESE deemed appropriate.

LAW ENFORCEMENT

House Bill 1030 by Representative Thompson (Act 292) allows a law enforcement agency to conduct electronic surveillance during a hostage situation.

LEGISLATIVE POWERS/FUNCTIONS

House Bill 439 by Representative Townsend (Act 826) provides that audio or video recordings or electronic images of the proceedings of either chamber and of legislative 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 proceedings contained on the recording or image.

MINERALS

Senate Bill 80 by Senator Dupre (Pending Senate Natural Resources) would have required certain payments to the office of mineral resources to be paid by check or electronic wire transfer.

MOTOR VEHICLES

Senate Bill 341 by Senator Cain (Pending Senate Transportation) would have limited the use of data from a motor vehicle event data recorder under certain circumstances.

House Bill 1013 by Representative Erdey (Failed House Final Passage) would have prohibited any person, regardless of age, who was issued a first-time Louisiana driver's license from using a cellular telephone while operating a motor vehicle for a period of one year commencing from the date of issuance of the driver's license. This prohibition would not have applied to any person who was previously licensed to drive in another jurisdiction nor to usage of a cellular telephone equipped with a device that enabled operation without using either hand to activate, deactivate, or dial the cellular telephone.

House Bill 305 by Representative Faucheux (Pending House Judiciary) would have required that law enforcement vehicles be equipped with global positioning devices.

House Bill 725 by Representative Barrow (Pending House Transportation) would have required drivers on public highways to use hands-free devices while using cell phones.

House Bill 321 by Representative Gary Smith (Pending House Transportation) would have prohibited the use of a cellular telephone while operating a motor vehicle by anyone unless the cellular telephone was equipped with a device that enabled operation without using either of the operator's hands.

PAWNBROKERS

Senate Bill 698 by Senator Bajoie (Failed House Final Passage) would have defined Internet-based pawnbrokers, as a pawnbroker who lends money on a deposit or pledge or grant of control on intellectual property. This would have included domain names, websites, copyrights, trademarks, servicemarks, and patents for money advanced.

PROCUREMENT CODE

Senate Bill 151 by Senator McPherson (Act 513) requires 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.

PUBLIC CONTRACT/BIDS

Senate Bill 738 by Senator Duplessis (Pending Senate Transportation) would have authorized political subdivisions to use reverse auctions under the Procurement Code.

House Bill 820 by Representative Toomy (Act 203) provides that the Louisiana Advisory Commission on Intergovernmental Relations develops and promulgates uniform standards to be utilized by political subdivisions to receive bids electronically for public works contracts, for acquiring materials, supplies or equipment electronically; and provides if the commission does not promulgate standards a political subdivision may develop its own standards.

PUBLIC MEETINGS

House Bill 253 by Representative Crowe (Pending House and Governmental Affairs) would have prohibited a public body or member of a public body from utilizing e-mail, text messaging, instant messaging, or any other form of electronic communication or any other means to circumvent the intent or provisions of law relative to open meetings.

PUBLIC OFFICIALS

House Bill 1150 by Representative Waddell (Pending Senate and Governmental Affairs) would have required certain data brokers to allow law enforcement officers and court

officers and their immediate family members to opt out of databases, which the data broker used to sell personal information to third parties.

REVENUE DEPARTMENT

Senate Bill 190 by Senator Mount (Act 452) authorizes the secretary of revenue to require electronic filing of tax returns if the amount due in connection with the return or report exceeds \$100,000; the gross receipts, gross income, or gross sales reported on the return or report exceed \$5,000,000; or the person severs oil or gas from the soil or water of the state and is required to file reports under present law. The act provides that the implementation of this requirement is phased-in from 2008 to 2012.

Senate Bill 191 by Senator Mount (Pending Senate Revenue and Fiscal Affairs) would have authorized the secretary of revenue to obtain from financial institutions information concerning accounts of tax debtors via an electronic reporting system.

TECHNOLOGY

Senate Bill 662 by Senator Michot (Act 624) creates the Louisiana Immersive Technologies Enterprise Commission. The commission is a political subdivision of the state and will develop, maintain, and oversee the daily operations of the Louisiana Immersive Technologies Enterprise (LITE). LITE is a collaboration between government, universities and industry. It is a state-of-the-art visualization resource center housing a range of 3D display solutions including the world's only totally immersive six-sided, digital virtual reality Cube, and the world's largest digital 3D auditorium all powdered by one of the fastest graphics supercomputers in the world. The center is located in the Research Park of the University of Louisiana at Lafayette.

TELECOMMUNICATIONS

Senate Bill 739 by Senator Boasso (Involuntarily Deferred House Judiciary) would have provided a governance structure for planning, implementing, and maintaining a Statewide Communications Interoperability Plan allowing for clear and efficient exchange of voice, data, image, and video information during day-to-day operations, natural disasters, emergence response situations, and terrorist attacks.

House Bill 244 by Representative Robideaux (Pending House Commerce) would have provided that when any private provider received funding from any unit of federal, state, or local government and would have provided services under the Local Government Fair Competition Act, such private provider would comply with specified guidelines.

House Bill 245 by Representative Robideaux (Pending House Commerce) would have repealed the Local Government Fair Competition Act, regarding a local government's decision to provide cable television service, telecommunications or advanced services to its inhabitants.

House Bill 257 by Representative Robideaux (Pending House Commerce) would have provided for local government exceptions to the applicability of the Local Government Fair

Competition Act, when a feasibility study had been adopted; an election had been held; the local government provided or offered wireless technology to its subscribers; and after declared emergencies and disasters.

House Bill 537 by Representative Robideaux (Pending House Commerce) would have provided for local government exceptions to the applicability of the Local Government Fair Competition Act, when a feasibility study had been adopted; an election had been held; the local government provided or offered wireless technology to its subscribers; and after declared emergencies and disasters.

Insurance

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Act 522 (Senate Bill 249 by Senator Cain) requires insurance agents that sell homeowner's insurance to take flood insurance training as part of their continuing education. The bill was filed in response to constituents who had complained that they were given misinformation about which coverages were included when a hurricane took place. Some constituents even reported that their insurance agents discouraged them from purchasing flood insurance coverage.

Act 605 (Senate Bill 535 by Senator Nick Gautreaux) permits an insurance producer with an industrial life insurance policy to sell burial insurance in an amount not to exceed \$15,000. Previously, statute capped the amount of burial insurance by these producers at \$2,500 per insured.

Act 806 (House Bill 1384 by Representative Karen Carter) requires public adjusters who work in Louisiana to be licensed. Public adjusters represent the homeowners in disputes with their insurance companies over the amount of property damage owed by the company to the homeowner. **Act 520 (House Bill 520 by Representative Karen Carter)** requires that the public adjusters pay a \$55 license fee and a \$50 fee for renewal of the license.

Act 783 (House Bill 1056 by Representative Farrar) requires adjusters who are either employed by or contract with an insurance company to adjust claims in Louisiana to be licensed. **Act 518 (House Bill 518 by Representative Farrar)** requires that these company and independent adjusters pay a \$55 license fee and a \$50 fee for renewal of the license.

Act 677 (House Bill 157 by Representative Karen Carter) extends the deadline for the Department of Insurance to sunset for two more years.

Judiciary



by: Tom Wade
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The two hurricanes that devastated New Orleans and much of the southern one-third of the state in August and September of 2005, severely damaging the area's health care and education delivery systems, also impacted a number of courts and a significant part of the state's judicial system. The operations of courts in almost all of the parishes below Interstate 10 were affected in varying degrees by the storms. Short term solutions, including legislation to address problems related to the effect of obligations during emergencies and disasters and legal deadlines, were sought in extraordinary sessions called by the governor to address problems created by the storms, with the First Extraordinary Session of 2005 convening on November 6, 2005 and adjourning sine die November 22, 2005 and the First Extraordinary Session of 2006 convening on February 6, 2006 and adjourning sine die February 17, 2006. Longer term issues, including reorganization and funding, were addressed in both the 2006 First Extraordinary Session and the 2006 Regular Session.

ORGANIZATION & REORGANIZATION

The organization and reorganization of the court system have come to the fore as important issues for debate and action by the legislature in 2006, both in the special session and in the regular session.

2006 First Extraordinary Session

One bill that was enacted into law provides for review and recommendations by the Judicial Council as to the number of district court judgeships. **Senate Bill 42 by Senator Lentini (Act 16)** authorizes the Judicial Council to review and make recommendations to the legislature concerning judicial districts. Not later than March 1, 2007, the Judicial Council is to provide information and recommendations to the legislature on the appropriate number of district court judgeships within each district based upon caseload, population, or other pertinent factors.

Several bills that failed to move through the process sought to address reductions and reorganizations within the court system in some of the areas most affected by the storms. **Senate Bill 20 by Senator Shepherd (pending Senate Judiciary A)** would have merged the 25th (Plaquemines Parish) and 34th (St. Bernard Parish) Judicial Districts and reduced the number of judges. **Senate Bill 21 by Senator Shepherd (pending Senate Local & Municipal)** would have created one judicial administrator for the civil and criminal district courts in Orleans Parish and abolished certain offices beginning with the election for parochial and municipal officers in Orleans Parish in 2006. **Senate Bill 27 by Senator Hines (pending Senate Local & Municipal)** would have consolidated the Orleans Parish district courts, clerks, sheriffs, and other judicial officials and officers in that parish. **Senate Bill 28 by Senator Hines (pending Senate Local and Municipal)** would have provided for

one clerk of court for Orleans Parish and abolished certain offices, including the offices of the custodian of notarial records, the register of conveyances, and the recorder of mortgages in the parish.

2006 Regular Session

The effort to consolidate and reorganize met with more success during the regular session.

Senate Bill 645 by Senator Mount (Act 621) provides for the consolidation of court offices and officers in the judicial system in Orleans Parish.

The present law provides for the Civil and Criminal District Courts for Orleans Parish, and the jurisdiction, compensation, authority, rule-making ability, assignment, and designation of divisions, cases, expenses, costs, fees, and personnel, number of judges, commissioners, and magistrates allocated to divisions or sections, clerks of civil and criminal courts, compensation, fees, resultant judicial expenses, funds, deposits, bonds, retirement, and related duties and privileges, court reporters' selection, salary, and fees, magistrates and commissioners, their respective duties, jurisdiction, compensation, authority, and designations of the Civil and Criminal District Courts for Orleans Parish.

This bill consolidates the civil and criminal courts, and the clerks of the respective courts into the 41st Judicial District Court, establishes one clerk of court for Orleans Parish, and establishes the salaries, composition, jurisdiction of such judicial officials, including a magistrate for the district court, and transfers all the duties, powers, and functions of the former offices to the consolidated office, creates the Consolidated Judicial Expense Fund for the 41st Judicial District Court, and establishes consolidated public offices similar to the other 40 existing judicial districts in the state. It also abolishes the juvenile court and merges it into the one district court with six judges becoming district court judges effective December 31, 2014. The new judges shall be elected for a six-year term at the congressional election to be held in 2014, and their terms shall commence on January 1, 2015, and end on December 31, 2020.

The bill requires the creation of a Domestic Relations Section consisting of three of the district judges. It also requires that a copy of the court budget be provided to the Joint Legislative Committee on the Budget and be published in the official journal starting January 1, 2009.

The bill requests the Judicial Council, pursuant to the provisions of R.S. 13:61, as amended by Act 16 of the First Extraordinary Session of 2006, to make recommendations relative to the number of district court judges in Orleans parish necessary to effectively and efficiently serve the administration of justice in the parish, taking into consideration the funding of the operations of the court, the population of the parish, and the caseload of the divisions of the court. It also provides that the council use factors utilized in R.S. 13:61 (factors utilized in creating new judgeships). The council is requested to submit its recommendations to the legislature on or before March 7, 2007. The bill also provides for the reduction of judges as recommended by the Judicial Council by attrition upon retirement.

The bill consolidates the clerks of the Civil and Criminal District Courts in Orleans Parish and provides for a single clerk for both courts. It provides that one clerk shall be elected at the municipal and parochial election in Orleans Parish in 2010. It also transfers the duties, powers, and functions of the former offices to the consolidated office. It provides that the salaries of employees of the clerk of the civil district court and the criminal district court shall continue to be paid from the same sources and in the manner in which they were paid on the effective date of the act. It also requires the clerk of the 41st Judicial District Court to collect all fees and charges due his office and deposit them in a fund known as the Clerk's Salary Fund, and it requires the clerk to collect the fees set forth in R.S. 13:1213.1 and deposit no less than 60% of the amounts collected in the fund, and provides that the remaining amounts collected shall be deposited in the Consolidated Judicial Expense Fund.

The present law provides for the duties, powers, fees, and salaries of the register of conveyances, recorder of mortgages, custodian of notarial records, and civil and criminal clerks of court for Orleans Parish; requires that certain fees be forwarded to the register, recorder, custodian, or civil and criminal clerks, that a bond for each be obtained, that notaries in Orleans Parish, obtain same from the custodian, and maintain such; that certain acts, failure to keep proper indexes, failure to maintain bonds of notaries after expiration or revocation of bond or commission, are misdemeanors; that executed acts of a notary be maintained and bound by same, that certain acts be filed with the clerks of court.

The present law also provides the procedure for the recordation and preservation of property records of Orleans Parish by the register, recorder, or custodian; the authority to proceed against notaries or to revoke certain notaries' commissions; the authority to record certain other documents, including but not limited to pledges, mortgages, contracts, affecting immovable property, incorporation papers; the authority to appoint deputies; and the salary and operating budget of the register, recorder, and custodian.

The bill transfers the offices of the custodian of notarial records, register of conveyances, and recorder of mortgages and their respective duties and functions to the clerk of civil district court as parish recorder and abolishes such offices effective Jan. 1, 2009. It provides for the clerk to assume the duties of the custodian, the register, and the recorder on that date.

The bill provides that any employees who are transferred through the consolidation of the civil and criminal courts or the consolidation of the clerks of such courts shall continue to contribute to the retirement system or pension fund to which they were contributing on the effective date of the consolidation provisions, including the retention of all accrued benefits and contributions to which they were entitled at such time.

The bill creates the "Consolidated Judicial Expense Fund" for the civil and criminal district courts, the juvenile court for the parish of Orleans, and the First and Second City Court of the city of New Orleans. It requires that, effective January 1, 2009, all funds of a court or judge of the city or parish courts of Orleans Parish, separately or collectively, shall be transferred to the Consolidated

Judicial Expense Fund in accordance with the recommendations of the Consolidation Review Committee and monies so allocated shall continued to be paid from the same sources into the consolidated fund. It exempts funds deposited in the Clerk's Salary Fund from such proposed requirement, and further provides that the funds in the consolidated fund may be used for any purpose related to the administration or function of the courts and judges or the offices of the judges and is in addition to any other funds, salaries, expenses, or other monies which are authorized by law.

The bill further provides for an annual audit of the consolidated fund by the judges which shall be filed with the legislative auditor and shall be available for public inspection.

The bill authorizes the use of the monies in the Judicial Expense Fund to pay all or part of expenses related to the construction of a new parish courthouse; however, further provides that such authorization does not affect the obligation of New Orleans to provide buildings to house the civil district court and the other courts housed therein and the criminal district court.

The bill provides for merger of the criminal sheriff and civil sheriff to one sheriff in 2010. It provides for the election to take place at the election for parochial and municipal officers in Orleans Parish and provides for four-year terms. It further provides that the sheriff is to have all of the powers, duties, and functions of the civil sheriff and the criminal sheriff and that he provide for the ongoing merger and consolidation of the offices and to complete the merger and consolidation as soon as practicable after taking office.

The bill permits the clerk of court as the parish recorder to appoint three full-time chief deputies for the operation of the office with the same qualifications as the clerk of court as the parish recorder. It requires the clerk of court to hire a full-time archivist, with delineated qualifications, whose primary responsibilities shall be to ensure the adequate preservation of records. It provides for the powers and duties of the clerk of court as the parish recorder for the recordation and preservation of conveyances, mortgages, and all contracts and instruments of writing, marriage contracts, and wills in Orleans Parish. It also requires the clerk of court as the parish recorder, with advice of the archivist, to provide for the appropriate reproduction, preservation, and restoration of records.

The bill requires notaries to pay an annual \$20 fee to the clerk to be deposited in a separate account to be designated the Archival Trust Fund and to be used exclusively for expenses and maintenance of the recordation of historical and other archival documents. It also requires the clerk to dedicate a portion of fees assessed and collected as parish recorder for microfilming, restoration, repair, and preservation of records. It provides for deposit of these fees in the Archival Trust Fund.

The bill abolishes the offices of the custodian of notarial records, the office of the register of conveyances, and the office of the recorder of mortgages in Orleans Parish effective Jan. 1, 2009 (the end of the present terms of office of the register and the recorder; the custodian is an appointed official).

The bill's provisions abolishing and transferring the office of custodian of notarial records, the office of the register of conveyances, and the office of the recorder of mortgages are effective January 1, 2009; implementing provisions are effective upon signature of the governor or lapse of time for gubernatorial action.

House Bill 69 by Representative Toomy (Act 674) creates judicial administrative districts for the purpose of funding the clerks office. The bill creates a judicial administrative district in each parish (two for Orleans Parish) to provide an optional and additional method of funding the office of the clerk for the Criminal District Court for the parish of Orleans, the office of the clerk of court for the Civil District Court for the parish of Orleans, and the office of the clerk of district court for each of the other parishes. Provides that if the offices of the clerks of court in Orleans Parish are combined, there shall be one district and the name of the district shall be the Judicial Administrative District of the parish of Orleans. It provides that the boundaries of each district shall be coterminous with the boundaries of the respective parish and that the holder of the office of clerk of court shall be the ex officio chief executive officer and governing authority. It provides that each holder of the office of clerk of court shall be the ex officio chief executive officer and governing authority of the district with Orleans parish having two and provides that if the civil and criminal courts in Orleans are combined the one clerk of court for the parish shall be the ex officio chief executive officer and governing authority of the parish. The bill also provides that each district is authorized, within two calendar years following a disaster declaration covering the geographic area in which the district is located, to borrow money and to issue certificates of indebtedness payable from its general revenues for the purpose of financing the daily operations of the office, including employee, general operating, and all other expenses.

The bill provides that each district shall be a political subdivision of the state and shall have authority to incur debt only from other governmental entities and not to exceed 25% of the annual operating budget of the clerk of court's office. It provides that each district shall be subject to the public contracts law, public records law, public meetings law, code of ethics, and the bond validation procedures law. The bill requires any contract, agreement, lease, sublease, obligation, or other instrument entered into by the district to be legal, valid, and binding upon the district, including any subsequent ex officio chief executive officer of the district.

House Concurrent Resolution 218 by Representative Honey (pending Senate Judiciary A) would have requested the Judicial Council to expedite a review of the City Court of Baton Rouge to determine the need for a new judgeship.

INDIGENT DEFENSE

The state's indigent defense system continues to be a significant issue facing the legislature. Litigation filed in several judicial districts over the last couple of years has brought the issue to a head. Legislation filed by Senators Jackson and Murray during the 2005 Regular Session and passed by the legislature increased the membership of the Indigent Defense Assistance Board and provided for special reporting requirements by the district boards.

The Louisiana Task Force on Indigent Defense Services was established by Senate Resolution 112 and House Resolution 151 of the 2003 Regular Session to study the system of indigent defense in Louisiana. It was continued by Senate Concurrent Resolution 136 of the 2004 Regular Session and by Senate Concurrent Resolution 23 of the 2005 Regular Session.

House Concurrent Resolution 206 by Representative Martiny (enrolled) continues the Louisiana Task Force on Indigent Defense Services and requires a report of the findings of its study, together with any recommendations for changes in legislation, to the Legislature of Louisiana no later than April 1, 2007.

FUNDING

2006 Regular Session

The funding for the state's judiciary in Fiscal Year 2004-2005 totaled \$112,047,619. For Fiscal Year 2005-2006, the total was \$123,093,795. **House Bill 1209 by Representative Alario (Act 57)** appropriates funds for Fiscal Year 2006-2007 for the ordinary operating expenses of the judicial branch of government with total funding of \$127,780,259 from the following sources: \$111,095,750 out of the State General Fund (Direct); \$8,670,000 from Interagency Transfers; and, \$8,014,509 out of the State General Fund from Statutory Dedications out of the Judges' Supplemental Compensation Fund, Trial Court Case Management Fund, and the Patients' Compensation Fund. Funding for the ordinary operating expenses of the judicial branch of government is provided as follows:

(1)	Louisiana Supreme Court	\$55,724,511
(2)	Courts of Appeal	36,356,659
(3)	District Courts	26,568,450
(4)	Criminal Court, Parish of Orleans	4,591,312
(5)	Juvenile and Family Courts	1,821,249
(6)	Other Courts (Required by Statute)	2,150,252
(7)	Other Courts (Not Required by Statute)	<u>567,826</u>
	TOTAL	<u>\$127,780,259</u>

The bill appropriates an additional \$1,990,660 out of the State General Fund (Direct) to provide for an increase in the salaries for justices of the Supreme Court, judges of the Courts of Appeal, District Court, City and Parish Courts, and commissioners of Fifteenth and Nineteenth

Judicial District Courts and the Orleans Parish Criminal District Court Commissioners, all as recommended by the Judicial Compensation Commission and subject to approval by the legislature.

COURT COSTS AND FEES

A major piece of legislation affecting the entire state streamlines the fees charged by the clerks of court for certain services provided. The present law provides for 77 services for which a clerk of a district court, excluding Orleans Parish, was entitled to demand and receive specified fees. **House Bill 57 by Representative Toomy (Act 243)** streamlines the services to ten services for which a clerk of court may be entitled to demand and receive specified fees, up to, but not exceeding the specified amounts. Present law authorizes a clerk to charge a fee of \$10 for issuing a marriage license and a fee of \$2.50 for certificate to the state. This act authorizes a clerk to charge a fee of \$15 for issuing a marriage license and a fee of \$5 for a copy. It deletes provisions authorizing a clerk of court to demand and receive an additional fee in an amount not to exceed 10% of the fees specified by law. It also law repeals provisions pertaining to service by a clerk on the same person in the same proceeding but in more than one capacity.

Juvenile Justice

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Senate Bill 159 by Senator Ellington (Act 514) adds Franklin Parish to the list of five parishes for which present law provides that 40% of the savings, up to \$3,000,000, attributed to the reduction of services and employees at SCCY-MPU due to the transitioning of adjudicated juveniles pursuant to present law, is to be used for alternative programs for juveniles being served in the five parishes of East Carroll, West Carroll, Madison, Richland, and Tensas and for a community-based system of care for juveniles residing in those five parishes in order to offset the loss of services and jobs which would have otherwise been required to provide juvenile services at SCCY-MPU. The balance of the savings is to be used to increase the availability of a community-based system of care for adjudicated juveniles in all other parishes. Requires that this funding formula be included in the annual executive budget.

Senate Bill 696 by Senator Cravins (pending in Senate Committee) would have authorized any parish governing authority within a judicial district comprised of more than one parish to create its own children and youth planning board to serve the needs of its constituents.

House Bill 60 by Representative Gray (Act 822) enacts the new Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) which was recommended by the National Conference of Commissioners on Uniform State Laws in 1997 and has been adopted in 42 states. The UCCJEA accomplishes two major purposes:

- (1) It revises the law on child custody jurisdiction in light of federal enactments and almost 30 years of inconsistent case law. It provides clearer standards for which states can exercise original jurisdiction over a child custody determination and gives home state jurisdiction priority over other jurisdictional bases. It also provides a standard of continuing jurisdiction and clarifies modification jurisdiction.
- (2) It provides a uniform remedial process to enforce interstate child custody and visitation determinations by setting forth a simple procedure for registering a custody determination in another state.

The UCCJEA does not authorize public authorities, such as prosecutors, to be involved in the action leading up to the making of the custody determination, except when requested by the court, when there is a violation of the Hague Convention on the Civil Aspects of International Child Abduction, or when the person holding the child has violated a criminal statute. The UCCJEA has international application to child custody proceedings and determinations of other countries.

Another country will be treated as if it were a state of the United States for purposes of applying the Act. Custody determinations of other countries will be enforced if the facts of the case indicate that jurisdiction was in substantial compliance with the requirements of the UCCJEA. It further provides methods for courts to cooperate with each other and request assistance from courts of other states.

House Bill 90 by Representative Gray (Act 248) was filed on recommendation of the Louisiana State Law Institute and amends parent notification requirements in the Children's Code. The Act requires a diligent search for parents of children in state custody and requires the parent to give the department and their counsel all of their contact information including their cellular and telephone numbers. It requires the curator to notify the child's parent of his responsibility to inform the department and counsel of his current whereabouts and the whereabouts of the child's other parent and any relative or other individual able to offer a home for the child, and it directs the court to inform the parent and all persons before the court of their responsibility to notify the department of the whereabouts of an absent parent or any other person who may provide a home for the child.

Additionally, the Act directs the court to enter findings regarding the diligent search for the child's parent by the curator and authorizes the court to require additional search efforts. The court is then required to attach a written advisement to the judgment of disposition advising the parties of certain enumerated rights and obligations. The department is only required to continually try to locate the absent parent when reunification is the goal.

House Bill 164 by Representative Martiny (Act 150) provides that certain information obtained by youth services of the DPS&C shall be confidential and authorizes the deputy secretary of youth services to approve the selective reading of such information by certain persons under certain circumstances and to establish rules and regulations for the orderly administration of such provisions.

House Bill 187 by Representative Martiny (Act 152) provides that juveniles in the custody of DPS&C, office of youth services, may be compensated, in accordance with the youth development policy at rates fixed by the deputy secretary, for work performed, including facility maintenance, attendance at training programs, and any other attendance, participation, or work deemed appropriate by the deputy secretary.

House Bill 265 by Representative Ansardi (Act 471) provides that in order to serve as a qualified mediator in child custody disputes, a person must hold a four-year college degree in addition to the requirements under present law, but lowers the amount of general mediation training from 16 to 12 hours, and further provides that a person denied listing in the approved dispute mediator register may request a review of the decision by a panel of three members of the Louisiana State Bar Association, Alternative Dispute Resolution Section. Additionally, for purposes of the required instruction for mediators, an "hour" means a period of at least 60 minutes of actual instruction.

House Bill 266 by Representative Ansardi (Act 472) provides that in order to serve as a qualified mediator in any juvenile court dispute, a person must hold a four-year college degree in addition to the requirements under present law, but lowers the amount of general mediation training from 16 to 12 hours. The bill further provides that, in addition to the requirements under present law, specialized training in the mediation of juvenile court disputes shall include clinical training in the development and practice of negotiation and mediation skills concerning substantive state and federal law, including but not limited to Adoption and Safe Families Act of 1997 (Public Law 105-89). The bill also provides that the Louisiana State Bar Association Dispute Resolution Section shall prepare and maintain an approved register of persons qualified as mediators and authorizes a person denied listing in the approved register to request a review of that decision. It further provides that the Louisiana State Bar Association Dispute Resolution Section shall make available to participating courts and parties the approved register of mediators and a summary of their professional qualifications and that a reasonable fee may be assessed as is necessary to perform the functions associated with administering the mediation program. Additionally, for purposes of the required instruction for mediators, an "hour" means a period of at least 60 minutes of actual instruction.

House Bill 503 by Representative Gray (Act 266) was filed on recommendation of the Louisiana State Law Institute and provides for the determination of the mental capacity of children to proceed to trial. Specifically, the Act requires the findings of fact and the reasons for judgment for ordering a mental examination be attached to the order for the mental examination and requires that the order set the time and date of the contradictory hearing. It requires the clerk of court to inform DHH of the date and time of the hearing and to provide certain information to the sanity commission and requires the court to order the district attorney and counsel for the child to provide certain documents to the commission within five business days. The Act limits an extension that might be granted to a sanity commission for filing its report to no more than 15 days for good cause shown.

A child's mental capacity shall be determined after a contradictory hearing and if the child is in a secure detention facility, the hearing shall be held within 45 days of the appointment of the sanity commission. Otherwise, the hearing shall be held within 60 days of the appointment of the sanity commission. The court may extend either time period for a period not to exceed fifteen days, if an extension of time was granted to file the sanity commission report.

The Act distinguishes the procedure to be taken in felony and misdemeanor cases after the determination of mental capacity has been made in these cases. If the alleged act is a felony and the child lacks capacity the court may dismiss the petition, place the family in Families in Need of Services (FINS), commit the child, or place him with his parents. If the alleged act is a misdemeanor and the child lacks capacity, the court may dismiss the petition or place the family in FINS. If a child lacks the capacity to proceed due to immaturity, the court cannot directly commit or place the child, but it may dismiss the petition, place the child's family in the FINS program, or continue the matter for six months to review the child's capacity to proceed.

Additionally, the Act provides that an out-of-home placement or commitment shall be in a separate unit and program from an adult forensic program unless the child is 17 years of age or older, and the court finds after a contradictory hearing that the child can be appropriately treated in an adult forensic program. It also provides that if competency has not been reached in six months, the provider shall predict whether the child will likely reach competency within two years of the initial sanity evaluation and if not, the court shall conduct a contradictory hearing and determine a course of action. If at the end of two years after the initial contradictory hearing, the child has not attained competency and there is evidence that the child will not attain competency within a year, the court shall hold a hearing and determine a course of action. If the child has not attained competency within three years of the initial competency hearing, the court must either dismiss the petition, place the family in FINS, place the child with his family or other suitable placement, or commit him to a suitable treatment facility if the child is a danger to himself or others, or is gravely disabled. When a child is in an out-of-home placement which is no longer necessary, the agency or individual making the determination shall file a motion requesting a contradictory hearing to determine the appropriate placement for the child.

House Bill 553 by Representative Hebert (Act 764) allows the child, parents, counsel, district attorney, authorized officials of the court, agency representative as designated by the state, the witness under examination, CASA volunteer, and the judge to be present at the proceedings and provides that the court shall not admit any other person in the courtroom unless the court determines that the person has a proper interest or is necessary to the proceedings. Requires the court, prior to the commencement of the hearing, to determine whether it is in the child's best interest to remain in the courtroom during the testimony of the witnesses. The bill further provides that in case review hearings and permanency hearings the court or administrative review body may, on its own motion and on the request of a party, order that the witnesses, other than parties, be excluded from the courtroom or from a place where they can see or hear the proceedings, and refrain from discussing the facts of the case with anyone other than counsel in the case. In the interest of justice, the court may exempt any witness from its order. Additionally, the bill provides that a "protected person" means a person who is the victim of a crime or a witness in a criminal prosecution who is either 14 years of age or younger or has a developmental disability.

House Bill 652 by Representative Winston (Act 271) establishes a Child Advocacy Program within the Mental Health Advocacy Service for the purpose of providing for an effective and efficient system of providing qualified legal representation for children in child abuse and neglect cases. It provides for the program to be governed by an existing board of trustees as defined in R.S. 28:64(A)(3) and enumerates the additional duties of the board and the existing director of the program. The Act provides that if attorneys are available through the Child Advocacy Program, the court is required to contact the office of the program to request assignment of counsel for the child in need of care proceedings and in termination of parental rights proceedings. Neither the child nor anyone acting on his behalf may waive the child's right to counsel.

Additionally, the Act adds to the duties of the Indigent Defense Assistance Board the ability of the board to provide supplemental funds, when appropriated by the legislature for that purpose or transferred by DSS pursuant to R.S. 46:460.21, to judicial district indigent defender boards to provide counsel to indigent parents in child protection proceedings. It further authorizes DSS/OCS to transfer funds appropriated pursuant to R.S. 46:460.21 to the Child Advocacy Program for legal representation of children and to LIDAB for legal representation of indigent parents in order to facilitate more efficient and effective provision of counsel through salaried or contract attorney arrangements. The Act further provides for DSS/OCS in collaboration with the Child Advocacy Program and LIDAB to advise courts concerning the establishment of salaried and contract attorney arrangements in their respective jurisdictions and it limits the payment of ad hoc attorney fee requests to those received from attorneys in judicial districts not yet included in salaried or contract attorney arrangements funded by transfer of funds from DSS/OCS.

House Bill 654 by Representative Doerge (Act 272) was filed on recommendation of the Louisiana State Law Institute and requires an incarcerated parent to provide a plan for the care of his children during his incarceration and requires DSS to contact the parent and assist him in preparing the plan. The Act further requires the parish or municipality to reimburse the costs incurred by the sheriff when transporting a prisoner who is an incarcerated parent to a termination of parental rights proceedings.

House Bill 733 by Representative Cazayoux and Senator Dardenne (Act 394) provides for the review of certain reports of child abuse by the district attorney and creates a central registry in the office of state police. Specifically, the bill provides that all files, records, and information regarding a report that has been determined to be inconclusive may be released to law enforcement investigators in the course of investigations of crimes involving acts against children in order to assist in the proper evaluation of current reports of abuse which may include a pattern of incidents. However, these files, records, and information are to remain confidential and shall not be subject to disclosure but shall be admissible in court, if a court determines that they are admissible. The bill further requires the Bureau of Identification and Information in the office of state police, to create and maintain a central registry of all reports received from district attorneys in accordance with this law. However, this information is to remain unsealed and be used exclusively by child protection and law enforcement to determine if patterns of incidents exist. DPS&C is to promulgate rules and regulations for the handling and maintenance of inconclusive and unjustified reports and these reports are to be maintained for 10 years or longer if another report is received within that time period.

House Bill 1372 by Representative Gray (Act 308) was filed on recommendation of the Louisiana State Law Institute and provides that any juvenile transferred for criminal trial in accordance with Articles 305 and 857 of the Children's Code may seek a special sanity hearing. The sanity hearing is to be conducted in accordance with Articles 833 through 836 of the Children's Code. The Act also provides that the determination of capacity or incapacity of a juvenile transferred to criminal court to proceed to trial shall be governed by Code of Criminal Procedure Articles 648 through 649.1.

House Concurrent Resolution 5 by Representative Gray (enrolled) requests the House Committee on the Administration of Criminal Justice and Senate Committee on Judiciary B to study and recommend policy directives for the state of Louisiana regarding issues related to juvenile competency, which may include the implementation of a pilot project to develop a process of competency determination, restoration, and mental health intervention, recommendations for a plan of statewide implementation, and determination of the cost of implementation. Authorizes the joint committee to work collaboratively with the Children's Cabinet to obtain research and to call expert witnesses and requires the joint committee to submit a written report to the legislature by March 31, 2007.

House Concurrent Resolution 120 by Representative Gray (enrolled) requests the House and Senate health and welfare committees to study issues related to the status and well-being of children in foster care in the state, including a review of the current laws and regulations governing children in foster care in the state, and the laws, regulations, and procedures which govern social workers charged with monitoring children in foster care, and to make recommendations for changes in the laws, rules, and procedures governing children in foster care in Louisiana and social workers charged with monitoring such children in a report to be submitted to the legislature and the governor by March 1, 2007.



Labor/Employment

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HURRICANE EFFECTS ON LABOR AND INDUSTRY

Hurricane Katrina

The United States Bureau of Labor reports that 27% of Louisiana's employment was within the FEMA identified damage areas. This statistic equates to some 31,000 businesses and nearly 500,000 employees negatively effected by the storm. Staggering, unprecedented and potentially crippling results of an act of nature called "Katrina" literally poured onto the state at the rate of 140 miles per hour on August 29, 2005.

Hurricane Rita

The United States Bureau of Labor also reports 2.1% of Louisiana's employment was inside or within the FEMA identified damage areas. The resulting numerical calculation of impact to the state from Hurricane Rita is approximately 2,300 business establishments and 38,500 employees effected. Making landfall near the Texas-Louisiana border in the early morning hours of September 24, 2005, Rita wrecked parts of Louisiana and renewed flooding in areas that were already saturated.

COMMITTEE RESPONSE

2006 First Extraordinary Session

Senate Bill 1 by Senator Nevers (Act 7) was the first Senate Labor Committee response in 2006 to storm related issues. This legislation changed existing law by deferring, without penalty and interest, until January 1, 2007, any unemployment benefit reimbursement owed by state and local governments and eligible nonprofit organizations as a result of hurricanes Katrina and Rita as well as the executive orders issued by the governor after the storms. Act 7 also permits the negotiation of quarterly payment terms for a period not to exceed two years from January 1, 2007.

2006 Regular Session

Senate Bill 217 by Senator Nevers (Act 116) provides that unemployment benefits paid as directed in three executive orders issued by the governor to deal with unemployment resulting from hurricanes Katrina and Rita shall not be charged against individual employer's experience rating records. In addition to this tax relief to employers, the legislation also provides that benefits paid as a result of the storms shall not be recouped through the social charge account and spread to all employers through the social charge tax.

Senate Bill 744 by Senator Nevers (Act 633) is an extension of Act 7 of the First Extraordinary Session in 2006. It defer's, without penalty and interest, until July 1, 2007, any unemployment benefit reimbursement owed by state and local governments and eligible nonprofit

organizations as a result of hurricanes Katrina and Rita as well as executive orders issued by the governor after the storms. A payment schedule can be extended to July 1, 2009.

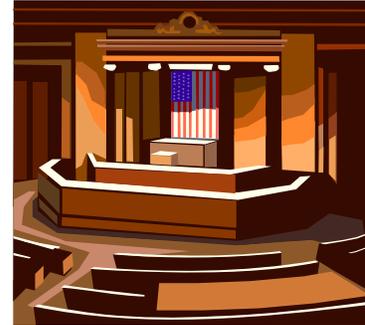
Senate Bill 700 by Senator Jones (Pending House Final Passage) would have established a state minimum wage of \$6.15 per hour. Since the storms, businesses in the FEMA identified damage areas are faced with a severe shortage of labor in fields like construction and debris removal. Restaurants can hardly staff their establishments for lack of servers, cooks and waiters. Senator Jones did request statistics from the La. Department of Labor on how many workers in the state earn minimum wage. The Department collects total earnings data as opposed to hourly wage earnings data. However, the Economic Policy Institute collects minimum wage data at a national level and they maintain three critical facts:

1. The earnings of minimum wage workers account for more than half of that worker's weekly earnings.
2. Adult women and minorities make for over 70% of the workforce that earns minimum wage.
3. An increase in the minimum wage would most dramatically effect the working poor in the state.

Senate Bill 753 by Senator Cravins (Act 636) is intended to address the issue of employers hiring illegal aliens. While current law provides penalties for employers who violate the prohibition against hiring illegal aliens, federal law precludes enforcement of any civil penalty. Senate Bill 753 requires employers to file an affidavit with their respective annual license renewal agency that the employer has in its files a federal employment eligibility verification form for each employee. More importantly, this legislation empowers the attorney general or district attorney to file a cease and desist order to the employer in violation of the prohibition against hiring undocumented aliens. Any employer still in violation of such an order after ten days is subject to an injunction and a fine of up to \$10,000.

Legislative Affairs

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DISASTER RELATED CONTRACTS

A number of measures were introduced this year to provide for contracts arising from a disaster. **House Bill 1236 by Representative Walsworth (tabled on House final passage)** would have prohibited an elected official, state-appointed official, immediate family members of such elected or appointed officials, and any legal entity who has a substantial economic interest from seeking, bidding on, or entering into any remunerative contract to provide goods, supplies, or services authorized, directed, or requested by the government to respond to a gubernatorially or presidentially declared emergency.

Conversely, **House Bill 156 by Representative LaFleur (pending House & Governmental Affairs)** would have required that after the elected or appointed official and immediate family member files the initial disclosure statement to the Board of Ethics no later than thirty days after November 29, 2005, or 15 days after the official, immediate family member, or legal entity enters into the contract they shall file disclosure statements with the Board of Ethics no later than February fifteenth each year that shall include such information for the previous calendar year.

TERM LIMITS

The Legislators attempt to change current law that 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 failed again in the 2006 Regular Session. The failed passage of several bills to change and repeal term limits subjects many members of the legislator to the set term limits. The bills introduced:

Senate Bill 277 by Senator Malone (assigned to Senate S & GA) would have provided that no person who has been elected to serve as a member of either house of the legislature for more than two and one-half terms in three consecutive terms, that service being during a term of office that began on or after January 8, 1996, shall be elected to either house of the legislature for the succeeding term and further provides an expiration date of January 8, 2016.

Senate Bill 273 by Senator Jones (assigned to Senate S & G A) would have repealed the present constitution that prohibits a person who has been elected to serve as a member of the Senate or the House of Representatives for more than 2½ terms in three consecutive terms from being elected to the other house for the succeeding term. It applied limitations only when such service was during a term that began on or after January 8, 1996.

JOINT RULES

Two identical bills were introduced, **Senate Concurrent Resolution 121 by Senator Hines (enrolled) and House Concurrent Resolution 263 by Representative Salter (withdrawn from files of the House)**, that would have provided for the limited and restricted fiscal-related subject matter for regular sessions in odd-numbered years in which it allowed each member to introduce local and special matters that are required to be advertised, which have been properly advertised, and which are not prohibited local or special matters that allowed each member to prefile up to five other matters.

House Bill 339 by Representative Townsend of the 2006 Regular Session (Act 690) changes the rules with respect to the attendance and testimony of legislators and legislative personnel in certain court proceedings. The act requires the court to hold a hearing prior to compelling the discovery of a legislator in his capacity as a state law maker when the legislature is not a party in the case. It specifies that the criminal felony exception applies only when the legislator or legislative personnel is called as a material, factual witness to the crime or any element of the crime. More specifically, it applies in any case or administrative hearing and additionally requires the party to show cause why the testimony being elicited from the legislator is not under the privileges and immunities provision of the state constitution. The legislator, attorney general, and clerk of the House or secretary of the Senate must receive a 15 day notice of the hearing that must contain the same information required in the motion.

Local Government

by: *Michael Bell*
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EMERGENCY PREPAREDNESS

During the 2006 First Extraordinary Session **House Bill 70 by Representative Jefferson (Act 36)** mandated that the office of homeland security and emergency preparedness, by May 31, 2006, to promulgate standards and regulations in accordance with guidelines issued by the Administrative Procedure Act for local governments when a mandatory evacuation has been ordered for the evacuation of people located in high risk areas utilizing all available modes of transportation, including but not limited to school and municipal buses, government-owned vehicles, vehicles provided by volunteer agencies, trains, and ships in advance of the approach of the storm to public shelters located outside of the risk area with priority consideration being given to the special needs of the following classes of people: (1) The people with specific special needs such as the elderly and the infirm; (2) Tourist; (3) Those who refuse to leave; and (4) Those without personal transportation.

BONDS

House Bill 93 by Representative Hammett (Act 41) of the 2006 First Extraordinary Session authorizes the issuance of state general obligation bonds and other evidence of state debt issued pursuant to Art. VII, §6 of the constitution and the Gulf Opportunity Zone Act of 2005 to provide relief from natural catastrophes by providing monies for the payment of debt service of affected political subdivisions and the state. The Gulf Opportunity Zone Act of 2005, adopted by congress in December 2005, provides certain tax relief and bond-related provisions including authorization for the state to issue not to exceed \$200 million in gulf tax credit bonds and to issue advance refunding bonds. The gulf tax credit bonds must be matched with an equal amount of state funds.

HOUSING

During the 2006 Regular Session several bills were introduced addressing the priorities for housing needs in Katrina/Rita FEMA disaster areas and for citizens displaced from Katrina/Rita disaster areas. **Senate Bill 445 by Senator Jackson (Act 654)** allows the state to deposit proceeds acquired under The Road Home Housing Program administered by the Louisiana Recovery Authority and authorizes that the Louisiana Housing Finance Agency to give priority to assisting municipalities and displaced citizens, of a declared disaster area, with developing, rehabilitating, and preserving affordable housing. **House Bill 1071 by Representative Hunter (Act 355)** creates the Louisiana Housing Preservation Act to provide for the identification and rehabilitation of blighted housing and procedures therefor and for the powers, duties, functions, and responsibilities of parishes, municipalities, and courts relative thereto. **House Bill 1399 by Representative Gray (Act 810)** authorizes and permits municipalities and parishes that adopt land use or zoning ordinances to

adopt inclusionary zoning ordinances to promote the development of affordable housing for low and moderate income families.

ASSESSORS

This session several bills were introduced addressing the consolidations of political offices in the Orleans Parish. **Senate Bills 141 and 647 by Senator Duplessis (Act 863 and Act 622)** provides for a change in the constitution to delete authorization for seven tax assessors in Orleans Parish and to provide for a single tax assessor in Orleans Parish. Also, specifies submission of the constitutional amendment to the voters at the statewide election to held on November 7, 2006.

SPECIAL DISTRICTS

Senate Bill 369 by Senator Cravins (Act 531) authorizes the governing authority of the town of Washington to create a special district and political subdivision of the state whose boundaries are the same as that of the town of Washington. The district is governed by a board of commissioners consisting of the mayor and three members appointed by the governing authority of the town from the town at large who serve until the last day of the terms of the governing authority. The district's declared purpose is to create housing, renovate and restore any historical properties, and to provide for economic development for the town or the district. **Senate Bill 469 by Senator Schedler (Act 537)** renames the East St. Tammany Events Center to the Northshore Harbor Center District and exempts the executive director of the St. Tammany Parish Tourist and Convention Commission from residency requirements. **House Bill 274 by Representative Doerge (Act 75)** creates the Springhill Downtown Development District within the city of Springhill to redevelop and revitalize the downtown business district in order to provide for substantial economic activity and employment opportunities.

ECONOMIC DEVELOPMENT DISTRICT

Senate Bill 665 by Senator Schedler (duplicate to HB 1130, Act 839) authorizes creation of local and regional economic development districts for the purposes of: (1) facilitating the creation of jobs and to lower unemployment and under employment by coordinating and facilitating local and regional efforts for economic development programs and projects; (2) to act as the coordinating entity in acquiring and developing real estate needed to grow the economy; (3) to receive public and private funds for such purposes; (4) to assist in business within the district; (5) to receive public and private funds for such purpose.

MISCELLANEOUS

Senate Bill 490 by Senator Barham (Act 539) provides for mutual aid between law enforcement agencies responding to disasters by allowing local law enforcement agencies responding to disasters and recovery efforts to apply for, administer, and expend any grants, gifts, or payment in aid of homeland security, disaster prevention, preparedness, response, or recovery. **Senate Bill 709 by Senator Murray (Act 666)** provides for additional commissioners for and preparation and implementation of community improvement plans by the New Orleans Redevelopment Authority from seven to eleven. Provides the authority to issue bonds for commercial projects and to facilitate new markets tax credit financed projects and authorizes a

community-based organization to request that an area be designated appropriate for a community improvement plan or project, through the city council housing and human needs committee.

Natural Resources

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"LEGACY" LAWSUITS

The contentious issue of "Legacy" lawsuits involved suits filed by landowners who leased their property to oil and gas companies for drilling and later sued for alleged contamination of their property. Four bills (**Senate Bill 702 by Senator B. Gautreaux (subject to call - Senate final passage)**, **Senate Bill 462 by Senator Kostelka (pending Senate Natural Resources)**, **House Bill 1177 by Representative Daniel (pending House Natural Resources)**, **Senate Bill 655 by Senator Adley (Act 312)**) were filed to address the issues. The bills were similar in many aspects, but a major difference concerned who would decide the plan for remediation - the court or the Department of Natural Resources. After much discussion, **Senate Bill 655 by Senator Adley (Act 312)** was signed into law by the governor. SB655 provides that the court shall adopt the plan approved by the department, unless a party proves by a preponderance of the evidence that another plan is more feasible to protect the environment and the public health, safety, and welfare.

OIL AND GAS

On June 15, 2006, Governor Blanco officially objected to the August federal lease sale for oil and gas exploration off the coast of Louisiana. In the letter to the U.S. Department of Interior, Minerals Management Service ("MMS"), Governor Blanco objected to the lease sale because it is not consistent with the state's coastal zone management program. Even with the governor's objection, MMS proceeded with the lease sale. On July 20, 2006, Governor Blanco filed a lawsuit in federal court in New Orleans seeking to block the August federal lease sale. The lawsuit seeks an injunction blocking the lease sale and an order of the court declaring that the environmental impact statement prepared for the lease sale does not adequately address the environmental impacts on Louisiana's coast. If tried, the lawsuit is estimated to cost the state between \$700,000 and \$1,000,000.

House Bill 107 by Representative Pierre (Act 145) authorizes the undersecretary of the Department of Natural Resources to serve as a proxy member for the secretary on the Oilfield Site Restoration Committee and the State Mineral Board.

House Bill 1069 by Representative Pierre (Act 295) provides in the emergency gas shortage allocation plan that petroleum, petrochemical, and chemical industries using intrastate natural gas to operate facilities will have a priority as long as the gas is used to ensure the protection of public health, safety, and the environment.

Senate Bill 237 by Senator Malone (Act 519) requires certain payments to the office of mineral resources to be paid by check or electronic wire transfers and requires a royalty payor whose total monthly payment is \$50,000 or more must pay the royalty payment by electronic wire transfer.

Senate Bill 238 by Senator Malone (Act 520) provides that the owner of geophysical and geological information with the right to license may give permission, with restrictions and limitations, to the commissioner of conservation to release such information for certain purposes proposed by the state, and such release will not be in violation of state law.

Senate Bill 78 by Senator Theunissen (Act 446) requires that a reservation of mineral rights in an instrument transferring ownership of land must include surface rights in the exercise of the mineral rights reserved, if not otherwise provided. The law provides specific language that will satisfy the requirements of the law.

LIQUIFIED NATURAL GAS (LNG) TERMINALS

On May 5, 2006, Governor Blanco announced her decision to deny Freeport-McMoran's application for a LNG facility off the coast of Louisiana. Her decision comes after debate over what type of system is more environmentally-friendly - an "open-loop" system or a "closed-loop" system. Freeport-McMoran's facility would utilize the "open-loop" system. Numerous conservation groups have opposed the "open-loop" system, claiming potential negative impacts on the fragile Gulf of Mexico ecosystem and its fisheries. The "closed-loop" system, while being more expensive to operate, would have negligible impacts on the ecosystem and the fisheries.

On May 8, 2006, Freeport-McMoran announced its decision to adopt a "closed-loop" system. Governor Blanco assured the company that the state will do everything reasonable and appropriate to expedite the application review process.

Property

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PROPERTY ASSESSMENT

Present the law authorizes the La. Tax Commission for tax year 2005 to order the ad valorem property taxes in a parish (except Jefferson, Orleans, Plaquemines, and St. Bernard) in which are located lands or property destroyed, uninhabitable, or nonoperational due to a disaster or emergency declared by the governor for such tax year to be assessed and collected for that year on a pro rata basis as set forth in existing law. Property subject to mandatory evacuation is deemed to be uninhabitable or nonoperational during the pendency of the mandatory evacuation.

Unless the tax commission orders assessment in the parish on a pro rata basis, an assessor must proceed to assess land or property damaged or destroyed for the year in which the damage or destruction occurred by taking into consideration all damages to land or property and the depreciation of such land or property caused by the disaster or emergency. Provides that the assessments must be made whether the time provided by law for filing assessment rolls has elapsed or not. If the general assessment rolls have already been certified to the local board of review, the assessor must prepare a supplemental roll of land or property damaged, which rolls are to be filed in the same manner as provided for general assessment rolls in existing law, and such assessments are subject to the same rights as to contest as assessments generally. After the filing of the assessment roll for the year, the assessor may issue change orders for the assessment of damaged or destroyed property.

The total amount of ad valorem taxes collected by any taxing authority in the year in which the reappraisal and valuation are implemented shall not be increased or decreased because of a reappraisal or valuation above or below the total amount of such taxes collected in the year preceding implementation of the reappraisal and valuation. To accomplish this result, each affected taxing authority, in the year of implementation must adjust millages upwards or downwards without regard to millage limitations contained in the constitution without further voter approval.

House Bill 46 by Representative Arnold (Act 31) specifies that only pro rata assessment provisions of the present law do not apply to lands or property in any parish for which the assessment rolls for tax year 2005 were certified, or partially or conditionally certified, by the La. Tax Commission prior to the effective date of present law and removes restriction of application of assessment procedures to such lands. **Act 31** also authorizes tax payers claiming tax credits for certain ad valorem taxes paid to elect to treat payments of such taxes made after December 31, 2005, but before April 16, 2006, as being made on December 31, 2005. This provision is applicable to taxable periods beginning after December 31, 2004.

EXPROPRIATION

Presently the constitution prohibits the expropriation of property by the state or its political subdivisions except for "public purposes" and with "just compensation" paid to the owner or into court for his benefit. The constitution also prohibits the expropriation of property by any private entity authorized by law to expropriate, except for a "public and necessary" purpose and with just compensation paid to the owner.

Senate Bill 1 by Senator McPherson (Act 851) is a proposed constitutional amendment which prohibits the expropriation of property by the state or its political subdivisions for the predominant use by or for transfer of ownership to any private person or entity. Instead the expropriation must be for a public purpose such as public buildings in which publicly funded services are provided or roads, bridges, waterways, access to public waters and lands, ports, airports.

Economic development or enhancement of tax revenue for the benefit of the public is not considered when determining whether the taking is for a public purpose.

Senate Bill 1 requires that in every expropriation or action to take property, a party has the right to trial by jury to determine whether the compensation is just, and the owner shall be compensated to the full extent of his loss. With certain constitutionally provided exceptions, the full extent of loss includes the appraised value of the property and all costs of relocation and inconvenience the owner incurs because of the expropriation. Any property which is not used for the purpose for which it was expropriated within 15 years after the expropriation shall be first offered for sale, at the current appraised value, to the owner from whom the property was expropriated or to his heirs. If the previous owner or his heirs does not accept the offer within 90 days after the date it is made known to the owner or his heirs, the property may be sold to any other person.

House Bill 992 by Representative Marchand (Pending in Conference Committee) would have provided that the right to expropriate property shall not be exercised for the purposes of converting privately owned property, not legally declared blighted or uninhabited adjudicated property, for retail, office, commercial, industrial, or residential development; or primarily for enhancement of tax revenue; or for transfer to a person, nongovernmental entity, public-private partnership, corporation, or other business entity. This provision does not apply to publicly regulated facilities used to transport or distribute natural gas and electricity or to public utilities, qualifying transportation facilities, public ports, or common carriers, including railroads. **House Bill 992** also provided for applicability, except for lease and operations agreements for port facilities or qualifying transportation facilities, to governmental entities that lease public property to a private retail, office, commercial, industrial, or residential development, a person, a nongovernmental entity, public-private partnership, corporation, or other privately owned business.

Similar to **Senate Bill 1**, **House Bill 992** provided in part that property expropriated, if not used in 15 years or if it is no longer needed for the purpose for which it was expropriated, before it is sold, it shall be offered first for sale to the person from whom the property was expropriated at

the price paid for the property together with the fair market value of any improvements, and further provides that if the offer is not accepted within 90 days from the date it is made, the property may be sold to any other person, but only at public sale after legal notice is given.

LEGAL SERVITUDES

Representative Baldone's HB 829 (pending senate final passage) would have provided relative to legal servitude for the construction and maintenance of levees and provides relative to the termination of the authority of the West Jefferson Levee District. Presently, a legal servitude exists on property adjacent to navigable rivers for public or common utility and making or repairing levees, roads, and other public or common works. **House Bill 829** retained present law and requires that a legal servitude also exists on property necessary for the building of levees and other water control structures on the alignment approved by the U.S. Army Corps of Engineers, including the repairing of hurricane protection levees. **House Bill 829** extended the date until December 1, 2007 for the West Jefferson Levee District to be governed by the board of commissioners of the Southeast Louisiana Flood Protection Authority-West Bank.

PROPERTY DAMAGE CLAIMS

House Concurrent Resolution 143 (Enrolled) by Representative Bowler urges and requests property and casualty insurers to waive any provisions in their policies which limit the time for filing suit against the insurer to twelve months or one year when filing suit on a property damage claim resulting from Hurricane Katrina or Rita. Many insurers include provisions in their policies limiting the time for filing a cause of action relative to a claim to either the twelve months or one year stated by statute.

However, Hurricanes Katrina and Rita created a statewide emergency and inflicted immediate and unimaginable hardships on so many of Louisiana citizens, including forced evacuation or rescue, difficulty in finding shelter, multiple relocations, and coping with the death or uncertainty of the whereabouts of loved ones. Hardships have included delayed reentry into hurricane affected areas, massive clean-up and debris removal efforts, the attempted salvage of personal effects, the severity of the damage to homes and businesses and difficulty in determining the extent of the damage, the difficulty of obtaining information regarding rebuilding, and the limited availability of construction workers and materials. Other difficulties have included the loss of personal legal documents including insurance contracts, the complexity of legal issues, discerning the distinctions between flood insurance, hurricane insurance, and homeowners' insurance and understanding how these types of coverage work together, and possible multiple insurance carriers. Further there has been the limited availability of adjusters and the time constraints on such adjusters in processing the more than one and one-half million claims filed for Hurricane Katrina and Hurricane Rita combined, complex negotiations with insurance companies, and decisions as to whether to enter into mediation offered by the Louisiana Department of Insurance.

Therefore **HCR 143** urge and request property and casualty insurers to waive any provisions in their policies which limit the time for filing suit against the insurer to twelve months or one year when filing suit on a property damage claim resulting from Hurricane Katrina or Rita.

Public Safety

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Predictably, the 2006 First Extraordinary Session and the following Regular Session both focused on issues brought to the forefront by the devastation, aftermath, and recovery occasioned by hurricanes Katrina and Rita. Public safety, of necessity, comprises a significant portion of the concerns, post-Katrina and Rita. Louisianians have turned their attentions to levee construction and safety, specific concerns regarding emergency and disaster situations, and the needs of recovery and reconstruction. The following, including both hurricane-related issues and traditional topics and concerns, are all from the 2006 Regular Session.

DISASTER AND EMERGENCY MATTERS

Law enforcement commissions for those responding to disaster or emergency Among the numerous issues brought to the attention of the legislature during the 2006 Regular Session, was **Senate Bill 216 by Senator Jackson (Act 317)**. This legislation provides for special Louisiana law enforcement officer commissions to be available during gubernatorily-declared emergencies and disasters. Such commissions would be available to those commissioned law enforcement officers from throughout the South, or elsewhere, who respond to a request for assistance pursuant to the Southern Regional Homeland Security and Emergency Preparedness Management Assistance Compact, found at R.S. 29:751, et seq.

Communications during a disaster or emergency During and after hurricanes Katrina and Rita, communications between and among law enforcement and first responders, public safety leaders, health and emergency medical staff interests, national agencies, the U.S. military, and state and public officials were severely degraded. With input from various technology and communication entities, **Senate Bill 739 by Senator Boasso (involuntarily deferred in House Judiciary Committee)**, sought to deal with the development and governance of a statewide interoperable communication system. While the legislation eventually fell victim to a lack of a quorum in House committee, the issue of developing and placing in statute an interoperable communication system for Louisiana that would continue to work through an emergency or disaster was fully debated in the Senate and certainly brought to the attention of the Louisiana public.

Inmate labor In order to facilitate the use of inmate labor in the remediation of areas damaged during a disaster or emergency, **Senate Bill 85 by Senator Jones (Act 104)** provides that the Department of Public Safety and Corrections establish community resource centers to be used to house inmates working in the wake of such disaster or emergency. The use of inmate labor allows the state to maximize governmental capacity to restore damaged areas. Safe and secure housing for these inmates is essential to any effort to employ them in clean-up and debris removal after a disaster or emergency.

Driver's licenses **Senate Bill 55 by Senator Cain (Act 444)** requires the office of motor vehicles to provide licensees a method by which emergency contact information may be included in the operating record of a driver's license or a state identification card. Such information could facilitate the notification of relatives in the case of a person injured or killed in a disaster or emergency.

SECURING LIVES AND PROPERTY

Life safety and property protection systems With hurricanes Katrina and Rita in the recent past and the current hurricane season underway, the issues of securing lives and property in Louisiana are paramount. In an attempt to address some of these issues and to bring Louisiana's statutes into the 21st century, **House Bill 1371 by Representative Pinac (Act 307)** amends current law to replace the current term of "alarm services" with "life safety and property protection" when referring to systems involving fire alarms, fire suppression, fire sprinklers, portable fire extinguishers, and special locking systems and equipment. The legislation is comprehensive, providing for a licensing board, definitions, fees, and specific provisions regarding licensure and the process of renewing licenses. The state fire marshal will have jurisdiction to cause the inspection and testing of all life safety and property protection systems and equipment.

Retirement

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The major legislative instruments of the 2006 First Extraordinary and Regular Legislative Sessions pertaining to retirement generally focused on concerns about the increasing cost of funding public retirement systems, and granting cost-of-living adjustments to retired public employees.

INCREASING RETIREMENT COSTS

Retirement costs generally fall into two categories: The liability for past benefits granted that have not yet been funded for and the cost for the benefits currently accruing.

Each year's payment for these costs is assessed as the required employer contribution payment to a system. This contribution is made up of two parts: a payment on the total unfunded accrued liability (UAL) and a payment for the employer's portion of the normal cost. Pursuant to present law, the amount of money due for each year is calculated. This amount is then converted to a rate, or percent of pay, by dividing by the projected payroll. Although the rate is what is commonly complained of, it is the amount of money due that really matters.

Unfunded accrued liability

The problem of increasing retirement costs requires a **two part solution: Paying down the existing debt** with attention to both the 1988 UAL which must be eliminated by 2029 and the UAL created since then, **and limiting the creation of new debt**. Bills by Senator Boasso and Representative Walsworth would have addressed these solutions for the four state systems.

Paying the existing debt. **Senate Bill 526 by Senator Boasso (Pending Senate Finance)** would have required the state to make additional payments on the 1988 UAL of the Louisiana State Employees' Retirement System (*LASERS*) and the Teachers' Retirement System of Louisiana (*Teachers'*). It would also have provided some hard dollars for the Experience Accounts of these systems, from which cost-of-living adjustments are paid (see below). With an annual cost of roughly \$100 million in each of the first five years, the bill would have saved the state nearly \$2 billion in interest payments over the next 23 years.

House Bill's 565 and 579 by Representative Walsworth (Pending House Appropriations) had a similar aim. His bills would have created the Public Retirement Systems Fund in the state treasury, into which excess monies from the Budget Stabilization Fund would have been deposited. The monies were to be dedicated solely to additional payments on the 1988 UAL. Money deposited in the new fund would have then been unavailable for general appropriation. The fiscal note indicates between \$30 million and \$100 million would have gone to the fund in each of the first five years.

After his bills were deferred, **Representative Walsworth** filed **House Study Request 8** requesting the House Committee on Appropriations to study methods of funding the unfunded accrued liability of the state retirement systems and to report its findings and recommendations to the House of Representatives prior to the convening of the 2007 Regular Session.

The supplemental appropriations bill, **House Bill 1208 by Representative Alario (Act 642)**, contains one-time payments of \$13.6 to *LASERS* and \$26.4 to *Teachers'* for the 1988 UAL. According to the legislative actuary, these payments are expected ultimately to reduce *LASERS'* UAL by \$77.8 million and *Teachers'* UAL by \$139.5 million.

Limiting creation of new debt. **Senate Bill 258 by Senator Boasso (Subject to call House final passage)**, a constitutional amendment, would have required that any creation of new costs to the retirement system be accompanied by a new source of revenue to fund that new debt within five years. Because most new liability bases for state systems are amortized over thirty years from the date of occurrence, shortening the period to five years would have substantially limited granting or implementation of new, expensive benefit provisions.

Normal cost

Simplistically put, the annual normal cost of a retirement system is the amount necessary for funding the retirement benefits that active employees accrue in that year. In each La. public retirement system, the employees contribute a portion of their pay at a fixed rate, helping to fund the cost of their own benefits. The employer funds the rest of this cost, called the "employer portion of the normal cost", with some of each year's employer contributions.

Changing benefit provisions of a system to lessen the benefit a retiree will receive produces normal cost savings. In **Act 75 of the 2005 Regular Session**, a package of changes to the *LASERS* plan provisions reduced the normal cost that the state will have to pay for persons hired on or after July 1, 2006, producing significant future savings. This year several bills were introduced in the legislature imitating some of the Act No. 75 provisions.

The board of trustees of the *Municipal Employees' Retirement System (MERS)* requested **Senate Bill 316 by Senator Butch Gautreaux (Pending Senate concurrence)**. As originally filed, this bill would have extended the final average compensation period from three years to five years for *MERS* members retiring on or after Jan. 1, 2007. Transition provisions ensured that no one would suffer a reduction in accrued benefits. The House Committee on Retirement amended the bill to make the provisions prospective only, affecting new employees as of July 1, 2006. The immediate phase-in of the original bill would have saved the participating municipalities (employers) \$21 million in the first five years.

The board of trustees of the *Parochial Employees' Retirement System (PERS)* requested **Senate Bill 262 by Senator Butch Gautreaux (Act 584)**. The bill changes eligibility and benefit calculation for everyone hired in a *PERS*-covered position on or after Jan. 1, 2007. Among these changes are the extension of the final average compensation period from three years to five years

and stricter eligibility provisions. In the first five years, this bill is expected to generate \$12 million in savings for the participating parishes.

The board of trustees of the *Sheriffs' Pension and Relief Fund (Sheriffs')* requested **House Bill 1018 by Representative Schneider (Act 721)** which makes various changes to current provisions, including tougher eligibility for cost-of-living adjustments, and extension of the final average compensation period from three to five years for those hired on or after July 1, 2006. The costs and savings of the various bill provisions are offsetting, resulting in an actuarial note showing no cost.

Additionally, **House Bill 922 by Representative Schneider (Act 780)** extends the final average compensation period from three to five years for new members of the following *statewide* systems beginning with the system's next fiscal year:

Assessors' Retirement Fund
Clerks of Court Retirement Fund
Municipal Employees' Retirement System
Parochial Employees' Retirement System
Registrars of Voters Employees' Retirement System
Sheriffs' Retirement and Relief Fund

COST-OF-LIVING ADJUSTMENTS

For the last few years, the public retirement systems have been unable to grant cost-of-living adjustments (COLAs) to their retirees and other beneficiaries. Most of the retirees of La. public retirement systems do not receive social security benefits. In years past, the COLA a retiree received would be close to the amount his or her health insurance premium increased. Although no COLAs have been granted in the last four or five years, the insurance costs as well as other living expenses have continued to rise. As a result, former public servants have less money to pay greater expenses, and the boards of trustees and legislators are subject to increasing pressure to assist these people.

This year, the *Firefighters' Retirement System* granted a COLA effective Jan. 1, 2006, equal to 3% of the current benefit. Retirees age 65 and older received an additional COLA equal to 2% of their original benefit. The *Firefighters'* system had to meet two statutory thresholds for the board to be able to grant this COLA: (1) The system had to show its funding level was progressing toward 100% in accordance with a schedule set in what is commonly referred to as the "target ratio" statute, and (2) the actuarial rate of return on the system's investments had to be greater than the system's actuarially assumed rate of return of 7.5%. Eleven of thirteen state and statewide retirement systems must show the scheduled funding progress in the target ratio statute in order to grant a COLA.

LASERS has also met its COLA criteria. *LASERS* and *Teachers'* are not subject to the target ratio statute because they have a different COLA mechanism called an Employee Experience

Account. Money is credited to an Experience Account when the system's investments earn more than 8.25%. When the balance in the Experience Account is sufficient to fund a COLA on an actuarial basis, the board notifies the legislature. If the legislature approves a COLA, then the board may grant it. **Senate Concurrent Resolution 94 by Senator B. Gautreaux (enrolled)** provides the required legislative approval. **House Concurrent Resolution 207 by Representative Schneider (Pending Senate Finance)** was substantially similar and would have granted approval for this COLA as well. The *LASERS* board granted this COLA to eligible retirees and beneficiaries beginning July 1.

The *Sheriffs'* and the *Municipal Police Employees' Retirement System (MPERS)* are among the systems which must meet both the statutory funding progress of the target ratio statute and the excess returns criteria to grant a COLA. The boards of trustees of those systems requested legislation this year to authorize the boards to give some financial relief to their retirees and beneficiaries in the form of a non-recurring lump-sum benefit when a "regular" COLA is not payable.

The *Sheriffs'* bill contains several provisions, some of which reduce normal costs and others that relate to granting a COLA in years when the system fails to meet the two-prong target ratio/excess returns test. **House Bill 1018 by Representative Schneider (Act 721)**, also discussed above, includes a one-time \$75 adjustment in monthly benefits for 20-year retirees. It also provides for a non-recurring lump-sum benefit if a "regular" COLA cannot be paid based on the system's valuation for the fiscal year ending June 30. The amount of the lump-sum can be up to 3% of the recipient's benefit but cannot be less than \$300.

House Bill 43 by Representative Montgomery (Pending Senate Committee) would have provided for a non-recurring lump-sum benefit for eligible retirees and beneficiaries of the *MPERS* system of not more than \$300.

House Bill 46 by Representative Montgomery (Pending House Retirement) would have adjusted the target ratio statute, resetting the schedule of funding progress that eleven of the thirteen state and statewide retirement systems must achieve in order to grant a COLA.

House Study Request 15 by Representative Montgomery requests the House Committee on Retirement to study the feasibility and effect of changing the target ratio statute. The schedule of funding progress contained in the target ratio statute was established in 1986. Unanticipated negative forces in the last 20 years, including the market volatility of the late 1990s, may have caused this schedule to become too onerous for at least some of the systems ever to achieve their targets.



Revenue & Taxation

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After very intense Regular and Special Sessions in 2005, the 2006 Regular and Special Sessions were relatively quiet.

A bill of note from the 2006 First Extraordinary Session was **House Bill 21 by Representative Hammett (Act 25)** which insured that a Louisiana's state income tax would not increase because of federal disaster relief tax credits or because of a deduction for a "casualty loss" to property (i.e. storm, flood, fire, etc.).

In the 2006 Regular Session, although the two bills were not referred to the Revenue and Fiscal Affairs Committee, the most controversial issue related to taxes was **Senate Bill's 141 (Act 863) and 647 (Act 622) both by Senator Duplessis**. Senate Bill 141 provides the opportunity for a vote on a constitutional amendment which, if approved statewide and in Orleans Parish, would result in the consolidation of the seven assessor's offices in Orleans into one assessor's office. Senate Bill 647, the statutory companion to the constitutional amendment, also amended and repealed various laws which either excepted Orleans from property tax laws applicable to other parishes or provided that parish with special tax rules and procedures.

Senate President Hines amended his **Senate Bill 618 by Senator Hines (subject to call - House final passage)** into **House Bill 1064 by Representative Winston (pending in conference committee)**. That bill did two important things, especially in a state where a large amount of hurricane reconstruction is occurring: (1) tie tax collection into the contractor licensing process and (2) require prime contractors using nonresident subs to do residential work to either make those nonresident subs get registered and bonded with the department or withhold from the amounts owed to them.

Senate Bill 660 by Senator Barham (pending House Ways and Means) was filed as a bill to change the property taxation of credit assessments on premiums written by certain insurance companies in Louisiana (which are intangible property). Present law authorizes only the parish of the business domicile or business agent of the insurance company to tax such property. Senate Bill 660 as originally filed would have apportioned this value to the various parishes according to the location where the premiums were written. On the Senate floor, an amendment changed the bill to a repeal of the tax on such premiums.

The Constitution of Louisiana says that "public service properties" as defined by law shall be assessed at 25% of fair market value for property tax purposes, and that "other [commercial] property" shall be assessed at 15% of fair market value. Also provides that local assessors determine such value, except for "public service properties" which are appraised by the Tax Commission.

Pipeline companies and gas companies are defined as "public service properties." Some of those companies, however, have filed suit to avoid the 25% of value assessment rate, arguing that it is unconstitutional to tax "public service property" at a higher rate than other commercial property. Apparently, because of the litigation, **Senate Bill 387 by Senator Ellington (pending Revenue and Fiscal Affairs)** and **House Bill 643 by Representative Baldone (pending Revenue and Fiscal Affairs)** were filed to move such property out of the "public service property" definition to make them subject to the 15% rate, but also subject to assessment by local assessors rather than the Tax Commission.

The law provides various sophisticated rules of assessment for the tax commission when assessing "public service properties," including a requirement that it employ all nationally recognized techniques of appraisal to best determine fair market value. Also allocation and apportionment formulas for use by the tax commission in assessing the value of gas and pipeline companies are also provided in the law. The formulas are based upon the ratio: value, revenues, or milage in the state/value, revenues, or milage everywhere.

On the other hand, local assessment is a much simpler process that is expected to result in much higher fair market value assessments.

To take advantage of the Tax Commission rules for valuing an interstate concern, a bill was successfully enacted to re-define water transportation companies as "public service property" even though the valuation rate is higher **House Bill 541 by Representative Arnold (Act 268)**.



Social Services

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Senate Bill 458 by Senator Mike Smith (Assigned to JUD A).

Currently, there is the presumption that no parent with a history of perpetrating family violence will be awarded joint or sole custody of his children. Although, a parent who has a history of family violence is allowed only supervised child visitation conditioned upon the parent's attending and completing a violence treatment program. Unsupervised visitation is allowed only after the course has been completed and when the court determines the parent poses no danger to the child and visitations are in the best interest of the child.

The intent of this legislation was to provide that if the court finds that there is no incident of family violence, and that neither parent has a history of violence and that the court has found, through clear and convincing evidence, that neither parent poses a danger to his children, the court shall award joint custody of the children. SB 458 would have required that any separation, divorce, child custody, or visitation proceeding which includes an allegation of family violence against either parent to be decided within six months of the filing.

If in fact, a parent who is guilty of perpetrating family violence but has not been violent toward the children of the family, that parent would be authorized unsupervised visitation during completion of a violence treatment program, if it is in the best interest of the child. Further provided that if the court denies visitation, the parent will be granted regular telephonic visitation with the child. Additionally, the court would require the custodial parent to record the calls to between the non-custodial parent and the child to determine if the calls are not detrimental to the child and to determine if the calls shall continue.

House Bill 777 by Representative C. Gray (Act 278). The Department of Social Services currently has the authorization to obtain certain information from various state departments, boards, agencies, and bureaus, including Department of Public Safety and Corrections and Louisiana Department of Revenue to assist in locating parents for support enforcement services. HB 355 authorizes DSS to obtain this information without first obtaining an order from any judicial or administrative tribunal. Additionally, DSS is authorized to access occupational and professional licenses, records of ownership of business entities, records regarding public assistance programs, records of the office of motor vehicles, and records of public utilities, cable television companies, and cellular telephone companies.

Senate Bill 194 by Senator Lentini (Act 580). With respect to child abuse reporting and investigation by the Department of Social Services, following the investigation of a report, the determination is made that the report is inconclusive or not justified the following occurs:

1. The files, records, and pertinent report and investigation information remain unsealed and maintained for the exclusive use of child protection investigators in the course of investigations, for the sole purpose of evaluating the existence of patterns of incidents in pending child abuse or neglect investigations.
2. All files, records, and information regarding an inconclusive or not justified report and investigation are to be strictly confidential, and not become part of the central registry except as otherwise specifically provided, and shall not under any circumstances be disclosed or ordered to be produced in conjunction with any legal proceeding or other matter, and shall be maintained only for the purposes stated in existing law. Further provides that DSS shall promulgate rules to provide for the disposition, handling, maintenance, and storage of inconclusive and not justified reports not in conflict with these provisions.
3. All information regarding an inconclusive or not justified report must be maintained by DSS for seven years from the date of the determination, unless a subsequent inconclusive or not justified report is received during that period, in which case the information from all reports with such determinations shall be maintained until the youngest child in the alleged victim's family turns 18 years of age or seven years from the date of the latest determination, whichever is longer. If information from an inconclusive or not justified report is used as part of the basis for a later, related, and justified report, such inconclusive or not justified report shall become part of the file of such justified report and shall cease to be a separate report.

SB 194 further provides for admissibility of the files, records, and information in any civil litigation or criminal proceeding against DSS or its employees wherein work performance or conduct is at issue.

Senate Bill 452 by Senator Broome (Assigned to Health and Welfare) was to protect the ovarian health of Louisiana women, especially collegians and low-income women who are disproportionately vulnerable to being monetarily induced to compromise their reproductive and ovarian health. SB 452 made it unlawful for any person to intentionally or knowingly solicit to procure one or multiple human ovum or eggs from a woman by hormonal egg follicle stimulation and surgical extraction if the human eggs are being procured for experimentation or research other than the treatment of infertility.

SB 452 further provided that human eggs, obtained for non-fertility related experiments from women volunteering as egg donors without valuable consideration must have been donated with voluntary and informed consent, documented in writing, including risks of infertility, hospitalization or death resulting from complications of egg follicle stimulation and extraction.

Additionally any doctors found in violation of this Act, would have had their license to practice medicine permanently revoked.

State Government

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2006 1ST EXTRAORDINARY SESSION

Insurance

Addressing multiple issues relative to insurance, **Senate Bill 14 by Senator Cain (Act 13)** centered on the Louisiana Citizens Property Insurance Corp. which markets insurance coverage for fire, vandalism, malicious mischief and homeowners coverage.

Currently upon dissolution, the payments of debts, liabilities, and obligations of the corporation would be paid first. The bill provides that payment of debts, liabilities and obligations of the corporation also be paid first in the event of a rehabilitation or liquidation of the corporation and clarifies that the governing board of the corporation is prohibited from authorizing any rehabilitation, liquidation, or dissolution of the corporation and that no such action will take effect as long as the corporation has bonds outstanding unless adequate provisions have been made for the payment of the bonds.

The bill further provides for an additional member on the board and states that the chairman and the new member will be confirmed by the Senate.

The corporation may pledge a security interest in assessments, insurance and reinsurance proceeds that may be due the corporation to secure bonds. The bill provides that the state and any public instrumentality thereof and the Louisiana legislature agree not to impair or interfere with the rights and remedies of the bond holders.

The corporation is prohibited from filing bankruptcy until more than two years have passed after the corporation no longer has any bonds outstanding. The Citizens Property Insurance Corp. would be authorized to borrow money from the Louisiana Insurance Guaranty Association.

Transportation

In an effort to address the problems of a post Katrina Louisiana, **House Bill 52 by Representative Martiny (Act 6)** reorganizes the Dept. of Transportation and Development (DOTD) office of public works and intermodal transportation into the office of public works, hurricane flood protection, and intermodal transportation and authorizes the assistant secretary for such office to administer all matters, including engineering related to the programs of the state with respect to the design, construction, extension, improvement, repair, and regulation of hurricane flood protection, including but not limited to the construction and design of a hurricane flood protection system consisting of levees and associated elements to provide protection against tidal surges within the coastal zone. DOTD is also responsible for the inspection of hurricane flood protection levees and structures within the coastal zone.

The bill creates a Hurricane Flood Protection Advisory Commission within DOTD until June 30, 2008. It is charged with the responsibility of advising the office of public works relative to implementing policies for administering the Hurricane Flood Protection, Construction, and Development Priority Program, including guidelines for submission, review, and evaluation of project applications. The commission is composed of five members who are appointed by the governor from nominations submitted by a nominating committee and requires commissioners to possess professional qualifications in their respective fields of expertise.

The nominating committee for the commission is composed of nine members: The Public Affairs Research Council of Louisiana, the Louisiana Geological Survey, the Council for a Better Louisiana, the Association of State Flood Plain Managers, the National Academy of Engineering, the National Academy of Black Engineers, and the American Institute of Hydrology will each appoint one member to the nominating committee. Additionally, the dean of the College of Engineering at the University of New Orleans and the dean of the School of Science and Engineering at Tulane University are made members of the nominating committee.

Commissioners are prohibited from receiving compensation; however, they are to receive a per diem in an amount equal to the allowable per diem deduction under existing federal law for each official meeting of the commission and are to be reimbursed for mileage and other reasonable travel expenses authorized by the commission. Commissioners are further prohibited from owning or having any interest or part in any business, company, or entity conducting business of any kind with the commission or owning or having any interest in any flood control project which will be proposed, designed, or constructed within the coastal zone.

The bill also establishes a Hurricane Flood Protection, Construction, and Development Priority Program. Applications for funding of any hurricane flood protection project to be included in the priority program may be submitted by any municipal, parish, or other governing authorities. Sponsoring authorities submitting applications for projects are responsible for preparation of applications for their respective projects.

Project applications would be required to include a description of the flooding problem and demonstration of immediate need for the project, and information such as a preliminary project design and cost estimate, regulatory permit requirements, a description of the public use benefits intended to be derived from the project which justify the project, and a statement of sponsorship of the project including the entity, agency, or person responsible for the long-term operation and maintenance of the project.

Project applications received by the office would be forwarded to the Hurricane Flood Protection Advisory Commission. The commission advises and consults with the office of public works, hurricane flood protection, and intermodal transportation with respect to the applications and the office must prioritize and rank them. The office must consider factors such as the reduction of threat to human lives, the use benefits which private landowners are expected to derive from the project, the manner in which the benefits will be realized over the life of the project, the technical

feasibility, the ability of the sponsoring authority to secure necessary permits, and the local support for the project. No less than three public hearings will be held in separate locations within the coastal zone for the purpose of receiving public testimony and comment from sponsoring authorities and citizens regarding proposed hurricane flood protection projects. Prior to each hearing, the office will publish notice of such hearing in the appropriate official journals. The office must consider the testimony when making its recommendations. The assistant secretary of the office will formally recommend projects for inclusion in the program to the Coastal Protection and Restoration Authority.

Louisiana Recovery Authority

Created as a direct result of Hurricanes Katrina and Rita, **House Bill 59 by Representative Alario (Act 5)** creates the Louisiana Recovery Authority (LRA) as a state agency within the Office of the Governor to assist with state activities related to recommendations and coordination of state and other entities' efforts, programs and funding with respect to recovery from Hurricanes Katrina and Rita.

The LRA will exist within the governor's office as an independent agency, except:

- (1) As necessary for the administration and implementation of the policies and rules of the agency which do not relate to rulemaking, licensing, regulation, enforcement, and adjudication, including personnel management.
- (2) The performance and administration of all functions which are in the nature of accounting and budget control, management, and program analysis and grants management.
- (3) The conduct of functions related to payroll, personnel management, procurement, and contract management.

An executive director of the LRA to be appointed by the governor, subject to confirmation by the Senate, who will be responsive to the board and the governor. The LRA and the LRA board will be subject to all provisions of law applicable to state agencies, including the Code of Governmental Ethics, laws relative to public records, open meetings, and public bid and procurement. All funding received or disbursed by the LRA will be subject to audit. Rules adopted by the board are subject to legislative oversight pursuant to the Administrative Procedure Act.

Leadership activities of the LRA will be conducted by the Louisiana Recovery Authority Board (board) which is composed of 29 members appointed by the governor with at least two appointed from each congressional district, and four ex officio members who are the speaker and speaker pro tempore of the House of Representatives and the president and president pro tempore of the Senate. All members are voting members, and all appointed board members are subject to Senate confirmation.

The bill further provides for powers and duties of the board, including recommendation and promotion of priorities and plans for the recovery, identification of funding sources and innovative financing alternatives to fund the recovery, recommendations regarding how monies received by the state for the recovery will be utilized, recommendation of recovery related policy for all agencies of the state, coordination with local governments and metropolitan planning commissions to develop community-driven local and regional plans for recovery, and reports to the governor and the legislature no less than quarterly on the progress of the recovery.

The LRA will develop proposals related to the recovery, including Community Development Block Grants (CDBG) proposals. Such proposals will be sent to the governor for approval. If approved by the governor, the proposal will then be submitted to the Joint Legislative Committee on Budget, (JLCB), for approval. At the same time the proposal is submitted to the JLCB, it will be submitted to the appropriate legislative committee for oversight. If the oversight committee objects to the proposal, it will so notify the JLCB. Upon receiving the required legislative approvals, the proposal will then be submitted by the governor to the U.S. Department of Housing and Urban Development or other appropriate federal agency. Approval of the JLCB is required for incorporation of any monies associated with such a proposal into the budget.

Proposals related to the recovery which provide for expenditures in excess of \$10 million will require approval by a majority of both houses of the legislature. Upon approval of same by the JLCB, the LRA will submit the proposal for full legislative approval. Provides that if the legislature is in session, such approval will be by resolution or Act; if not, then by IEB-type mail ballot. Prior to the actual expenditure of any federal monies, the LRA must receive approval by the JLCB.

The bill authorizes the governor to designate the LRA, or a team designated by the LRA, as the State Hazard Mitigation Team for the recovery for the purposes of the Hazard Mitigation Grant Program authorized pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act. All statutory authority for the LRA shall cease as of July 1, 2010, unless recreated by the legislature. All provisions of the Act will be repealed on June 30, 2016.

Homeland Security

In an effort to maximize the state's ability to respond to natural and man-made disasters, **House Bill 61** by Representative Thompson (Act 35) creates a new state agency, the Governor's Office of Homeland Security and Emergency Preparedness in the office of the governor. The new office, under the governor, will be responsible for homeland security and emergency preparedness in the state.

The governor will designate the Governor's Office of Homeland Security and Emergency Preparedness as the state homeland security and emergency preparedness agency. The office will be an independent agency in the office of the governor and, through its director, will report directly to the governor. The office is granted the authority and responsibility for its own accounting and budget control, procurement and contract management, personnel management, and grants management and provides that it carry out these functions either directly or through authorized assignment to another state agency or department. The office is authorized to enter into contracts and agreements necessary in carrying out its functions and responsibilities.

The director of the office, during a gubernatorially declared disaster or emergency, is granted the authority to expend funds for emergency protective measures even if there is no budget authority or funds available. All state agencies and departments will be required to comply with directives from the office relating to emergency planning and operations. The director of the new office will be appointed by the governor, subject to Senate confirmation and the director will have at least 10 years of emergency management experience or equivalent experience in emergency operations. The director of the new office will appoint two assistant directors, namely, the assistant director for homeland security and the assistant director for emergency preparedness, to assist the director and provides that they will have powers and duties as delegated by the director.

The provisions set forth in the bill will terminate on July 1, 2010 thereafter revert to provisions of prior law.

2006 REGULAR SESSION

Homeland Security

Prompted by the communication problems that occurred during the past hurricane season, **Senate Bill 739 by Senator Boasso (Pending House Judiciary)** would have created the office of interoperability within the office of homeland security and emergency preparedness. The office of interoperability would be headed by a communications interoperability director who would oversee, direct, and manage public safety and first responders interoperability programs and efforts identified in the Statewide Shared Communications System for First Time Responders, along with other duties and responsibilities. The communications interoperability director would report to the director of the office of homeland security and emergency preparedness.

The bill would have created the Statewide First Responders Interoperability Committee which would be composed of the following members:

- (1) The commissioner of administration, or his designee.
- (2) The adjutant general of the La. National Guard, or his designee.
- (3) The secretary of DOTD, or his designee.
- (4) The secretary of DW&F, or his designee.
- (5) The secretary of DHH, or his designee.
- (6) The executive secretary of the La. Public Service Commission, or his designee.
- (7) The president of the La. Sheriff's Association, Inc., or his designee.
- (8) The president of the La. Association of Chiefs of Police, Inc., or his designee.

- (9) The president of the La. Fire Chiefs' Association, or his designee.
- (10) The chair of the Regional Parish Homeland Security and Emergency Preparedness Directors Committee, or his designee.
- (11) The chair of the House Committee on Administration of Criminal Justice, or his designee.
- (12) The chair of the Senate Judiciary B Committee, or his designee.
- (13) The chair of the Senate Select Committee on Homeland Security, or his designee.
- (14) One representative of the La. Broadband Advisory Council designated by the governor from a list of three nominees submitted by the council.
- (15) One representative of each of the nine regional interoperable communication working groups as established in Section 5 of Executive Order No. KBB 2006-17, assigned by each respective working group.
- (16) The deputy secretary of the Dept. of Public Safety and Corrections, public safety services, or his designee.
- (17) The chair of the La. House of Representatives Special Committee on Louisiana Homeland Security, or his designee.

Moreover, the Statewide First Responders Interoperability Committee could recommend additions or deletions to the Statewide Communication Interoperability Plan, but it would have no authority to change any action taken by the Statewide Interoperability Executive Committee.

The bill would have also created the Louisiana Statewide Interoperability Executive Committee (LASIEC) which will be composed of the following members:

- (1) The commissioner of administration, or his designee.
- (2) The communications interoperability coordinator, or his designee.
- (3) The attorney general, or his designee.
- (4) One information technology representative from postsecondary education to be appointed by the La. Postsecondary Education Information Technology Council.
- (5) The Senate president, or his designee who shall be a member of the Senate.
- (6) The House speaker, or his designee who shall be a member of the House.
- (7) The chief justice of the La. Supreme Court, or his designee.
- (8) One representative of the La. Broadband Advisory Council selected by the chairman of the council.
- (9) One representative from local technology councils jointly selected by the president of the La. Technology Council, president of the Baton Rouge Technology Council, and president of the Northwest Louisiana Science and Technology Council and President of Zydatech.
- (10) The chief information officer, or his designee.
- (11) One representative of the La. Municipal Association selected by the president of the association.
- (12) One representative of the Police Jury Association of Louisiana selected by the president of the association.

(13) One representative of the Louisiana Emergency Response Network selected by the chairman of the board.

(14) Three representatives, each from separate professional disciplines, selected by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice with one being from state police.

The Louisiana Statewide Interoperability Executive Committee would manage federal funds and additional sources of funding earmarked for interoperability. Also the committee could apply for, contract for, receive, and expend any appropriation or grant from the state, its political subdivisions, the federal government, or any other public or private source.

The bill would further coordinate the function of the state's CIO and the communications interoperability director.

Attorney General

With an eye on the state's fiscal health, **Senate Bill 575 by Senator Barham (Act 611)** require's accurate data on legal costs in all litigation for which private legal counsel would be appointed or employed to represent a state agency, board, or commission, including levee boards. Such data will be maintained and reported quarterly in writing to the attorney general by such agency, board, or commission or levee board.

Funds/Funding

In an effort to help our students, **Senate Bill 489 by Senator Smith (Act 462)** is designed to promote the value and importance of geography in Louisiana schools through a committed and cooperative effort among agencies involved in higher education, elementary and secondary education, and the National Geographic Society of Washington, D.C.

The state will, consistent with its agreement with the National Geographic Society of Washington, D.C., undertake a program to improve geography education by implementing a program consistent with activities promoted by Louisiana Geography Education Alliance (LaGEA) which would:

- (1) Provide professional development opportunities to K-12 educators throughout the state including out-of-state summer institutes provided by other alliances and the National Geographic Society.
- (2) Conduct workshops at Northwestern State University and other sites through the state by master teachers.

- (3) Purchase and distribute National Geographic developed classroom materials throughout the state.
- (4) Hold a yearly conference for K-12 teachers.
- (5) Distribute information related to geography and social studies education via an e-mail distribution list throughout the year.
- (6) Provides Internet users access to geography lesson plans, related geography sites, professional development events, alliance activities, and the national geography standards.

A regional partnership program is created to:

- (a) Promote teacher professional development throughout regions in the state.
- (b) Shape and implement geographic programs throughout the state.
- (c) Organize and promote community partnership programs.
- (d) Assess and expand local use of educational technology.
- (e) Collect information and data for Louisiana Geography Education Initiative Program (LaGEIP).
- (f) Evaluate the local effectiveness of the LaGEIP reform effort.
- (g) Cooperate with regional programs to design partnerships which will implement the initiatives of LaGEIP within the state.
- (h) Encourage the efforts of geography instructors, school and college personnel, parents, and civic groups to promise public awareness of geography awareness, facilitate cooperation among colleges and school systems, coordinate teacher preparation and professional development training activities, and provide school systems with a cadre of interested and informed professionals.

Furthermore, the Louisiana Geography Education Initiative Program Council is created and domiciled in Baton Rouge and be comprised of the following persons or a person designated by them:

- (1) The chairman of the Board of Regents.
- (2) The president of BESE.
- (3) The state superintendent of education.
- (4) The president of the Louisiana Geography Education Alliance.
- (5) Three persons designated by the superintendent of education, one each from the following school grades:
 - (a) Pre-K-5 elementary.
 - (b) 6-8 middle school.
 - (c) 9-12 high school.
- (6) One person nominated by the Louisiana Geography Education Alliance who is a

- Louisiana Education Alliance teacher- consultant who specializes in cultural studies.
- (7) Coordinator of the Louisiana Geography Education Alliance.
- (8) One person nominated by the LA Association of Colleges of Teachers and Educators.

Public Printing

Senate Bill 404 by Senator Hines (Act 535) provides that the Joint Legislative Budgetary Control Council may determine at a meeting of the council, the form and content of any statement to be included for any matter printed by the House of Representatives or any member thereof or the Senate or any member thereof.

The bill would clarify that the division of administration, the legislative budgetary control council, and the judicial budgetary control council may make exceptions relative to all requirements for printed matter.

Ethics

Attempting to provide clarification relative to the state's ethics code, **Senate Bill 263 by Senator Hines (Act 524)** exclude's from the definition of a "thing of economic value" pharmaceutical samples provided to physicians or other health care professionals to dispense to a patient at no cost to the patient.

Currently, a "thing of economic value" is defined as money or any other thing having economic value including loans, property interest, interest in a contract, merchandise, service, and employment or other arrangement involving compensation, any option to obtain a thing of economic value irrespective of the conditions to the exercise of such option, and any promise or undertaking for the present or future delivery or procurement of a thing of economic value. Excludes from the definition promotional items having no substantial resale value; food, drink, or refreshments consumed by a public servant, including reasonable transportation and entertainment incidental thereto while the personal guest of some person, and for legislators and legislative staff only, reasonable transportation when organized primarily for educational or informational purposes, including food and drink incidental thereto.

Health Care/Facilities

To insure the health and safety of our senior citizens, **House Bill 1321 by Representative Dorsey (Act 433)** establishes definitions, licensure requirements, fees, and the authorization to promulgate rules for adult residential care providers. No facility, agency, provider, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group providing adult residential care would be established, operated, or reimbursed under the Medicaid program for such care unless licensed to perform such care by DHH.

The license issued will be valid for only one geographic location, issued only for the person and premises named in the license application, valid for one year from the issue date unless previously revoked, not transferrable or assignable, and posted in a conspicuous place on the

licensed premises. DHH shall promulgate and publish rules, regulations, and licensing standards, in accordance with the APA, including:

- (1) Licensure application and renewal application procedures and requirements.
- (2) Operational and personnel requirements.
- (3) Practice standards to assure quality of care.
- (4) Practice standards to assure the health, safety, welfare, and comfort of persons receiving care.
- (5) Survey and complaint investigations.
- (6) Initial and annual renewal of license, including the requirement of a showing of financial viability.
- (7) Provisional licenses.
- (8) Denial, revocation, suspension, and nonrenewal of licenses, and the appeals therefrom.
- (9) Planning, construction, and design of the facility to ensure the health, safety, welfare, and comfort of persons receiving care.
- (10) Other regulations or standards to ensure proper care and treatment of persons receiving care, including provisions relative to civil monetary penalties. Such standards would include rules that subject adult residential care providers or facilities to civil monetary penalties by class of violation.

DHH is authorized to collect fees for the licensure of adult residential care providers and would require DHH, after receipt of the completed application and licensing fee, to perform an on-site survey and inspection. DHH may perform an on-site inspection at reasonable times as necessary to ensure compliance.

A provider operating without a license shall be guilty of a misdemeanor and upon conviction would be fined no less than \$250 nor more than \$1,000. DHH shall inform the appropriate district attorney of the alleged violation to assure enforcement. Furthermore, DHH is authorized to adopt and impose fees for community-based services provided by the Medicaid program on every adult residential care provider and could adopt rules and regulations relative to the imposition of such fees in an amount not to exceed the total cost of providing the care, not to exceed 6% of the gross revenues of the provider.

Memorials

Paying homage to those who lost their lives in the worst natural disaster to hit the continental United States, **House Bill 1354 by Representative Gray (Act 740)** create's and provides for the Hurricane Katrina Memorial Commission which shall make recommendations for an appropriate memorial to commemorate those who lost their lives in Louisiana in Hurricane Katrina and a site or sites in the city of New Orleans for such memorial.

The bill provides for legislative recognition that the events of August 29, 2005 and the days following, when Hurricane Katrina struck Louisiana with a deadly blow and so many lost their lives, are among the most historic events in the state's history. Furthermore, the bill recognizes that it is

appropriate for the state to commemorate this tragic event and to memorialize the more than 1,000 citizens who lost their lives.

The Hurricane Katrina Memorial Commission is created in the office of the governor and comprised of the following 11 members who would serve at the pleasure of the appointing authority:

- (a) Four members appointed by the governor, subject to Senate confirmation.
- (b) One member appointed by the lieutenant governor.
- (c) One member appointed by the New Orleans City Council.
- (d) Five members appointed by the mayor of the city of New Orleans.

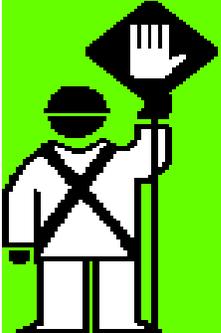
The first meeting of the commission shall be held within 90 days after the effective date of the Act. The commission is required to:

- (a) Determine the general type and nature of an appropriate state memorial for those who lost their lives in Louisiana as a result of Hurricane Katrina.
- (b) Identify an appropriate site or sites within the city of New Orleans for such a memorial.

The commission is permitted to solicit, accept, use, and dispose of any private or public funds in the form of donations of money, grants, property, or personal services from individuals, corporations, and governments for purposes of the memorial. The commission is to adopt rules and regulations under which it may accept such donations or grants of money, property, or personal services, including the procedure for determining the value of the donation.

The Hurricane Katrina Memorial Commission shall submit a report, not later than March 1, 2007, to the governor, the president of the Senate and the speaker of the House of Representatives and that the report shall include recommendations for the type and nature of the memorial and a site or sites in the city of New Orleans for the memorial. The commission terminates on December 31, 2007.

Transportation & Development



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2006 FIRST EXTRAORDINARY SESSION LEVEES

Hurricane Protection/Flood Control. Acts 1 and 43 (Senate Bills 8 and 9, by Senator Walter Boasso) create the Southeast Louisiana Hurricane Protection Reforms.



Act 1 — statutory bill — Subject to passage of a constitutional amendment in the Fall, beginning January 1, 2007, the change in state law will establish the Southeast Louisiana Flood Protection Authority - East and the Southeast Louisiana Flood Protection Authority - West, abolishing the existing levee boards in the region while maintaining the existing levee taxing districts. The Act provides for the following:

- The east authority focuses on flood control issues in the Pontchartrain Basin and affects seven parishes - the east banks of Orleans and Jefferson parishes, St. Bernard Parish, areas of St. Tammany and Tangipahoa parishes below Interstate 12. The east banks of St. Charles and St. John the Baptist parishes are impacted only as it relates to proposed “regional” flood control projects that would impact those parishes directly.
- The west authority focuses on Barataria Basin flood control issues and impacts the west banks of Orleans and Jefferson parishes.
- Proposed new taxes to finance new flood control projects must be approved by a majority of the voters in each parish expected to pay the tax.
- Authority members will be appointed by the governor from a list of qualified nominees submitted by independent engineering groups and public interest groups. The majority of the members must be qualified professionals in fields related to such things as flood control, the law or accounting.
- Members must abide by strict ethics rules relating to political campaigning, lobbying and conducting businesses with family members.
- The non-flood related assets of the Orleans Levee Board are transferred to the state until local and state officials decide what the final disposition of those assets should be. The current Orleans Levee Police force is disbanded.

- The Coastal Protection and Restoration Authority, established in the November special session to oversee local levee boards and set state levee priorities, will serve act as the local sponsor for the construction, operation and maintenance of hurricane, storm damage reduction, flood control and coastal restoration projects in the new authorities. The U.S. Corps of Engineers has assured state officials that this meets the federal requirement that the state establish a single state entity for southeast Louisiana and New Orleans before \$12 million in federal funds for a study of needed levee improvements can be spent.

Act 43 — constitutional amendment — authorizes the legislature to establish regional flood protection authorities, with territorial jurisdiction limited to parishes and levee districts which are situated entirely or partially within the coastal zone for the purpose of constructing and maintaining levees, levee drainage, flood protection, hurricane flood protection. The proposed amendment authorizes the legislature to appropriate to regional authorities up to \$500,000 annually from the Coastal Protection and Restoration Fund.

Further, the proposed amendment authorizes the governing authority of an authority to levy property taxes on property not exempt from taxation. The necessity and the levy and rate of the tax, or any increase, will be subject to constitutional provisions for the homestead exemption and other exemptions from ad valorem taxation, and be submitted to the electors within the authority. The tax or increase will take effect only if approved by (a) a majority of the electors voting thereon within the authority and (b) a majority of electors voting in each parish.

For any purpose set forth in present constitution for levee districts, the governing authority of a levee district created after 1/1/06 may annually levy a tax on all property not exempt from taxation situated within the alluvial portions of the district subject to overflow. However, such a district will be prohibited from levy such a tax nor increase the rate of such a tax unless the levy or the increase is approved by a majority of the electors of the district who vote in an election held for that purpose. If the district is comprised of territory in more than one parish, approval by a majority of the electors who vote in each parish comprising the district is also required for any such levy or increase.

This proposed constitutional amendment will be submitted to the voters at the statewide election to be held on September 30, 2006.

Flood Protection Priority System/Advisory Commission. **Act 6 (House Bill 52 by Representative Martiny)** reorganizes the office of public works and intermodal transportation at DOTD into the office of public works, hurricane flood protection, and intermodal transportation and authorizes the assistant secretary for such office to administer all matters, including engineering related programs of the state with respect to the design, construction, extension, improvement, repair, and regulation of hurricane flood protection, including but not limited to the construction and design of a hurricane flood protection system consisting of levees and associated elements to provide protection against tidal surges within the coastal zone. DOTD is also responsible for the inspection of hurricane flood protection levees and structures within the coastal zone. The measure creates a

Hurricane Flood Protection Advisory Commission within DOTD until June 30, 2008 which is charged with the responsibility of advising the office relative to implementing policies for administering a Hurricane Flood Protection, Construction, and Development Priority Program, including guidelines for submission, review, and evaluation of project applications. The Hurricane Flood Protection, Construction and Development Priority Program is also established, similar to the state's Highway Priority Program. The list of priority projects will be submitted to the Coastal Protection and Restoration Authority.

Coastal Louisiana Levee Consortium. Act 10 (Senate Bill 4 by Senator Butch Gautreaux) requires local levee district authorities across south Louisiana to meet twice a year to share information and make recommendations on flood-control projects. The idea is to facilitate communication between levee districts and parish levee authorities.

Levees in Lafourche. Prior to the passage of **Act 32 (House Bill 47 by Representative Triche)**, jurisdiction among the Lafourche Basin and South Lafourche districts was shared in the portion of Lafourche Parish where they overlapped (south of the Intracoastal Canal and east of Bayou Lafourche). The Act removes Lafourche Parish from the jurisdiction of the Lafourche Basin Levee District and removes the Lafourche Parish members from its board. Beginning January 1, 2007, the jurisdiction of the North Lafourche Conservation, Levee and Drainage District will be expanded to include all of the parish north of the Intracoastal Canal. Property and documents of the Lafourche Basin district pertaining to flood control in Lafourche Parish will be transferred to the appropriate district. Because the Lafourche Basin Levee District continues to provide mainline Mississippi River levee protection which is beneficial to Lafourche Parish, the South Lafourche and North Lafourche levee districts will make certain payments to the Lafourche Basin Levee District

The measure also authorizes the South Lafourche Levee District to establish and construct hurricane protection and drainage works.

PUBLIC CONTRACTS

Act 38 (House Bill 78 by Representative Montgomery) authorizes the adjutant general and the Military Department, with approval of the commissioner of administration, to utilize the design-build method in contracting for construction in areas where a gubernatorial declared state of emergency exists due to Hurricane Katrina or Rita including areas impacted by permanent personnel or unit relocation. This law will have no effect after June 30, 2008.

2006 REGULAR SESSION

LEVEES

The public bid law provides for a "contract limit" which requires all public work by a public entity exceeding \$100,000 to be advertised and let by contract to the lowest responsible bidder. **Senate Bill 269 by Senator Dupre (Act 652)** increases the contract limit to \$1 million for any contract by a public entity for any project to restore or rehabilitate a levee which is not maintained with federal funds if the project is undertaken by the public entity with its own resources and

employees. This will remain effective for contracts awarded until December 31, 2008. (See also Public Contracts herein)

Senate Bill 636 by Senator Dupre (Act 127) authorizes the South Lafourche Levee District to levy a district-wide sales tax of up to 1% for the payment of interest and principal on bonds if approved by a majority of the district's electors. The district is also authorized to borrow money and issue bonds in the manner provided by law for levee districts and to issue general obligation bonds and sales tax revenue bonds in the manner provided for political subdivisions.

House Bill 452 by Representative Dove (Act 181) requires every levee district located wholly or partially within the coastal zone and every parish governing authority for parishes located wholly or partially within the coastal zone but which are not part of a levee district to submit once every three years, a report on tidal levee elevations on levees located within the coastal zone to the Coastal Protection and Restoration Authority and to the office of public works, hurricane flood protection, and intermodal transportation in DOTD.

Senate Bill 27 (Act 853) and Senate Bill 64 (Act 567) by Senator Dupre are the constitutional amendment and enabling legislation to limit to fair market value the compensation that is paid when property is expropriated for hurricane flood protection work.

LOUISIANA TRANSPORTATION AUTHORITY

House Bill 299 by Representative Daniel (Act 685) creates the Transportation Mobility Fund (TMF) as a special fund in the state treasury for the purpose of generating and collecting a new annual revenue stream to bridge the gap between projected toll revenue collections for a toll project and the estimated costs of such project. The source of monies to be deposited into the fund shall be grants, gifts, and donations received by the state and any other revenues, whether local, state, or federal. The monies in the TMF must be appropriated and disbursed by the board of the Louisiana Transportation Authority for certain mega projects. Provides relative to applications for and approval of funding. Provides that grants and loans from the fund shall only be awarded to an entity authorized by state law to construct and maintain a toll facility.

MOTOR CARRIERS/TRUCKING

House Bill 971 by Representative Quezaire (Vetoed by governor). Prior federal law provided for the registration of motor carriers in the various states under the Single State Registration Program, administered in Louisiana currently by the Public Service Commission. New federal law provides for the registration of motor carriers under the Unified Carrier Registration Agreement (UCRA). This federal act applies to all interstate motor carriers — private, for-hire, and exempt — with a US-DOT number and under the jurisdiction of the Federal Motor Carrier Safety Administration. House Bill 971 would have provided that the Department of Public Safety and Corrections (DPS&C), through the offices of state police and motor vehicles, be the agency responsible for administration of the UCRA. This bill would have authorized the secretary of DPS&C, with approval of the governor, to enter into the UCRA and required the department to abide by its requirements. Additionally, the secretary would have been authorized to enter into

discussions or agreements with other states for the exchange of information for audit and enforcement activities in connection with the agreement. The DOTD weights and standards stationary scales police force would have also assisted in the administration of the UCRA by enforcing the weight regulations. All fees from enforcement of the UCRA would have been used solely for the purpose of safety programs for motor carriers subject to the UCRA and for the enforcement and administration of its provisions. The PSC would have maintained responsibility under the SSRS and collected SSRS fees until the termination of the program and then assisted DPS&C for 12 twelve months in implementing the UCRA. Of the amounts collected in the initial registration year of the UCRA, \$2 million would have been appropriated to the PSC to be used for the first 12 months of the implementation of the UCRA.

House Bill 1175 by Representative Salter (Act 728). In Louisiana, law authorizes the operation of a vehicle owned by a resident of another state, which is lawfully registered in that state, upon our public highways without securing registration or license in Louisiana when an agreement between the state in which the vehicle is registered and Louisiana is effected whereby license plates of each affected state are recognized in each state. A truck owned by a resident of a state which has not made a reciprocal arrangement with Louisiana may be operated upon our public highways when not registered and licensed in this state if, prior to such operation, the owner has secured a temporary license and registration in this state. The \$25 permit authorizes the operation of such truck for 48 continuous hours in Louisiana. **House Bill 1175** increases that fee to \$50. The bill also creates the Dept. of Public Safety and Corrections Police Officer Fund in the state treasury for the purposes of funding retirement benefits of certain peace officers. Any monies in the fund not used for retirement benefits may be used to support the operations of the Capitol Complex police force.

House Bill 1179 by Representative Fannin (Act 299) increases the maximum width limitation on trucks hauling certain logging equipment under a special permit applicable to hauling such equipment from 12 feet to 14 feet.

House Bill 1190 by Representative M. Guillory (Act 301) authorizes the issuance of special permits for the movement of specialized heavy haul equipment, not to exceed 16 feet in width, on interstate highways located in this state. Vehicles transporting such equipment on interstate highways can not exceed a speed of 55 miles per hour. Issuance of a special permit may be refused whenever, because of construction, the condition of the highway or because of traffic conditions, the public would be endangered.

House Bill 1204 by Representative Quezairé (Act 841) provides that whenever any motor carrier or driver of such motor vehicle is found in violation of law or any provision of the Federal Motor Carrier Safety Regulations, the office of state police must send to the responsible party a notice of violation within 30 calendar days of the violation. Also, the Act provides for the timelines for payment by the responsible party of the assessed penalty, whether the motor carrier or the driver. However, an additional 60 calendar day extension will be granted to send the responsible party a notice of violation during a gubernatorially declared state of emergency. The extension of time granted will terminate once the state of emergency ends.

MOTOR VEHICLES

Cell Phone Use. Several bills were introduced that would have prohibited the use of a cell phone while operating a motor vehicle. **House Bill 321 by Representative Gary Smith (House committee)** and **House Bill 725 by Representative Barrow (House committee)** would have authorized an exception to the prohibition if the cell phone was equipped with a hands-free device. **House Bill 1013 by Representative Erdey (failed, House)** would have prohibited persons issued a first time Louisiana driver's license from using a cell phone while operating a motor vehicle for one year after issuance of the license. **Senate Bill 164 by Senator Mount (failed, Senate)** would have prohibited a person 18 years of age and younger from using a cell phone or other mobile telecommunication device while operating a motor vehicle.

Driver's Licenses. **Senate Bill 55 by Senator Cain (Act 444)** requires, beginning January 1, 2007, that the office of motor vehicles provide for a method by which applicants have the option of including emergency contact information in the operating record of their driver's license or state identification cards to which law enforcement and emergency personnel will have access.

Senate Bill 222 by Senator Mount (Act 650) prohibits any person from allowing any unlicensed minor under the age of 17 to operate a motor vehicle and specifies the penalties to be imposed for violation.

Senate Bill 284 by Senator Fontenot (failed, House) would have required, as a condition for driving privileges, a minor, at least 15 years old, but younger than 18 years old, to be enrolled and attend school or to meet certain other requirements. Also, any minor who drops out of school will be subject to denial or suspension of their learner's permit or driver's license, if a school board or governing body of a nonpublic school elects to adopt such policy,

House Bill 954 by Representative Lambert (Act 719) authorizes the holder of a Class "D" Chauffeur's License to operate all vehicles included in Class "E" plus any single motor vehicle used in commerce to transport passengers or property if the motor vehicle has a combined GVW rating of 10,001 lbs. or more but less than 26,001 lbs. inclusive of a towed unit with a GVW rating of more than 10,000 lbs.

House Bill 982 by Representative Lambert (Act 97) provides that a person may take a skills test for a Class A commercial driver's license without a tractor-trailer combination portion, and the person will be issued a license with a restriction prohibiting the operation of a tractor-trailer combination. However, the restriction may be lifted if a skill test for a tractor-trailer combination is later taken.

House Bill 1103 by Representative Waddell (Act 416) provides for any law enforcement officer or officer of the court to be given the option of exempting his name and the name of any member of his immediate family from release to interested parties except a law enforcement officer acting within the scope of his duties or pursuant to a court order. This exemption will remain in effect until the officer or family member requests that it be changed. The law enforcement officers, court officers, and members of their immediate families will be required to disclose their physical residential address to the department only for purposes of calculating taxes which may be due on the motor vehicle; however, such persons will be given the option of providing their official work address or post office box address instead of a residential address for purposes of the application. A party who elects to exempt his name from release may sign a waiver authorizing OMV to release his personal information to a specified third party.

House Bill 1278 by Representative Bruneau (Act 430) authorizes active and reserve members of the military to operate commercial motor vehicles and buses with a Class "E" driver's license during gubernatorially declared state of emergencies.

Drug Testing/Accidents. **Senate Bill 256 by Senator Adley (Act 523)** requires post-accident drug testing of the operator of any motor vehicle which is involved in a collision that results in a fatality. Provides that such person will be deemed to have given consent to a chemical test or tests of his blood, urine, or other bodily substance for the purpose of determining the presence of any abused substance or controlled dangerous substance or any other "impairing substance." The post-accident drug test will be administered in the same manner and subject to the same requirements of tests for suspected drunken drivers.

General. **House Bill 890 by Representative Baylor (Act 480)** authorizes persons with mobility impairments, while operating a motor vehicle upon any state or local highway, to utilize the horn of such vehicle if the nature of the operator's physical impairment requires use of the horn in a situation other than one required to ensure safe operation of the motor vehicle and the operator is operating a motor vehicle with a mobility-impaired license plate or the operator has a mobility-impaired hang tag.

Inspection. **House Bill 1308 by Representative Kennard (Act 432)** provides for the use of mobile units for safety inspections of commercial motor vehicles transporting general freight and commodities.

License Plates. **Senate Bill 47 by Senator Nevers (Act 564).** The bill as it originated in the Senate required any person convicted of a second or subsequent DWI offense to apply for a DWI license plate and display such plate on any vehicle registered in the name of the offender and primarily operated by the offender for a period of 5 years from the date of conviction. However, the House committee deleted these provisions and instead, the bill now establishes the *Louisiana Thanks You* prestige license plate. The plates will be restricted to passenger cars, pickup trucks, vans, and recreational vehicles and will be issued in the same manner as other prestige plates.

House Bill 267 by Representative Crowe (Act 58) provides for the distribution of the proceeds from the *In God We Trust* prestige license plate. Presently, one-third is divided equally among and paid to each of the Boy Scouts of America area councils in Louisiana; one-third is divided equally among and paid to each of the Girl Scouts of the U.S.A. councils in Louisiana; and one-third is paid to The Arc of Louisiana. The bill changes the disbursement of one-third portion of the monies to The Arc of Louisiana to be divided equally and shared with the Louisiana Alliance for Independent Providers.

House Bill 918 by Representative St. Germain (Act 405) provides for (1) the creation of the largemouth bass prestige license plate with a picture of a largemouth bass for passenger cars, pickup trucks, recreational vehicles, boat trailers, and vans; and (2) the establishment of a program authorizing the issuance of apportioned license plates containing the registered trademark or copyrighted logo of a company. The license plates are to be restricted to trucks, tandem trucks, truck-tractors, semi-trailers, or trailers that are owned and operated by a company for a commercial use, provided that such vehicles are part of a fleet of 25 or more vehicles. The logo plate program originated in a bill by **Senator Sherri Cheek (Senate Bill 653)**, and was included in House Bill 918 in Senate committee.

House Bill 973 by Representative Greene (Act 353) redesignates the ham radio station owner or operator plates and requires OMV to resume issuing such plates.

House Bill 1257 by Representative Scalise (Act 303) provides for the creation of the *Support Our Troops* and the *Motorcycle Awareness Campaign* special prestige license plates. The bill restricts the two plates to passenger cars, pickup trucks, recreational vehicles, and vans but also provides for a *Motorcycle Awareness Campaign* plate for use on motorcycles.

Motorcycles. **House Bill 985 by Representative Baldone (Act 98)** prohibits those infants and children that are required to be restrained in a rear-facing or forward-facing child safety seat from being carried or transported on a motorcycle and authorizes a child at least 5 years of age to be a passenger on a motorcycle only if such child is properly seated and is wearing a safety helmet.

Safety Belts. **Senate Bill 227 by Senator Nick Gautreaux (Act 318)** exempts from wearing safety belts any utility worker, including any water, gas, or electric meter reader, in the course of his employment which requires the person to emerge from and re-enter a passenger vehicle at frequent intervals. Prohibits, however, the utility worker from driving or traveling in such vehicle at a speed exceeding 20 mph while engaged in such work.

Smoking. **House Bill 1010 by Representative Gary Smith (Act 838)** prohibits the operator or any passenger in a motor from smoking in a motor vehicle when a child under the age of 13 is present. The fine is \$150 per violation, or at the discretion of the judge, the offender may be sentenced to no less than 24 hours of community service.

PORTS

Senate Bill 723 by Senator Malone (Act 667) phases-out the terms of the current members of the Caddo-Bossier Parish Port Commission and changes the appointment and terms of commissioners.

PUBLIC CONTRACTS

The public bid law provides for a "contract limit" which requires all public work by a public entity exceeding \$100,000 to be advertised and let by contract to the lowest responsible bidder. **Senate Bill 269 by Senator Dupre (Act 652)** increases the contract limit to \$1 million for any contract by a public entity for any project to restore or rehabilitate a levee which is not maintained with federal funds if the project is undertaken by the public entity with its own resources and employees. This will remain effective for contracts awarded until December 31, 2008. (See also Levees herein)

Senate Bill 673 by Senator Malone (failed, House) would have provided that, prior to the execution of a written contract for public work exceeding \$100,000 by a public entity if a successful bidder is a privately-held corporation, partnership, or other legal entity, the presiding officer of such successful bidder must furnish to the public entity certain information in the form of a written and notarized declaration. A contract would have been prohibited from being executed by the public entity with a successful bidder who failed to provide such information. The intentional making of a false written statement in providing such information would have constituted perjury and provided penalties. DOTD would have been exempt.

House Bill 417 by Representative Alario (Act 13) authorizes the expedited demolition of damaged state buildings in emergency situations where the building or structure has been damaged as a result of fire, hurricane, or natural disaster and imminent danger is presented to life or property, as determined by the office of facility planning and control. The request to demolish or raze the building may be approved immediately after legislative notification.

The public bid law establishes numerous requirements for the advertising and letting of contracts for public works for the state and local governmental entities. **House Bill 434 by Representative Alario (Act 102)** excepts from these requirements projects for repairs administered by the office of facility planning and control for remedy of damage caused by hurricanes Katrina and Rita. Further, the office of facility planning and control is not allowed to negotiate contracts for public works. The office must publicly advertise public works projects in the official journal of the locality of where the repairs are being performed and also in the state's official journal. If there are no bidders for such public works projects, the office may enter into competitive bidding negotiations with no fewer than two contractors.

House Bill 820 by Representative Toomy (Act 203) authorizes local governments to receive bids for purchasing contracts and requires the La. Advisory Commission on Intergovernmental Relations to develop uniform standards to be utilized by political subdivisions for the receipt of bids for purchasing contracts electronically. If the commission fails to develop standards to receive bids for public works and purchasing contracts electronically by 1/30/07, a

political subdivision may develop its own such standards. Uniform standards developed by a political subdivision to receive bids for public works and purchasing contracts electronically will be preempted by standards developed by the commission.

House Bill 1282 by Representative Schneider (Act 362) authorizes a local government to undertake work costing up to \$300,000 with its own employees if (1) the local government did not have flood insurance at the time of Hurricanes Katrina and Rita and (2) the public work being done is to repair damage caused by one of the hurricanes. The bill also prohibits a project from being divided or separated into smaller projects which would have the effect of avoiding requirements of advertising and letting the project to the lowest responsible bidder.

ROADS/HIGHWAYS

Bridges. **House Bill 856 by Representative Katz (Act 63)** names the bridge along Interstate 20 which crosses the Ouachita River the World War II Memorial Bridge, while **Act 100 (House Bill 1080 by Representative Pitre)** names the new bridge along La. Hwy. 1 in Leeville the Tomey J. Doucet Bridge.

House Bill 1218 by Representative Tucker (Act 729) requires the Crescent City Connection Division to collect and dispose of litter within the state right-of-way along a portion of General DeGaulle Drive in Orleans Parish.

Construction. **House Bill 1025 by Representative Daniel (Act 413)** provides that the governing authority of East Baton Rouge Parish may undertake projects on state highways in the parish at its own expense, and requires as follows with respect to such projects:

- Only projects that are funded pursuant to a ballot measure approved by the voters of East Baton Rouge Parish may be undertaken.
- All work shall be done in accordance with and the completed project must meet all applicable standards of the department.
- The plans for any such project are subject to review and approval by the chief engineer.
- The parish governing authority may proceed with the design and construction portions of the project when it deems appropriate except that the construction phase must be coordinated with the department.
- Upon completion of the project, the section of highway must be maintained by the department.

Design-build. **House Bill 1306 by Representative Quezairé (Act 305)** provides relative to design-build contracts let by DOTD, including provisions when entities must be fully licensed,

procedures for requesting qualification of potential design-builders, compensation of entities for complex design proposals, and review of final scores.

House Bill 1094 by Representative Powell (Senate rejected conference report) included the following provisions:

- (1) Required, when DOTD is letting a design-build contract, that the short list include at least 3 entities; however, authorized the secretary to proceed if fewer than 3 responses are received.
- (2) Provided relative to design-build contracts let by DOTD, including provisions when entities must be fully licensed, procedures for requesting qualification of potential design-builders, compensation of entities for complex design proposals, and review of final scores (similar to provisions of **House Bill 1306 by Representative Quezaire (Act 305)** but added an effective date);
- (3) Included the I-49 North project as one of the authorized design-build projects that DOTD may include in their pilot program. (I-49 North from Interstate 20 in the city of Shreveport to the Louisiana/Arkansas border, or any portion); and
- (4) Decreased the number of persons (from 2 or more to 1 or more) required to make an estimate for DOTD when expropriating property when the value of property is estimated to be \$30,000 or less. The measure provided for the real estate administrator to select two or more persons to make the estimate if the estimate of just compensation was expected to exceed the amount of \$30,000 except where the department could not amicably acquire clear title to property solely for reasons unrelated to the amount of just compensation to be paid such as unopened successions, absentee defendants, and partial interests (provisions of **Senate Bill 394 by Senator Ellington**).

Utilities/Right-of-way. **House Bill 921 by Representative Quezaire (Act 211)** adds natural gas and propane distribution systems to the definition of utility operator for the purposes of use and occupancy of the rights-of-way of state highways for the installation, operation, and maintenance of underground pipes, conduits, or cables along or across the highways for the purpose of transporting or conveying fluids, telephone or telegraph messages, cable television signals, gases, or electric current for any purpose by a utility operator.

Under current law, the chief engineer at DOTD is authorized to issue permits for the relocation of utilities and facilities when it is necessary to permit the widening, relocation, or other improvement of a highway. **Senate Bill 252 by Senator Ellington (Act 319)** authorizes the chief engineer to negotiate utility relocation agreements containing liquidated damages clauses, equal to .05% per day of the estimated utility's relocation costs, rather than not to exceed .05% per day, of the estimated utility's relocation costs, regarding delays caused solely by the unjustifiable delinquency of a utility in the completion of relocation work. The term "unjustified delinquency"

does not include delays in the completion of relocation work caused by acts beyond the reasonable control of the utility. If any delay is caused by the inability of the utility to complete its work in a timely manner due to acts beyond its reasonable control, or due to any delays caused by another utility, another contractor, or the department in the completion of relocation work, and the delay cannot be estimated, then the affected relocation work of the utility will be suspended until the cause for the suspension is removed without incurrence of liquidated damages. Once the utility has resumed the delayed relocation work, the utility must complete its work within the calendar days as specified in the utility relocation agreement. Should the utility fail to complete its work as specified in the agreement, the utility will then be subject to the liquidated damages.

On any construction or maintenance project which requires the temporary closure of a lane on a controlled access principal arterial interstate, the department must perform a traffic queue analysis and where the analysis determines a potential for traffic which may result in undo hardship or significant delay to the motoring public, the department must ensure that the construction or maintenance work is performed during non-peak traffic hours, including night work between the hours of 8 p.m. and 6 a.m. and weekends, unless specific traffic studies determine that such non-peak hour work is not feasible. **House Bill 1173 by Representative Crowe (Act 727)** defines peak traffic hours as 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. on weekdays. However, a Senate Floor Amendment added the provisions of **Senate Bill 394 by Senator Ellington (failed, House)** in this bill, which decreases the number of persons (from 2 or more to 1 or more) required to make an estimate for DOTD when expropriating property when the value of property is estimated to be \$30,000 or less. The real estate administrator will select two or more persons to make the estimate if the estimate of just compensation is expected to exceed the amount of \$30,000 except where the department cannot amicably acquire clear title to property solely for reasons unrelated to the amount of just compensation to be paid such as unopened successions, absentee defendants, and partial interests.

SPECIAL DISTRICTS

House Bill 72 by Representative LaBruzzo (Act 72) designates a corridor along a portion of Old Metairie Road in Jefferson Parish as a business and cultural district and requires DOTD to provide certain signage identifying and providing directions to the district.

TRAFFIC

House Bill 240 by Representative Greene (Act 751) requires pedestrians and vehicles to yield the right-of-way to vehicles participating in funeral processions and provides for a \$100 penalty for violations. The headlights must be illuminated and emergency lights must be flashing on any vehicle that is part of a funeral procession. If the procession has a police escort, the procession may cross intersections notwithstanding the signals of any traffic control device.

Senate Bill 158 by Senator McPherson (failed, House) would have included primarily four changes:

- (1) Required DOTD to determine the maximum speed limits on highways, under their current authority. It also set by law the speed limit on any highway at 55 mph (current), except where a higher speed limit has been established on the highway by the DOTD, but in no event exceed 65 mph except as follows:
- On Interstate or controlled access highways — 70 mph (current) except where a higher speed limit has been established on the highway by DOTD, but in no event exceed 75 mph.
 - On any multi-lane divided highway which has partial or no control of access — 65 mph (current) except where a higher speed limit has been established by DOTD, but in no event exceed 70 mph.

Currently DOTD determines which portions of a highway warrant a speed limit lower than the speed limits established by law. The criteria for making this determination is based on an engineering study which considers the operating speed of the road, the road geometry, the use of land surrounding the road, and the accident history of the road. This bill required DOTD, based on this criteria, to determine which speed limits are to be established for a highway or portions of a highway so long as they do not exceed these maximum speed limits, and based on an engineering and traffic investigation which speed is reasonable or safe under the conditions that exist on a highway. (House Floor Amendments were adopted that would require approval by the Joint Transportation Committee prior to implementation of any increased speed limits by DOTD).

Any speed limits that have already been established by and posted by DOTD that are lower than these maximum speeds provided by law prior to the effective date of this bill would have remained in effect until changed as provided by procedures in this bill.

Just recently Texas raised their maximum speed limit on certain stretches of highway from 75 mph to 80 mph. This 80 mph speed limit will be confined to mostly rural counties where the higher speed is a safe decision.

Had the bill passed, the speed limits would not have automatically increased. The speed limit on a highway would have only been increased if it was determined by DOTD to be safe, based on the engineering and traffic study. DOTD would still continue to set the speeds.

- (2) Vehicles would have been authorized to use the shoulders in certain circumstances. First (removed by House Floor Amendment), if the driver of a passenger car found that he was impeding the flow of traffic on a two-lane highway outside an incorporated area, he could have driven on the "improved shoulder" of the highway until the traffic behind him has passed, if he reduced the speed of the car to a safe speed and signaled his intention to following vehicles. An "improved shoulder" was defined as the paved shoulder of a highway capable of temporarily accommodating a traveling passenger car safely. Under current law, after an accident, a driver is required to remove a vehicle from the travel lane of the highway to the nearest safe shoulder if he is not prevented by injury or the vehicle is not disabled, or if the accident has not resulted in serious injury or death of any person. Secondly, if a driver

was involved in an accident, this bill would have required a driver to move the vehicle involved in the accident to the nearest safe "location." Unless on-site medical treatment or transport for those injured in an accident or the proper treatment of the remains of accident victims required otherwise, the primary consideration for law enforcement officers upon arrival at the scene of an accident would be the safe resumption of traffic flow to the greatest extent possible. Law enforcement officers at the scene could authorize vehicles to bypass accidents on the shoulder of a highway until normal traffic flow resumes if they determined it can be safely done.

- (3) Notice to insureds. Beginning July 1, 2007, any entity required to provide written evidence of motor vehicle liability insurance would have also been required to provide with that document a statement informing the insured of the provisions of law that requires removal of the motor vehicle from the travel lane of the highway to a safe location after an accident.
- (4) Incident Management. The bill would have required DOTD to adopt rules and regulations by March 1, 2007 to implement policies and procedures to facilitate the clearance, investigation, and mitigation of traffic incidents, especially those which initially block travel lanes.

TRANSPORTATION AND DEVELOPMENT, DEPARTMENT

Current law provides exceptions to general provisions of law governing procurement of professional, personal, consulting, and social services contracts. **Senate Bill 358 by Senator Ellington (Act 530)** adds an exemption for consulting service contracts with right-of-way agents, title abstractors, asbestos abatement inspectors, negotiators, and accountants relating to acquisition of rights-of-way for maintenance and construction projects entered into by DOTD.

Act 10 (Senate Bill 389 by Senator Ellington) specifies that the nonrefundable fee of \$25 charged by DOTD for each set of bid proposal documents to prospective bidders, subcontractors, or suppliers be for each set of printed bid proposal documents, and such fee does not apply to bid proposal documents provided electronically through the department website.

Senate Bill 390 by Senator Ellington (Act 461) requires DOTD construction and maintenance employees to participate in a structured training program as contained in the department's Policy and Procedure Memorandum. The department must provide training at its own expense and allow employees to complete training during regular work hours, and must notify employees in writing of their training requirements no less than six months prior to the department's review of the employee's record for merit increase purposes. If, in the course of reviewing an employee's record for merit increase purposes, the department discovers that an employee has failed to meet or maintain the department's training requirements, the department must issue a formal letter of warning to the employee for failing to meet or maintain training requirements. The letter will include a list of the deficient training requirements and give notice to the employee that once the deficient training is completed, the employee's merit increase will be granted, provided that lack of training is the only reason for withholding the employee's merit increase. The letter must also

include notice to the employee that if the deficient training requirements are not met by the employee's next anniversary date or by the next date the employee is eligible for a merit increase, the employee will be subject to disciplinary action as authorized by the Civil Service Commission and civil service rules.

Senate Bill 391 by Senator Ellington (Act 11) changes the name of the office of highways in the Dept. of Transportation and Development to the office of engineering.

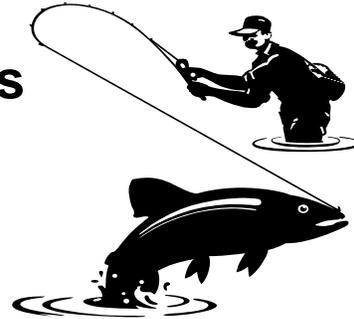
Senate Bill 400 by Senator Ellington (Act 322) provides that, in expropriation by declaration of taking proceedings involving DOTD, if the amount finally awarded for compensation exceeds the amount deposited, the judgment shall include legal interest on the excess amount. Legal interest will begin to accrue from the date the answer is filed by the defendant until paid; however, no interest shall accrue on any award made for expert fees or attorney fees prior to judgment.

DOTD is authorized to reject the bid of any bidder who fails to submit a bid within an established threshold of the advertised preconstruction estimate for a project. **Act 324 (Senate Bill 589 by Senator Ellington)** removes the requirement that the preconstruction estimate be advertised.

House Bill 1294 by Representative Quezairé (Act 304) authorizes the Louisiana Transportation Authority to enter into public-private partnership agreements for the construction of qualified transportation facility projects. "Transportation facility" means a highway, limited access facility, ferry, airport, mass transit, rail or port facility, or similar facility used for the transportation of persons or goods, together with any buildings, structures, parking areas, appurtenances and other features necessary to operate such facility or associated with its purposes. The measure establishes procedures for governing transportation facilities which are constructed by private entities pursuant to a public-private partnership, and also provides for the disbursement of toll revenue. The Act also authorizes transportation facilities to be constructed utilizing design-build or other innovative project delivery methodologies.

Wildlife & Fisheries

by: Arthur McEnany
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FISH/FISHING

Senate Bill 149 by Senator McPherson (Senate Natural Resources Committee) would have enacted game fish status for spotted seatrout and red drum.

Senate Bill 162 by Senator Ellington (Act 111) repeals provision that a wire net shall only be used for the taking of legal sized catfish.

Senate Concurrent Resolution 16 by Senator McPherson (enrolled) urges and requests the Department of Wildlife and Fisheries to allow an incidental catch of spoonbill catfish.

HUNTERS/HUNTING

Senate Bill 30 by Senator McPherson (Act 561) requires no net loss of certain public land available for hunting and fishing .

House Bill 52 by Representative Hammett (Act 745) prohibits computer-assisted remote hunting.

House Bill 824 by Representative Frith (Act 775) authorizes the use of mechanically operated bows and magnified scopes on crossbows.

House Bill 825 by Representative St. Germain (Act 339) authorizes the emergency closure of hunting and fishing seasons by the secretary of the Department of Wildlife and Fisheries.

House Bill 1229 by Representative Baudoin (Act 842) prohibits permanent building or erecting of hunting stands on state lands.

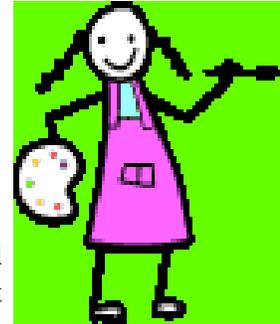
WILDLIFE AND FISHERIES

House Bill 783 by Representative Triche (Subject to call - Senate Final Passage) would have required the Wildlife and Fisheries Commission to control the importation and ownership of non-indigenous constrictor snakes.

House Bill 795 by Representative Triche (Act 715) requires the Wildlife and Fisheries Commission to control the importation and ownership of large exotic cats.

Women & Children

by: *Bobbie Hunter*
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House Bill 144 By Representative Hunter (Failed House Final Passage). Attempted to alter the public policy of this state by declaring that the practice of paying wages to employees of one sex at a lesser rate than the rate paid to employees of the opposite sex for comparable work on jobs which have comparable requirements unjustly discriminates against the person receiving the lesser rate; leads to low worker morale, high turnover, and frequent labor unrest; discourages workers paid at the lesser wage rates from training for higher level jobs; curtails employment opportunities, decreases workers' mobility, and increases labor cost; impairs purchasing power and impairs maintenance of an adequate standard of living by such workers and their families; prevents optimum utilization of the state's available labor resources; threatens the well-being of citizens of this state; and adversely affects the general welfare. HB 144 further attempted to be the policy of this state through the exercise of its police power to correct and, as rapidly as possible, to eliminate discriminatory wage practices based on sex.

House Bill 215 by Representative Doerge (Act 157). Provides for the definition and reporting of prenatal neglect by requiring the reporting of prenatal neglect when a newborn is affected by the illegal use of a controlled dangerous substance or has withdrawal symptoms resulting from prenatal illegal drug exposure. HB 215 amends the reporting time period, previously being 30 days, of the newborn's birth by a health care provider involved in the delivery or care of such newborn as part of the definition of neglect. HB 215 removes the 30-day time period within which a report may be made and requires the physician to order a toxicology test and to report positive results as soon as reasonably possible.

House Bill 4 by Representative C. McDonald (Act 325). Increases the criminal penalties for certain crimes involving juveniles when the victim is under the age of 13 years. Currently the crime of molestation of a juvenile provides for the following penalties:

1. A fine of not more than \$5,000 or imprisoned with or without hard labor for not less than one nor more than 10 years, or both.
2. When the offender has control or supervision over the juvenile: A fine of not more than \$10,000 or imprisoned with or without hard labor for not less than one nor more than 15 years, or both.

3. When the incidents of molestation recur during a period of more than one year: On a first conviction, a fine of not more than \$10,000 or imprisoned with or without hard labor for not less than five nor more than 15 years, or both. At least five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence. On a subsequent conviction, the offender shall be imprisoned for 20 years at hard labor without benefit of parole, probation, or suspension of sentence.

HB 4 retains the above penalties except when the victim is under the age of 12 years. In that case, proposed law provides for imprisonment at hard labor for not less than 25 years nor more than life imprisonment. Requires at least 25 years of the sentence imposed to be served without benefit of probation, parole, or suspension of sentence. Following completion of the term of imprisonment of 25 years to life, proposed law requires the offender to be monitored by the Dept. of Public Safety and Corrections (DPS&C) through the use of electronic monitoring equipment for the remainder of the natural life of the offender.

Additionally, current law provides for the crimes of sexual battery, oral sexual battery, aggravated sexual battery, and aggravated incest and provides criminal penalties for these offenses. HB 4 amends current law to provide for each of these offenses when the victim is under the age of 13 years a term of imprisonment of not less than 25 years nor more than life. Proposed law provides that at least 25 years of the sentence shall be served without benefit of parole, probation, or suspension of sentence, and provides for electronic monitoring of the offender.

HB 4 requires the sexual offender to pay all or a portion of the costs of the monitoring, unless DPS&C determines that he is unable to pay all or any portion in which case DPS&C shall pay from money appropriated or otherwise available for the purpose. HB 4, further requires DPS&C to promulgate rules pursuant to the Administrative Procedures Act, that provide for the payment of costs by the offender. Requires the rules to contain (1) specific guidelines to determine the ability of the offender to pay which may include a sliding scale to provide for the payment of a portion of the costs when the offender is unable to pay the whole costs and (2) the reasonable costs to be charged.

Senate Bill 458 by Senator Smith (Assigned to Judiciary A). Currently, there is the presumption that no parent with a history of perpetrating family violence will be awarded joint or sole custody of his children. Although, a parent who has a history of family violence is allowed only supervised child visitation conditioned upon the parent's attending and completing a violence treatment program. Unsupervised visitation is allowed only after the course has been completed and when the court determines the parent poses no danger to the child and visitations are in the best interest of the child.

The intent of this legislation is to provide that if the court finds that there is no incident of family violence, and that neither parent has a history of violence and that the court has found, through clear and convincing evidence, that neither parent poses a danger to his children, the court shall award joint custody of the children. SB 458 requires that any separation, divorce, child

custody, or visitation proceeding which includes an allegation of family violence against either parent to be decided within six months of the filing.

If in fact, a parent who is guilty of perpetrating family violence but has not been violent toward the children of the family, that parent will be authorized unsupervised visitation during completion of a violence treatment program, if it is in the best interest of the child. Further provides that if the court denies visitation, the parent will be granted regular telephonic visitation with the child. Additionally, the court requires the custodial parent to record the calls to between the non-custodial parent and the child to determine if the calls are not detrimental to the child and to determine if the calls shall continue.

House Bill 777 by Representative C. Gray (Act 278). The Department of Social Services currently has the authorization to obtain certain information from various state departments, boards, agencies, and bureaus, including Department of Public Safety and Corrections and Louisiana Department of Revenue to assist in locating parents for support enforcement services. HB 355 authorizes DSS to obtain this information without first obtaining an order from any judicial or administrative tribunal. Additionally, DSS is authorized to access occupational and professional licenses, records of ownership of business entities, records regarding public assistance programs, records of the office of motor vehicles, and records of public utilities, cable television companies, and cellular telephone companies.

Senate Bill 194 by Senator Lentini (Act 580). With respect to child abuse reporting and investigation by the Department of Social Services, following the investigation of a report, the determination is made that the report is inconclusive or not justified the following occurs:

1. The files, records, and pertinent report and investigation information remain unsealed and maintained for the exclusive use of child protection investigators in the course of investigations, for the sole purpose of evaluating the existence of patterns of incidents in pending child abuse or neglect investigations.
2. All files, records, and information regarding an inconclusive or not justified report and investigation are to be strictly confidential, and not become part of the central registry except as otherwise specifically provided, and shall not under any circumstances be disclosed or ordered to be produced in conjunction with any legal proceeding or other matter, and shall be maintained only for the purposes stated in present law. Further provides that DSS shall promulgate rules to provide for the disposition, handling, maintenance, and storage of inconclusive and not justified reports not in conflict with these provisions.
3. All information regarding an inconclusive or not justified report must be maintained by DSS for seven years from the date of the determination, unless a subsequent inconclusive or not justified report is received during that period, in which case the information from all reports with such determinations shall be maintained until the youngest child in the alleged victim's family turns 18 years of age or seven years from the date of the latest determination,

whichever is longer. If information from an inconclusive or not justified report is used as part of the basis for a later, related, and justified report, such inconclusive or not justified report shall become part of the file of such justified report and shall cease to be a separate report.

SB 194 further provides for admissibility of the files, records, and information in any civil litigation or criminal proceeding against DSS or its employees wherein work performance or conduct is at issue.

Point by Point

by: *Brenda Hodge*
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Overview

At the 2006 Regular Session of the Louisiana Legislature, legislators faced the task of continuing the efforts of rebuilding and recovery in the hurricane-impacted areas, while also focusing on policy and budgetary decisions key to building a better Louisiana in all parts of our state. With that in mind, legislators introduced over 2100 bills regarding a wide-range of subject matters including government expropriation of property, redesign of government operations in Orleans Parish, changes in Louisiana's election laws, the use of ethanol-blended gasoline, insurance reforms, smoking and public health, business inducement measures and abortion, as well as a long list of changes in state law arising from hurricane-related issues.

The Money Matters

All things considered, Louisiana's fiscal picture is much brighter than originally thought. In May, the Revenue Estimating Conference officially increased expected revenue collections over the February estimates by \$584 million for this fiscal year and \$175 million for the coming fiscal year. The additional revenues, mostly as a result of increased mineral revenues and tax collections related to rebuilding and recovery efforts, enabled the state to avoid expected shortfalls in health care and higher education programs, to restore some of the budget cuts made last fall and to better position the state to deal with hurricane recovery and preparation efforts.

The state budget issues are spread out among the various budget bills including the appropriations bill, the supplemental appropriation bills and the capital outlay bill. **ACT 17** (HB 1), the operating budget for 06-07, totals \$26.7 billion compared with a 05-06 operating budget as of Dec. 1, 2005 of \$19.78 billion after the billion dollar budget reduction during the Nov. special session. The 06-07 budget includes \$5 billion in federal funds with most of that (\$4.8 billion) earmarked for the Governor's Road Home program. If you compare the 05-06 and 06-07 budgets without the federal storm relief dollars added to both budgets, the budget growth between the two years is \$167 million, or a growth rate of .89%.

Key spending issues include:

- \$95 million for a \$1500 a year pay raise for teachers and other certificated personnel including therapists, librarians, guidance counselors and nurses.
- \$23 million for a \$500 a year pay raise for school support workers.
- \$2.7 billion to fully fund the MFP. Generally, the MFP provides the hurricane-impacted school districts with a minimal level of support depending on their student losses and anticipated recovery. Otherwise, the formula increases the per student payment by \$20 to address increased operation costs associated with insurance premiums and retirement contributions; increases funding for at-risk students; modifies the requirement that 70% of

a district's general fund be spent on instructional activities to exempt central office costs and include principal and assistant principal costs when calculating the 70% requirement and requires 50% of the basic annual increase in the MFP be spent on teacher salary increases except in those parishes where the average salary is above the SREB average (DeSoto, St. James, West Feliciana). Early reductions in funding for state mandated costs for non-public schools are restored.

- \$3.5 million to enhance and expand the early childhood education program.
- \$31 million for a 5% college faculty pay raise. The Board of Regents has taken the position that the exact percentage raise provided faculty members will be decided by the administration at each institution. Some faculty may receive more than 5%, some less.
- \$15 million for targeted workforce training related to the state's recovery efforts including training for entry level construction trades and shipbuilding.
- \$8.7 million to fund an additional 300 waiver slots for home and community-based care for the developmentally disabled and the elderly.
- \$120 million pool to reimburse private and non-profit hospitals for providing care to the needy and the underinsured.
- \$20 million, a \$10 million increase over the prior year, for indigent defense.
- \$40 million to help pay down the unfunded accrued liability of the state employees' and teachers' retirement systems.
- \$428 million to help pay the state's matching part of the hurricane relief dollars sent to Louisiana. So far, the state has received two bills from FEMA totaling \$339.7 million.
- \$150 million revolving emergency response fund. If there is money left in the fund at the end of the 06-07 fiscal year, the Blanco administration has agreed to direct \$50 million from the fund to help pay down the debt of the Louisiana Citizens Property Insurance Corp. in an effort to reduce future insurance premium increases that all policy holders pay each year to support the insurer of last resort.

Hurricane Recovery, Emergency Preparedness & Related Matters

The experience of Hurricanes Katrina and Rita exposed many inadequacies in our hurricane protection and emergency response systems as well as the need to fine tune various existing state laws to ensure the laws function properly in emergency situations.

- Recovery Plan Issues -
 - The Road Home Program - **SCR 63** (Hines) - Provides legislative approval of the Housing Action Plan, known as The Road Home Program, that allocates over \$10 billion for assistance to homeowners, renters and the homeless to restore, rebuild, relocate or sell damaged housing and provides incentives to developers to create affordable housing.
 - Housing Corporation - **ACT 654** (SB 445 Jackson) - Authorizes the Louisiana Housing Finance Agency to create a non-profit corporation to hold title to the properties sold to the state as part of The Road Home Program until the properties are disposed of as determined by local entities.
 - Housing Preservation - **ACT 355** (HB 1071 Hunter) - Creates the Louisiana Housing Preservation Act to make it easier for local governments to redevelop and revitalize

blighted property. The bill allows local governments to compile a blighted housing property list of residences that have been vacant for at least 18 months and are deemed a public nuisance. Homes on the list will be put into a receivership and redeveloped with the homeowner having the option of holding on to the property and paying for any repairs. Homes impacted by Katrina and Rita will not be included if the owners are eligible and receive assistance from the state's Road Home program.

- Infrastructure Repairs & Business Assistance - **SCR 19** (Hines) - Authorizes spending \$142.5 million in federal block grant funds for state and local infrastructure repairs and another \$95 million for the Louisiana Bridge Loan Program.
- Recovery Authority Reports/Spending - **ACT 686** (HB 308 Kleckley) - Requires the Louisiana Recovery Authority to prepare a report by Sept. 1, 2006 regarding the nature and extent of damages from Hurricanes Katrina and Rita and the impact the damages will have on recovery efforts. The LRA will also be required to notify legislators at least one week before the consideration of any proposal before the authority that requires the expenditure of \$10 million or more. The notification must include specific information as to how the funds will be spent, the source of the funding and the beneficiaries of the expenditure.
- Mitigation Funds - **ACT 512** (SB 137 Dupre) - Requires that no less than 75% of the federal Hazard Mitigation Grant monies received by the state due to Hurricanes Katrina and Rita be spent in those parishes within the federally declared disaster areas where all categories of FEMA public assistance are eligible for payment. The requirement does not apply to funds expended for the restoration and protection of housing.
- Utility Restoration Assistance -
 - **ACT 64** (HB 887 Pinac) - Creates the Louisiana Electric Utility Storm Recovery Securitization Act which authorizes Entergy and Cleco to sell storm recovery bonds with the approval of the Public Service Commission. The bonds are expected to carry an interest rate about 3% below normal borrowing mechanisms. Any savings to the utilities through such financing will be passed on to consumers.
 - **ACT 503** (HB 1389 C. Gray) - Restructures an existing law to allow for municipal ownership of utility services now provided by Entergy in New Orleans. Provides Entergy with an option for recovery and would make utility services eligible for FEMA assistance as a municipal-operated system in the event of another storm. Entergy, which estimates uninsured damage at \$718 million, prefers cash assistance via the LRA and available community development block grants

- Emergency Response/Evacuations -
 - Office of Homeland Security and Emergency Preparedness Reorganization **ACT 442** (HB 1388 F. Thompson) - Sets up a new, expanded management structure for the Office of Homeland Security and Emergency Preparedness which is now under the supervision of the governor's office rather than the LA National Guard. The current 40 person staff is expected to expand to about 100. The reorganization, involving a deputy director and regional directors, will cost about \$1.29 million to implement in the first year. The changes are patterned after successful operations in other states.
 - Nursing Home Evacuations - **ACT 540** (SB 529 L. Jackson) - Sets up basic guidelines for the evacuation of nursing homes in the event of an emergency or declared disaster. Requires DHH to establish detailed rules regarding the evacuation or sheltering in place plans for nursing homes in 22 storm-vulnerable parishes by April 1, 2007. Until the rules are developed, the nursing homes are required to submit updated evacuation plans to DHH by August 1st of this year. Generally, nursing homes, in cooperation with patients' families, must develop evacuation plans that include identified shelters, transportation needs, etc. The state will assist with the evacuation of the most vulnerable patients, such as those on respirators or on dialysis. Local governments will assist with transportation if necessary. The costs associated with an evacuation will be borne by the nursing home with the state assisting the facilities in recouping the funds through FEMA. The state will also seek approval from the federal government for Medicaid reimbursement of evacuation costs associated with Medicaid patients. At least 70 nursing home patients died during Katrina and only about one-third of the nursing homes evacuated before Katrina.
 - Pet Evacuations - **ACT 615** (SB 607 Fontenot) - Requires local governments, in cooperation with the state, to develop and implement emergency evacuation and shelter plans for household pets and service animals. Evacuees will be allowed to leave with their pets in proper cages or carriers. An identification program will be implemented by state agriculture officials to help evacuees find lost pets. Implementation is dependent on funds being available from the state's emergency preparation fund and the receipt of funds from other sources. Non-profit organizations have offered to help Louisiana pay for the pet evacuation program. Additionally, there is legislation moving through the U.S. Congress that would require FEMA to reimburse governments for pet evacuations during disasters. It is clear that lives were lost in southeast Louisiana because people refused to leave pets behind.
 - Unidentified Persons
 - **ACT 227** (HB 1140 Martiny) - Sets up the Louisiana Repository for Unidentified and Missing Persons Information Program at LSU's Forensic Anthropology and Computer Enhancement Services (FACES) lab. The lab will service as the state's chief repository for data on missing and unidentified people. The repository will contain data and DNA samples that

- could be matched with possible survivors to make identifications. The initial start-up cost is \$500,000, with an annual operational cost of \$407,000.
- **ACT 258** (HB 309 Walker) - Changes state law to allow a court to declare a missing person dead after a two year absence, if the absence occurred between Aug. 26, 2005 and Sept. 30, 2005. The change does not apply to a missing person who is charged with a felony. This is to assist surviving families of the missing settle estates and life insurance policies.
 - **ACT 330** (HB 96 Hutter) - Requires funeral homes to include identification tags on caskets in case of a flood or other event that forces caskets from burial sites. The state board that oversees the operation of funeral homes in Louisiana will establish the ID tagging process.
 - Other Public Safety Issues & Consumer Issues -
 - **ACT 610** (SB 569 Murray) - Authorizes the attorney general to issue cease-and-desist orders without going to court in times of emergency or when there is a governor-declared disaster. The authority would be limited to those cases where the courts are closed in a parish because of the emergency. This is an effort to give the attorney general's office more power to tackle problems with price-gouging and other consumer issues during a declared emergency.
 - **ACT 714** (HB 794 Powell) - Requires a person who applies for or has received disaster assistance and seeks refuge in an emergency shelter or temporary residence to provide law enforcement officials current, credible personal identification. Further provides that anyone who applies for disaster assistance is consenting to the release of personal identification information by that application.
 - **ACT 285** (HB 873 Cazayoux) - Prohibits sex offenders from knowingly being housed in emergency shelters, FEMA trailer parks, hotels, or any other facility where the general population of evacuees is staying. Requires state police to provide the names of convicted sex offenders to operators of evacuation and emergency shelters so that the offenders may be sheltered in areas away from the general population. Shelter officials who become aware of a sex offender housed at a facility must notify local law enforcement officials.
 - **ACT 175** (HB 409 Scalise) - Requires sex offenders to check in with state parole officers in times of emergencies or disaster declarations. The Department of Public Safety will set up a toll-free hotline for sex offenders to call. Failure to comply with the notification requirements may result in revocation of parole.
 - **ACT 284** (HB 857 Baldone) - Requires sex offenders displaced from their home parishes for more than 30 days to re-register in the parish where they have relocated. The offenders must also notify the police chief or sheriff in their former parish of the re-registration.
 - **ACT 275** (HB 760 Scalise) - Prohibits the seizure of firearms from law-abiding citizens during a state of emergency. Allows law enforcement

officers to disarm someone when the officer reasonably believes it is necessary for the protection of the officer or anyone else. If an arrest is not made or the weapon seized as part of a criminal investigation, the weapon must be returned.

- **ACT 254** (HB 190 Martiny) - Authorizes local governments to enact tougher gun laws than the state during emergencies and disasters in “high-risk” parishes in an effort to prevent looting of gun shops.
- **ACT 199** (HB 743 Hutter) - Creates the crime of unauthorized entry of a dwelling during a disaster or state of emergency. Stiffer penalties than simple trespassing. Allows fines up to \$1500 and/or up to one year jail. does not apply to emergency personnel or persons seeking a safe haven within 72 hours of the emergency.
- **ACT 220** (HB 1007 Baldone) - Prohibits the early release of someone convicted of looting during a hurricane or state of emergency.
- **ACT 165** (HB 264 Scalise) - Deletes from current law regarding increased penalties for looting during an emergency the requirement that the looter must know there was a declared emergency for the higher penalties to apply.
- **ACT 302** (HB 1212 LaFonta) - Requires demolition and construction crews and haulers to cover their vehicles to prevent nails and other materials from littering the highways and proposing a safety hazard. A companion measure, **ACT 234** (HB 1210 LaFonta), includes the dropping of roofing nails on public rights of way in the state’s littering laws.
- Liability Issues -
 - **ACT 402** (HB 892 K. Carter) - Protects state agencies and employees from civil lawsuits arising from death, injury or property damage resulting from actions in response to Hurricanes Katrina and Rita. The exemption does not apply if there is gross negligence or willful misconduct.
 - **ACT 545** (SB 621 Murray) - Limits the liability of public bodies that own or operate buildings that cause damage in the aftermath of Hurricanes Katrina and Rita, including post-storm restoration, repair and construction. Lawsuits will be allowed if a public building’s defects are the result of “gross negligence or willful and wanton misconduct.” The measure is retroactive to Aug. 24, 2005 and expires Aug. 30, 2008.
 - **ACT 244** (HB 70 Durand) - Expands the state’s “Good Samaritan Law” to include health-care workers who volunteer during a disaster. Such volunteers will not be held liable for death or injury arising from their assistance.
 - **ACT 836** (HB 884 Durand) - Limits the liability of United Way, the Southern Mutual Help Organization, PRC Compassion, Inc. and Catholic Charities when providing disaster relief following a state of emergency.

- Environmental Recovery Issues -
 - **ACT 662** (SB 583 Fontenot) - Requires DEQ to develop a comprehensive debris management plan for debris generated by natural disasters. The plan should focus on recycling and composting, volume reduction, weight reduction, incineration or co-generation and land disposal.
 - **ACT 718** (HB 877 Damico) - Authorizes DEQ to assess a fee of twenty cents per ton on construction and demolition waste to offset additional costs incurred by DEQ in monitoring waste disposal operations connected with storm-related cleanup and rebuilding.
- Other Hurricane Recovery & Emergency Response Issues -
 - **ACT 104** (SB 85 Jones) - Requires state corrections officials to maximize the use of inmate labor to assist with remediation activities after a natural disaster or emergency, ensuring that the inmate laborers are not supplanting private sector employees. Authorizes the corrections department to establish community resource centers to provide housing for the inmates assisting after the disaster. Inmates participating in relief efforts are eligible to earn an additional 30 days of good time for every 30 days of service.
 - **HCR 201** (Robideaux) - Requires the Department of Revenue to prepare and mail notices to residents displaced outside of Louisiana advising them of their responsibility to pay Louisiana state income taxes on any income earned outside the state as long as they are a Louisiana resident. Taxes paid to other states can be credited toward the Louisiana taxes owed.
 - **ACT 564** (SB 47 Nevers/Schedler) - Authorizes a special state license plate to show Louisiana's gratitude to the rest of the nation for the assistance provided to the state in the wake of Hurricanes Katrina and Rita. While the design is not complete, the plans are for the plate to feature "Louisiana Thanks You" in one corner with a purple and gold saxophone logo. Motorists desiring the new plates will pay a \$3.50 administrative fee, but will not be required to pay the \$25 fee normally associated with special plates. The license plate is part of an broader "Louisiana Thanks You" campaign to spread the appreciation message across the country.
 - **ACT 200** (HB 796 Martiny) - Establishes "Come Back to Louisiana" by singer-songwriter Jay Chevalier as the state's official hurricane recovery song. Also designates Chevalier as the official state troubadour.
 - **ACT 740** (HB 1354 Karen Carter) - Sets up the Hurricane Katrina Memorial Commission to make recommendations as to an appropriate memorial and suggested locations for such a memorial to recognize and honor those who lost their lives in the disaster.

Insurance Issues

- Rate Increase Notification - **ACT 784** (HB 1073 Hutter) - Requires insurance companies that raise rates to explain the reason for the increase to policyholders in the premium notice sent

to consumers or otherwise notify consumers how they can obtain additional information about the rate hikes within 60 days.

- Damage Settlements -
 - **ACT 802** (HB 1302 Burns) - Gives Hurricane Katrina and Rita victims another year to settle damage claims with insurance companies, regardless of what limitations may be included in the insurance policy. For Hurricane Katrina victims the deadline is extended to Aug. 29, 2007. For Hurricane Rita, the new deadline is Sept. 24, 2007. Without the extension, hundreds of thousands of property owners will be forced to file suit to protect their rights to continue the pursuit of their insurance claims.
 - **ACT 739** (HB 1289 Morrell) - This measure also gives Hurricane Katrina and Rita victims another year to settle damage claims with insurance companies, with the same extended deadlines as HB 1302. Also prevents any insurance policy issued in Louisiana that limits the right of action against the insurer to a period of less than 12 months. Also provides that the attorney general shall seek a declaratory judgment within 10 days of the effective day of this new law as well as HB 1302 to determine the laws' constitutionality.
 - **ACT 813** (SB 620 Murray) - Increases penalties against insurance companies that arbitrarily, capriciously or without probable cause do not make timely payments on property claims. Increases the current penalty of 25% of the damage owed or \$1000 to 50% of the damage owed and requires the insurance company to pay the policy holder's attorney and court fees. Current law requires that claims be paid within 30 days of proof of the damage amount as established by law. The increased penalties do not apply to life, health, accident or personal vehicle damage insurance.
- Adjuster Licensing Standards -
 - **ACT 806** (HB 1384 K. Carter) - Sets up a system to require the licensing of public adjusters - those adjusters hired by policy holders to help prepare and file insurance claims. Requires exams and sets up professional practice standards. Prohibits services on a contingency fee basis. Requires the posting of a bond. The public adjuster cannot render legal advice as part of his services. **ACT 763** (HB 520 K. Carter) sets the licensing fee at \$55. The new system takes effect June 30, 2007.
 - **ACT 783** (HB 1056 Farrar) - Sets up a system to require the licensing of claims adjusters employed by insurance companies or under contract with insurance companies as independent adjusters. Requires exams and sets up professional standards. **ACT 762** (HB 518 Farrar) sets the licensing fee at \$10.50. This system takes effect June 30, 2007.
- Citizens Premium Costs - **ACT 787** (HB1141 Hebert) - Exempts wind and hail coverage offered by the Louisiana Citizens Property Corporation, the state created insurance source of last resort, from the current requirement that insurance policies offered by the corporation carry premiums 10% higher than the policies offered by private companies in the area. The exemption expires Jan. 1, 2009. Requires the corporation to notify policy holders in writing of any rate increase. Authorizes the corporation to borrow money from the FAIR or Coastal Plans under its jurisdiction to cover any shortfall in either plan to pay claims pending the sale of bonds or other funding sources. Requires the corporation to seek reinsurance.

- Credit Status/Premium Rates - **ACT 688** (HB 318 Richmond) - Prohibits insurance companies from using credit information that shows a change in credit status to increase premiums on a policy renewal. The prohibition applies only to those policies that expire between the effective date of the prohibition and the end of this year.

Business Development, Workforce & Consumer Issues

- Ethanol-Blended Gasoline -
 - **ACT 313** (HB 685 Thompson) - Requires that ethanol-blended gasoline and other alternative fuels be sold in Louisiana once production reaches adequate levels in the state, although gas stations are not mandated to sell the fuel. Two percent of the total gasoline sold in Louisiana will have to be agriculture-based when ethanol production reaches 50 million gallons annually, biodiesel reaches production 10 million gallons each year or production of other alternative fuels reaches 20 million gallons a year. The Commissioner of Agriculture is responsible for implementing the requirement. The new law is seen as a boost for the state's agriculture industry and a way to improve our environment. Opponents are concerned that the alternative fuel mandate will drastically increase fuel prices, an issue addressed in SB 454. There is a 51-cent-a-gallon federal price support in place now, but that break expires in 2007. Some states offer tax breaks to hold down the costs of alternative fuels. No such incentives are in place in Louisiana at this time. It is estimated that it will take at least two years for the production of the alternative fuels to reach the required level for consideration of implementation.
 - **ACT 656** (SB 454 Ellington) - Creates "The Louisiana Renewable Fuels Production Accountability Act" to encourage the use of competitively priced Louisiana crops by renewable fuels plants. Requires notice and reports to the Louisiana Department of Agriculture regarding anticipated production levels and specific feedstock requirements. Also adds a price trigger to the implementation of the ethanol-blended gasoline requirement outlined in HB 645. The requirement will not be implemented until it is determined that the average wholesale price of Louisiana produced ethanol, minus any federal tax incentives, is equal or less than the average wholesale price gasoline for 60 days. The price information will be determined by a three member panel composed of a qualified college faculty member, a representative of the Oil Marketers Association and a representative of the Louisiana Farm Bureau. The agriculture commissioner will make a decision on proceeding with the ethanol-blended gasoline requirement.
- Legacy Oilfield Sites - **ACT 312** (SB 655 Adley) - Addresses the process for the clean-up of so-called "legacy sites", sites where landowners have leased property for oil and gas drilling and are later sued for alleged contamination from oil-field wastes and saltwater. Allows a property owner and the company to agree to work with DNR to develop an acceptable clean-up plan with the responsible party paying for the clean-up. Property owners may opt to file suit against the company with the courts deciding fault and awarding damages. If the company is found to be at fault, DNR will hold a public hearing and within

60 days develop the most feasible clean-up plan for submission to the courts. The courts must adopt the DNR plan unless another plan is proven to be more feasible. All funds earmarked for the clean-up must be used for that purpose. Oil and gas exploration companies have complained that doing business in Louisiana has been hampered by the inconsistent and costly handling of such legacy lawsuits in recent years.

- Environmental Permitting -
 - **ACT 586** (SB 292 Fontenot) - Authorizes DEQ to develop and implement a program to expedite the processing of permits, modifications, licenses, registrations or variances for environmental permits. **ACT 779** (HB 870) establishes a fee structure for the expedited permits.
 - **ACT 115** (SB 209 Fontenot) - Eases approval of air and water environmental permits for low-level polluting activities . DEQ will develop criteria that applicants must meet to qualify for the low-level permits.
- Internet Ticket Sales - **ACT 238** (HB 1299 Montgomery) - Allows the resale of tickets to sports and entertainment events via the Internet for above face value if the sports team or entertainment promoter agrees. Internet sites reselling such tickets will have to agree to refunds if the event is cancelled, the buyer is not allowed admittance to the event or the ticket is not delivered as promised. The authority to resell tickets at above face-value price does not apply to university sports event tickets allocated to Louisiana legislators or to student tickets issued by universities for sporting events.
- Internet Auction Sales - **ACT 550** (SB 642 Ellington) - Changes the state's auction licensing law to restrict it to a traditional public auction. Exempts individuals and businesses engaging in auctions over the Internet.
- Internet Consumer Protections -
 - **ACT 549** (SB 641 Michot) **ACT 201** (HB 798 Hutter) - Regulates phishing, the creation or operation of a Web site purporting to be a legitimate business with the intent of obtaining the user's personal data. Criminalizes junk e-mail that pretends to be from a legitimate business or encourages consumers to provide identifying information such as bank account or social security numbers to a phony Web site.
 - **ACT 392** (HB 690 Schneider) - Outlaws activities to plant viruses or anything that could damage a computer's hardware or software.
 - **ACT 556** (SB 5 Cain) – Prohibits Internet service providers from disclosing information about their subscribers without expressed written or electronic authorization from the subscriber, except when requested by court order or law enforcement, as authorized by law.
- Unemployment Taxes - **ACT 116** (SB 217 Nevers) - Declares that unemployment benefits paid out as a result of executive orders issued in connection with Katrina and Rita will not be used in determining an employers experience rating which is used to determine an employer's annual tax contribution rate. Also prohibits the use of the social charge account tax to repay benefits paid as a result of the executive orders into the social charge account.

Benefits paid out and not tied to a specific employer are paid out of the social charge account. It is estimated that \$700 million was paid out as a result of the executive orders. Without a change in the law an employer's annual tax contribution rate and social charge account tax would increase to a prohibitive level.

- **Illegal Workers/Contractors - ACT 636** (SB 753 Cravins) - Sets up procedures and penalties for enforcement of the current state law that bans employers from hiring workers who are illegally living or working in the U.S. Employers will have to maintain documents that show workers meet eligibility rules required by federal immigration law. Employers found to have knowingly hired illegal workers will be subject to cease and desist orders. If they fail to act, they will face fines of up to \$10,000.
- **Louisiana Product Sales -**
 - **ACT 808** (HB 1387 Toomy) - Repeals the LA Native Wine Law and provisions relating to taxes on wine. Authorizes a wine producer to sell or serve its product at retail directly to consumers at its winery or at fairs, festivals and farmers' markets. Authorizes the sale and direct shipment of wine to a consumer in Louisiana by a manufacturer or retailer domiciled outside of the state or by a wine producer domiciled inside or outside of the state. The in-state sales by a wine producer directly to a consumer are limited to 48 750 milliliter bottles per calendar year. requires permit fees for wine producers.
 - **ACT 124** (SB 525 N. Gautreaux) - Creates the Cajun and Louisiana Creole Goods and Services Consumer Protection Law to establish the terms "Cajun" and "Louisiana Creole" as unique and distinctive to a region of Louisiana and provides for the adoption of "Cajun" and "Louisiana Creole" as certification marks. Authorizes the agriculture commissioner to enforce the use of the certification marks.
 - **ACT 661** (SB 573 N. Gautreaux) - Prohibits the deceptive use of the terms "Cajun" and "Louisiana Creole" in commerce.
- **Frivolous Lawsuits Against Businesses - ACT 684** (HB 290 Durand) - In an effort to crack down on "frivolous" lawsuits against businesses, this measure mandates jail time for runners who try to convince people to sue and the lawyers who hire them. Runners are hired to go to locations like hospital emergency rooms, where lawyers are prohibited from soliciting clients, to persuade accident victims to hire a particular attorney and file a lawsuit. For a first offense, there is a mandatory 90 days in jail. Additional offenses require at least three years in prison.
- **Local & Regional Economic Development - ACT 839** (HB 1130 Richmond) - Creates the "Local and Regional Economic Development District Act". Authorizes the creation of multiple-parish or multiple-municipality economic development districts for the purpose of pursuing major business projects and industrial development opportunities. The creation of an economic development district is contingent on a approval by voters in the municipalities and parishes in the proposed district. The districts will be able to acquire land, build infrastructure and incur debt to promote manufacturing, research and commercial and wholesale trade. The districts will not have expropriation powers. The boards can raise sales

or property taxes with a majority vote of all voters in the district as well as a majority vote by each participating parish or municipality.

Expropriation & Eminent Domain Issues

- **ACT 851** (SB 1 McPherson)(CA) - Proposes a change in the State Constitution to limit the power of government to expropriate private property. Voters will consider the change in a statewide election in September and, if approved, government will not be able to take a person's home for economic development purposes. Currently, the constitution allows expropriation of private property by government for "public purposes" such as flood control, street repairs and other public improvements. That power will remain, but what is a "public purpose" will be more clearly defined.
- **ACT 859** (HB 707 Farrar) (CA) - Proposes a change in the State Constitution to prohibit the transfer or lease of expropriated private property deemed not necessary for the completion of a "public purpose" project without first offering the property for sale back to the original owner on a pro-rata basis. If the original owner does not opt to buy back the property within three years of the completion of the project, the state or governmental entity may sell the property to the public by competitive bid. Sets up a timetable for the governmental entity to determine if property is not needed. Property which has been held for more than 30 years before it is determined to be surplus is not impacted. Voters will consider the proposed change at the Sept. 30, 2006 statewide election.
- **ACT 853** (SB 27 Dupre) (CA) **ACT 567** (SB 64 STATUTE) - Limits the payment to property owners for property taken in connection with hurricane protection to the amount and circumstances required by the Fifth Amendment of the U.S. Constitution or the fair market value rather than the "full extent of loss" as now required. The measure will not apply to property or structures damaged or destroyed by an event designated as a natural disaster or emergency when the expropriation occurs within 3 years of the event. Louisiana is the only state in the nation that defines land values in that fashion. Voters have already agreed to limit payments to property owners for property taken in connection with coastal restoration projects to fair market value.
Proposed amendment will be considered in the Sept. 2006 statewide election.

Transportation, Flood Control & Hurricane Protection

- Construction Work/Peak Hours - **ACT 727** (HB 1173 Crowe) - Specifically prohibits construction and maintenance work on major highways between 7 a.m. and 9 a.m. and 4 p.m. and 6 p.m. weekdays. Construction or maintenance work on major highways that restricts traffic flow is already prohibited during "peak hours". Also would allow DOTD to use one appraiser rather than two appraisers when appraising properties of expected value of under \$30,000.
- Construction of Megaprojects -
 - **ACT 304** (HB 1294 Quezaire) - Allows the state through the Louisiana Transportation Authority to enter into partnerships with private entities to build roads and bridges financed by tolls. The authority is limited to so-called "megaprojects", those projects costing at least \$250 million. The private entity will build the projects,

maintain the project and receive the revenues from the tolls. After a period of time, the project will revert to the state. The House and Senate transportation committees will hold a public hearing on any proposal, but does not have the power to reject any deal.

- **ACT 685** (HB 299 Daniel) - Sets up the Transportation Mobility Fund to assist with the funding of major, high cost road projects, known as mega-projects. The fund is designed to bridge the gap between projected toll revenue collections for a toll project and the estimated costs of the project. Projects must qualify and be approved by the Louisiana Transportation Authority. There is currently no funding source for the fund.
- State Highway Improvement Fund - **ACT 708** (HB 728 Lambert) - Establishes the State Highway Improvement Fund to finance improvements on state highways not eligible for federal assistance. Monies from state truck and trailer registration and license fees and taxes will be deposited in the fund and appropriated on an annual basis. Beginning in the 2007-08 fiscal year, 25% of the available truck and trailer fees and taxes, an estimated \$10.3 million, will be deposited in the fund. The dedicated amount increases by 25% each year after until 100% of the available fees and taxes, about \$44.3 million, are placed in the fund in the 2010-11 fiscal year. About 10% or 6,000 miles of state roadways do not qualify for federal highway dollars.
- Hurricane Protection -
 - **ACT 652** (SB 269 Dupre) - Provides local levee districts more leeway to develop and oversee its own projects for the construction, restoration and rehabilitation of levees. State law previously limited such authority to projects costing \$100,000 or less. This measure raises the limit to \$1 million for the next two years with the legislature having the option of renewing the authority in 2008. Increased authority does not apply to projects involving federal maintenance funds.
 - **ACT 66** (SB 26 Dupre) - Authorizes the Coastal Protection and Restoration Authority to serve as the local sponsor for construction, operation and maintenance of all hurricane, storm damage reduction and flood control projects in areas under their jurisdiction. As the local sponsor, the authority may enter into contracts with the federal government, the state, local governments or private individuals and serve as the entity to provide any needed matching funds for projects.
 - **ACT 181** (HB 452 Dove) - Requires the nine levee boards in the coastal zone with tidal levees to submit a report to DOTD every three years regarding the height of the levees, problems with sinking and suggested corrective actions.
 - **ACT 297** (HB 1086 Dove) - Requires a minimum 8-foot dune height for barrier island projects and requires DNR to track the condition of the barrier islands on a regular basis and report annually to the legislature.

Highway Safety Issues -

- Child Safety/Motorcycles - **ACT 98** (HB 985 Baldone) - Requires children at least five years old to wear safety helmets on motorcycles. Prohibits infants or toddlers from riding motorcycles if they are otherwise required to be in a child car safety seat.
- Minor Alcohol Sales - **ACT 570** (SB 101 McPherson) - Increases the penalties for serving or selling alcoholic beverages to minors. The fines would increase from \$100-\$500 to \$500 - \$1000.
- Accident Deaths -
 - **ACT 294** (HB 1043 Greene) - Increases the minimum mandatory jail sentence for vehicular homicide from one year to three years. Keeps the maximum 30 year sentence.
 - **ACT 523** (SB 256 Adley) - Requires the driver of a vehicle involved in an accident in which there is a death to submit to a drug test and requires the coroner to conduct drug tests on the deceased.
- Funeral Processions - **ACT 751** (HB 240 Greene) - Prohibits a pedestrian or vehicle from breaking into a funeral procession and requires all vehicles in the procession to use headlights and flashers. Drivers would be allowed to pass processions, just not break into the procession. Clarifies existing state law that prohibits operating tv screens in the view of the driver to include video player screens.
- Underage Drivers - **ACT 650** (SB 222 Mount) - Increases the penalties for a minors and others caught driving without a license and holds a parent responsible for granting permission to an unlicensed minor to drive. The unlicensed driver faces up to \$500 in fines and/or 6 months incarceration. If the unlicensed minor is involved in an accident that results in serious bodily injury or death, the fine increases to \$1000. The parent faces up to \$1000 in fines. The measure is in response to an incident in Moss Bluff in 2004 when an unlicensed minor driver struck and killed a young boy.
- Traffic Violations - **ACT 195** (HB 694 Smiley) - Increases the penalties for drivers who run stoplights, stop signs and yield signs. A driver faces the loss of their license if injury results.

Public Safety Issues -

- Sex Offenders & Child Sexual Abuse -
 - **ACT 325** (HB 4 McDonald) - Increases penalties for the crime of molestation of a juvenile when the victim is 12 years of age or younger and increases penalties for the crime of aggravated incest when the victim is under the age of 13 and the offender is 17 years of age or older. The penalties are 25 years to life with at least 25 years served without benefit of probation or parole. Upon release, the offender is monitored by electronic means for the rest of natural life with the offender picking up the cost of the monitoring if possible.
 - **ACT 103** (SB 2 N. Gautreaux) - Increases penalties for certain sex crimes committed against a juvenile under 13 years of age by an offender over the age of 17. Minimum 25 years in prison without suspension of sentence, probation or parole. After release, offender must wear electronic tracking device - at the expense of the offender - for the rest of his natural life. The increased penalties apply to the crimes of sexual battery, second degree sexual battery, oral sexual battery, pornography involving a

juvenile and molestation of a juvenile. Penalties will also increase for the crime of indecent behavior with a juvenile when the victim is under the age of 13 and the offender is over the age of 17 with up to 25 years in prison and at least two years without benefit of probation, parole or suspension of sentence. The new law is known as the "Mary Jean Thigpen Law" in memory of a four-year-old Calcasieu Parish child who was raped and murdered by a twice-convicted sex offender who had recently been released from prison.

- **ACT 242** (HB 1369 Geymann) - Requires that sex offenders whose victims are under the age of 13 shall be subject to supervised release after the completion of their sentences. Supervised release includes mandatory monthly meetings, registration, drug testing and possible curfews. Applies to those convicted after Aug. 15, 2006.
- **ACT 186** (HB 572 Cravins) - Creates the Sex Offender Assessment Panel to evaluate every sex offender prior to release to determine if he is a sexually violent predator. An offender determined to be a sexually violent predator upon release will be required to register and provide community notification for life and to be monitored electronically for life. If possible, the offender will be required to pay for the monitoring. Applies to convictions and releases on or after Aug. 15, 2006.
- **ACT 72** (HB 9 Smiley) - Adds the crime of aggravated incest to the list of crimes designated as a violent crime.
- **ACT 137** (HB 64 Dorsey) - Creates the crime of harboring or concealing a sex offender. \$5000 fine and/or up to five years jail with two years mandatory.
- **ACT 663** (SB 612 Mount) - Requires the drivers' licenses of convicted sex offenders to include the words sex offender in orange type. requires sex offenders to also carry an identification card with the same information. Both the license and the identification card must be renewed yearly. Requires state police to establish a predator alert system that includes notifying local law enforcement when a sex offender is released from jail.
- **ACT 354** (HB 983 Cazayoux) - Establishes the Sexual Predator Apprehension Team in the attorney general's office to enhance the state's effort to apprehend sexual offenders and persons required to register as a sex offender.
- **Minors & Video Games -**
 - **ACT 441** (HB 1381 Burrell) - Bans the sale of violent video games to minors (under 18 years of age). The new felony crime carries a sentence of up to one year in prison and a maximum \$2000 fine. Establishes a three-prong test for judges to use to determine whether a game is violent including whether an average person would find that the game appeals to the minor's morbid interest in violence; whether a game depicts violence in a manner patently offensive to the prevailing community standards and whether the game lacks serious literary, artistic, political or scientific value for minors. ***U.S. District Judge James Brady has issued a temporary restraining order barring authorities from enforcing this new law after associations representing video game merchants and developers filed suit raising questions about the law's constitutionality.***

- **ACT 529** (SB 340 Cain) - Prohibits the sale of sexually explicit video games to minors. Basically brings video games into the existing state law that bars the sale of sexually explicit magazines, newspapers and other suggestive materials to minors. Requires identification to purchase such videos. Violators face up to one year in prison and a maximum \$2000 fine.
- Domestic Abuse -
 - **ACT 559** (SB 10 N. Gautreaux) - Increases the penalties for domestic abuse battery when a child is endangered or when the victim of the domestic abuse is pregnant.
 - **ACT 613** (SB 597 Dardenne) – Requires the Secretary of State to establish a procedure to shield addresses of registered voters who are victims of abuse and fear for their safety. The addresses remain shielded for 4 years, except when requested by court order or law enforcement, as authorized by law. Program participants waive their right to vote on election day or in early voting, but may vote by mail.
- Citizens' Self-Protection Rights - **ACT 141 & ACT 786** (HB 89 & HB1097 LaFleur) - These two measures strengthen existing law regarding a citizen's justifiable use of lethal force to protect themselves from an intruder in their homes, businesses or vehicles. The measures state that there shall be a presumption that the use of force is necessary in such cases and that the criminals or their families cannot sue the person using the force.
- Resisting Arrest Crimes - **ACT 132** (HB 26 Martiny) - Adds to the crime of resisting an officer to include interfering with or resisting an officer in the lawful act of detaining a person. Includes the refusal of the detainee or arrested person to identify themselves as obstruction.
- Computer Assisted Hunting - **ACT 745** (HB 52 Hammett) - Prohibits computer assisted hunting which involved using a computer to remotely control a gun without being on site to shoot the animal.
- Funeral Disturbances - **ACT 805** (HB 1364 Thompson) - Adds disturbances at funerals to the crime of disturbing the peace with increased penalties for the crime. \$100 fine and/or 6 months jail.
- Unauthorized Use of a Soldier's Name - **ACT 239** (HB 1304 Robideaux) - Outlaws the use of a deceased soldier's name or photo to sell items or advertise businesses without the consent of the soldier before his death or the consent of the soldier's family.
- Drug Abuse Crimes -
 - **ACT 51** (HB 51 Schneider) - Increases penalties for unlawfully prescribing, dispensing or assisting in illegally obtaining controlled dangerous substances from a fine of \$5000 to \$50,000 in the Pain Management Clinic Drug Abuse and Overdose Prevention Act.
 - **ACT 676** (HB 153 Johns) - Proposed in cooperation with pharmacists and physicians to tackle so-called doctor shopping, this measure requires the Louisiana Board of Pharmacy to develop an electronic prescription monitoring program to improve the state's ability to identify and inhibit the diversion of controlled dangerous substances and drugs. The program will be funded through a fee imposed on pharmacy permit fees and licenses.

- **ACT 600** (SB 467 Fontenot) - Requires pharmacists to require patients or the patient's representative to show photo identification when purchasing or receiving any controlled dangerous substance, unless the person is known to the pharmacist. Encourages all practitioners to notify law enforcement when they have a good faith belief that an individual is obtaining a fraudulent prescription for a controlled dangerous substance.
- Release of Defendants -
 - **ACT 327** (HB 87 White) - Requires hospitals to notify law enforcement officials when a person with an outstanding arrest warrant or summons is released if the officials have certified the warrant or summons in writing to the hospital and have requested in writing that the hospital provide notification of the release. The notification must be made as soon as reasonably possible.
- Flag Burning - **ACT 506** (SB 25 Cain) - Creates a state crime of burning the American flag punishable by 90 days in jail and/or a maximum fine of \$1000. The law is not enforceable until an amendment to the U.S. Constitution prohibiting desecration of the flag is proposed and approved.
- Fire Retardant Mattresses - **ACT 557** (SB 6 Shepherd) - Requires all bed mattresses and box springs sold or made in Louisiana to meet certain fire-resistance standards. The bill is in response to a Marrero apartment fire last year that killed 11 people.

Corrections & the Judiciary -

- Judgeship Qualifications - **ACT 860** (HB 13 Greene)(CA) - Constitutional amendment to increase the years of experience required to run for the office of judge at the district, appellate and supreme court level. Requires a minimum of eight years experience as a member of the Louisiana bar prior to the election for district level judges and a minimum of 10 years for appellate and supreme court judges. Reduces the time in which a candidate for judge must reside in his respective district prior to the election from two years to one. The proposed change will be considered by voters in the Sept. 2006 statewide election. The requirements will be effective with elections on or after Jan. 1, 2008.
- Sentencing & Release Issues -
 - **ACT 572** (SB 129 Jones) - Allows future inmates who begin their sentence after August 15, 2006 to reduce their sentences by 35 days for every 30 days of earned "good time". The reduced sentence will not apply to those convicted of violent, drug-related or sex crimes.
 - **ACT 581** (SB 228 Jones) - Allows judges, with the consent of the district attorney, to sentence certain third offenders convicted of non-violent or drug crimes to drug court programs with the alternative sentencing running no less than two years or more than five years.
 - **ACT 113** (SB 180 Jones) - Limits the time served by someone on probation or parole who commits a technical violation to 90 days rather than having to serve out the rest of their original sentence. A technical violation includes things like not checking in with a parole officer in a timely fashion.

- **ACT 45** (SB 126 Jones) - Expands the state law allowing certain qualified convicted criminals to seek a reduced sentence before the Louisiana Risk Review Panel to include those who committed crimes, were convicted or sentenced prior to June 15, 2001.
- **ACT 811** (HB 1403 Richmond) - Prevents the release of any defendant on his own recognizance if the arrest is in connection with an alleged felony offense involving the use, discharge or possession of a firearm.

Children & Family Issues

- Marriage & Divorce -
 - **ACT 743** (HB 1379 E. Alexander) - Changes state divorce laws to require a couple with children under the age of 18 to live separate and apart for one year, rather than the current six month requirement, before a no-fault divorce is granted. The longer waiting period will not apply to families where a hearing determines that there is physical or sexual abuse in the home. The effective date of the new requirement is Jan. 1, 2007. Twelve other states have waiting periods of one year or longer.
 - **ACT 249** (HB 121 Johns) - Clarifies current state law regarding covenant marriages to prevent the dissolution of such a marriage by mutual consent of both parties. A spouse in a covenant marriage may only obtain a divorce by proving adultery, abandonment, abuse, living separate and apart or a felony conviction with a sentence of death or hard labor.
- Child Support Enforcement -
 - **ACT 375** (HB 355 Triche) - Provides the state with additional tools to collect owed child support. Authorizes the state child support enforcement agency to administratively access cell phone, cable TV and other records in an attempt to locate the offending parent. A court order is now required for such access.
 - **ACT 121** (SB 407 Lentini) - Requires parents who are behind on child-support payments to surrender payments from progressive-slot machine jackpot annuities to DSS. The Louisiana Gaming Control Board will set up procedures for withholding such payments.
 - **ACT 772** (HB 778 Hunter) - Authorizes a parent who has obtained a judgment of past due child support to file a notice of privilege over the motor vehicle of the person owing the support. The notice will be filed with the Office of Motor Vehicles. Although the privilege will be subordinate to existing loans on the vehicle, the courts may order the delinquent parent to surrender the vehicle title to the owed spouse.

Education Issues -

- Unfunded Mandates on Local Schools - **ACT 855** (SB 296 Quinn) - Proposes a change in the State Constitution to prohibit the legislature from passing laws that cost local school systems significant dollars unless the state provides the funding or the new law is approved by two-thirds vote of the legislature. This requirement already exists for other local political bodies. The unfunded mandates prohibition will not apply to the MFP or the school

accountability program. Voters will consider the constitutional amendment at the statewide general election in September, 2006.

- Dual Enrollment Pilot Program - **ACT 668** (SB 749 Nevers) - Sets up a two-year pilot program in two parishes beginning in 2007 to allow dual enrollment between high schools and community technical colleges for students between the ages of 16 and 21. BESE will oversee implementation of the program with plans to expand it statewide by 2010. This is an effort to address the state's high school dropout rate by providing alternative job training and educational programs for the students. The goal is to enroll at least 10% of the identified potential dropouts in the participating school systems in the dual enrollment programs.
- Textbook Inspections - **ACT 804** (HB 1334 Crowe) - Expands the length of time from 60 to 90 days for the public to inspect proposed new public school textbooks at various public libraries around the state. Increases the number of libraries that must offer the textbooks for inspection and allows the public to check out the books for further review.
- Foster Children College Tuition - **ACT 738** (HB 1287 C. Gray) - Provides free college tuition and exemption from mandatory fees for foster care children at public colleges and universities. The program does not take effect until the money to fund the program - about \$425,000 a year - is appropriated.
- College Student Vaccinations - **ACT 711** (HB 768 Strain) - Establishes a phased-in process for the required vaccination of Louisiana college students against bacterial meningitis, beginning with first-time college freshmen and students living in campus housing. Students who have a medical reason to not be vaccinated or have religious objections are exempt. ***Because of a shortage of the vaccine, this measure replaces an earlier bill passed at the session that mandated the vaccination for all students at public colleges and universities beginning with the 2006 fall session.

Public Health & Health Care Issues -

- Smoking Issues -
 - **ACT 815** (SB 742 Marionneaux) - Establishes the Louisiana Smokefree Air Act which bans smoking in most public facilities including restaurants. Allows smoking in casinos, race tracks, bars, designated smoking rooms in hotels, retail tobacco stores, privately hired limousines, outdoor areas at restaurants and designated, well-ventilated areas at nursing homes. Smoking will also be allowed in state, local and private correctional facilities until Aug. 15, 2009. Violators of the state smoking ban face fines of \$25 to \$500 depending on the number of offenses and whether or not the violator is a smoker or a facility that does not comply. It is estimated that about 1200 deaths each year in Louisiana are attributable to second-hand smoke. The effective date of the smoking ban is Jan. 1, 2007.
 - **ACT 838** (HB 1010 Gary Smith) - Prohibits smoking in a vehicle carrying a child in a child restraint or safety seat. Children up to 8 years of age are usually required to ride in safety seats. Violators face \$150 fine or community service.
- Health Care Policy & Financing -
 - **HCR 127** (Durand) - Creates the Louisiana Health Care Redesign Collaborative, composed of a cross-section of health care interest groups, to assist in the

development of recommendations and plans to for the redesign of the health care system in the Orleans area. A committee of the collaborative will serves as an advisory body to the secretary of DHH for the development of recommendations and plans for the redesign of the health care system in the Hurricane Rita-impacted areas. Reports on both efforts are due no later than Dec. 31, 2007. *Since the passage of the resolution, the LRA and representatives of the collaborative signed an agreement to provide the federal government with a plan to build a new health care delivery system in Orleans, Jefferson, St. Bernard and Plaquemines parishes by Oct. 20, 2006. The federal government wants the new system to provide for health-care dollars to follow patients rather than institutions; to pay doctors and hospitals more for improved care and services; to give senior citizens and the disabled more options for home-based care rather than institutional care.

- **ACT 465** (SB 564 Bajoie) - Creates the office for aging services within DHH to better focus and coordinate the delivery of long-term care services to the elderly.
- **ACT 848** (SB 613 Cheek) - Places in state law the Medicaid reimbursement formula for nursing homes previously defined by state rule. Also allows a nursing home to have its rates adjusted every three months, instead of once a year. State budget cuts to nursing homes will still be allowed, but only according to the formula. Supporters say the law is needed to provide more stability for the industry as to financing.
- **ACT 801** (HB 1262 Salter) - Requires DHH to develop a plan to increase pharmacy dispensing rates up to \$15 per prescription, with the increased rates taking effect Jan. 1, 2007. The increase is dependent on available funds appropriated for the increase and funds generated from savings realized through the implementation of changes in other reimbursement rates mandated by the federal government. The plan will be submitted to the Centers for Medicare and Medicaid Services (CMS) and, if approved, then submitted to the Commissioner of Administration and the Joint Budget Committee for approval. The rate increases are necessary because of action taken by Congress that significantly reduced the reimbursement rates for the ingredient costs of generic prescription drugs in the medical assistant program. The federal rate reductions are threatening the existence of small, independent pharmacists.
- Donation of Surplus Drugs -
 - **ACT 643** (SB 19 McPherson) - Requires hospitals, health care facilities and governmental entities enrolled in the Medicaid program, except those operated by an agency or department of the executive branch, to attempt to donate intact single-unit doses of surplus medications to charitable pharmacies. If the pharmacy is located more than 20 miles from the facility, the charitable pharmacy will have the responsibility of picking up the drugs.
 - **ACT 797** (HB 1235 Labruzzo) - Authorizes the same hospitals, health care facilities and governmental entities outlined in SB 19 to offer the surplus drugs to the state corrections department for use in penal institutions.
- Community & Family Support - **ACT 555** (SB 746 Broome) - Creates the Community and Family Support System Fund to accept money generated from the sale or lease of property

operated by the state Office of Citizens with Developmental Disabilities. The use of money, appropriated on an annual basis once funds are available, is limited to increasing the number of “waiver” slots available for developmentally disabled citizens opting for home and community-based services. This year there are almost 15,000 people on the waiver waiting list with the average wait to be eligible for the alternative assistance 11 years. About 1500 people are still living in nine state-run development centers, down from about 6000 several years ago. About 400 new waiver slots have been added over the past four years and the 06-07 budget includes funding for additional 200 slots.

Government Reform, Ethics & Campaign Finance -

- Orleans Parish Government Consolidation -
 - Courts, Sheriffs, Etc. - **ACT 621** (SB 645 Mount) - In an effort to address the fragmented and inefficient Orleans Parish court system and related offices, this measure consolidates the various operations of the judiciary. Creates the 41st Judicial District Court as of Jan. 1, 2009, merging the civil and criminal courts with the current juvenile court merged into the new district by Jan. 1, 2015. Combines the criminal and civil sheriffs into one office and the civil and criminal clerks’ offices into one civil clerk office by May 3, 2010. The offices of recorder of mortgages, register of conveyances and custodian of notarial archive will be abolished Jan. 1, 2009 with the duties transferred to the civil clerks’ office. The measure allows all current elected officials to complete their full terms to 2010. Starting Jan. 1, 2007, the expense funds of the courts will be merged with an eight-judge panel to administer the fund. A previously authorized state Supreme Court study to determine the number of judges needed in all courts across the state will continue.
 - Assessors - **ACT 863** (SB 141 Duplessis) (CA) **ACT 622** (SB 647 Statute) - Proposes a change in the state constitution to reduce the number of assessors in New Orleans from seven to one. Will be considered at Nov. 7 2006 statewide election. The constitutional amendment must be approved by a majority of the voters statewide and by a majority of the voters in Orleans Parish. If approved by voters, the consolidation detailed in the statute will be effective Jan. 1, 2007. Supporters estimate the move will save the parish over \$650,000 a year.
- Public Contracts - **ACT 849** (HB 850 Beard) - Prohibits people with contracts, subcontracts, etc. for hurricane recovery activity when those contracts are not publicly and competitively bid from making campaign contributions to elected officials with jurisdiction over the work. Prohibits elected officials from receiving such contributions. Prohibition effective for three years from the effective date.
- Secretary of State Campaign Contributions Prohibition - **ACT 415** (HB 1051 Cazayoux) - Prohibits the secretary of state as the state’s chief elections officer from being involved in national, state, or local party politics and prohibits that person from endorsing a candidate or raising money for other candidates. The restrictions are similar to those imposed on judges.
- Nepotism Exceptions -

- **ACT 833** (HB 675 McVea) - In an effort to meet the needs of small, rural school districts as to qualified administrators and the retention of qualified educators in the school system, this measure expands exceptions in current ethics law as to the employment of an immediate relative of a member of governing authority by that authority to allow parishes with a population of 26,000 or less to promote a classroom teacher to an administrative position, even if the classroom teacher is the relative of a school board member of school superintendent.
- **ACT 798** (HB 1239 Monica Walker) - Authorizes members of zoning commissions in parishes with fewer than 50,000 people to not vote on issues before them when a conflict of interest arises.

Elections Issues -

- Early Voting Issues -
 - Pilot Program - **ACT 349** (HB 674 Waddell) - Authorizes secretary of state to set up a pilot program in up to four parishes to allow early voting in remote locations. The pilot program requires the pilot between Sept. 1, 2006 and Jan. 1, 2008. The pilot early voting program could not be applied to more than four elections. Requires a report back to the legislature by March 1, 2008.
 - **ACT 569** (SB 86 Jones) - Requires registrar of voters' offices to remain open until 4:30 PM on the Saturday during early voting. Current law sets the Saturday early voting hours between 8:30 AM and noon.
- Election Dates -
 - **ACT 705** (HB 604 Mike Powell) - Eliminates the January election date for local elections. estimated savings of about \$525,000. Will still have the July election date specifically for local elections.
 - **ACT 560** (SB 18 Fields) - Eliminates the state's open primary election system for Congressional elections which has been in place for some 30 years and creates a closed "party" system for congressional seats. Republican and Democratic primaries will occur in September with any needed run-off occurring in October. The general election will occur in November as in other states. Independent voters will chose which party primary to vote in, if the party decides to allow independent voting. Effective Jan. 1, 2007, if the new primary process is approved by the U.S. Justice Department.
 - **ACT 845** (HB 1307 Hutter) - Moves the date of the presidential preference primary in Louisiana from the second Tuesday in March to the second Saturday in February. If the February date falls during Mardi Gras, the primary shall occur on the third Saturday in February. Supporters hope holding the presidential primary earlier will attract more presidential hopefuls to Louisiana and force the candidates to focus more on Louisiana's needs. The early primary date will place Louisiana 15th in the list of primaries rather than 32nd and the state will no longer be competing with Texas and Florida for candidates' attention during the presidential primaries.

- Candidate Disqualification - **ACT 598** (SB 427 Chaisson) - Requires state election officials to disqualify a candidate who signs up to run for more than one office in the same election from all races except the last office for which qualifying papers were filed.
- Term of Office Changes - **ACT 403** (HB 909 Bruneau) - Included in this bill addressing routine changes in state election law is a clause that ties the official beginning of a member of the legislature's term of office, when that member is elected to fill an unexpired term in a special election, to the date the member takes the oath of office before the full Senate or House. The change effects two current members of the legislature who would be term limited at the end of this term without the change in election law since the delay in the "official" swearing-in date means these two members served less than two years of one term. Generally, a legislator's term of office elected in a special election begins when the election results are certified and their commission is sworn and signed. However, the state constitution says the members of the legislature judge the qualifications of the membership.

Retirement & Public Employee Issues

- Retirement Cost of Living Increases - **SCR 94** (B. Gautreaux) - Authorizes a 2.4% cost of living increase for most retired state workers. The raise will apply to about 32,000 retired state workers who are members of the Louisiana State Employees Retirement System and are at least 55 and have been retired for at least one year. As required by state law, the raise is funded from better-than-expected return on investments. Retirees last received a raise four years ago. The cost of living rose by 3.4% in 2005 alone.
- Early Retirement/State Employee Reductions - **ACT 672** (HB 45 Triche) - Allows state employees early retirement if at least 50 years old and have ten years of service at a reduced benefit rate. Participants will receive a retirement benefit equal to as much as 2% of their average compensation multiplied by the number of years of creditable service. Only one in every 3 positions left vacant can be refilled in any fiscal year. Certain agencies and departments are exempt from the "no rehire" requirement. To take advantage of the program, employees will have to retire from Jan. 1, 2007 through Dec. 31, 2008. It is estimated that the early retirement, employee reduction measure will save the state about \$1 million in the coming year.
- Retirement Benefit Computation Changes - **ACT 780** (HB 922 Schneider) - Beginning July 1, 2006, changes the average compensation calculation period from 36 months to 60 months for new employees in the following retirement systems - assessors, clerks of court, municipal employees, parochial employees, registrars of voters and sheriffs. A series of other bills addressing different issues in the school employees' retirement system were amended to include school employees in the new calculation requirement.
- Firefighters' Survivor Benefits - **ACT 480** (HB 586 Greene) - Increases the benefits to the surviving spouse or if there is no spouse, the surviving children of a police officer or firefighter killed in the line of duty from \$150,000 to \$250,000. Keeps current law that provides an additional \$25,000 to each surviving child and \$250,000 to designated beneficiary or estate. Makes the changes retroactive to July 11, 2005 to make sure the families of two officers killed in the line of duty last year are eligible for the increased benefits.

- Public Officials Payraises -
 - **ACT 638** (HB 126 Toomy) - Increases the salaries of state judges by nearly 10% over two years. Since sheriffs' pay is tied to judicial salaries, the measure also increases sheriffs' pay. The judges' pay raises amount to between \$9000 and \$10,000 more a year when the raises are fully implemented. The pay of Louisiana Supreme Court judges will increase to \$129,187 from \$118,301. The pay of court of appeals judges increases to \$122,583 from \$112,040 now. The pay of district and municipal judge will increase to \$116,400 from \$105,780. The cost of the judges' raises in the coming budget year are \$4 million. The Judicial Compensation Commission, which recommended the raises, notes that even with the raises, district judges in Louisiana will still make about \$5000 less than the southern regional average. The sheriffs' salary increases are dependent on local funds.
 - **ACT 790** (HB 1178 Toomy) - Increases the salaries of parish assistant district attorneys by \$10,000 over two years. The assistant DA's have not received a state pay raise since 1991. The cost of the raise once fully implemented is \$5.8 million.

Gambling Issues -

- Fair Grounds Race Track Slots - **ACT 591** (SB 353 Murray) - Authorizes 700 slot machines, with no required phase-in, at the Fair Grounds race track in New Orleans. As required in current law, the Gaming Control Board has certified that revenues at Harrahs Casino have reached the required level to allow the slot machines at the race track. The measure also increases the allocation of slot revenue from the track for the Greater New Orleans Sports Foundation from \$350,000 to \$1 million.

Other Issues -

- Abortion Prohibition - **ACT 467** (SB 33 Nevers) - Prohibits abortions except to save the life of the mother or to prevent substantial risk of death due to a physical condition or to prevent the permanent damage of a life-sustaining organ. There is no exception for rape or incest, although the bill does allow rape and incest victims to seek contraceptive treatment after an attack to try to prevent fertilization. Such treatments are usually administered within 72 hours to be effective. The abortion ban does not take effect unless the U.S. Supreme Court overturns the Roe vs. Wade decision legalizing abortion procedures. There is already language in Louisiana law that says the state allows abortions only because the U.S. Supreme Court has ruled that abortions are legal and states that if that ruling is ever overturned then the former policy of prohibiting abortions shall be enforced. Penalties for the person performing the abortion are 1- 10 years in jail and/or fines of \$10,000 to \$100,000.
- Ten Commandments Display - **ACT 602** (SB 476 Cain) - Authorizes the display of the Ten Commandments, as extracted from the Bible, and other documents of religious historical significance such as the Mayflower Compact in government buildings. The bill is modeled after Texas law that was ruled constitutional by the Supreme Court of the United States as to the separation of government and religion.

- Prestige License Plates - **ACT 303** (HB 1257 Scalise) - Creates two new prestige license plates, one in support of our troops and one to promote motorcycle awareness and safety. Both tags must have at least 1000 motorists to request the tags before they are issued. The \$25 special tag fee for the troops plate will go to Support Our Troops, Inc. The tag fee for the motorcycle tag will finance motorcycle safety programs.
- State Cultural Poem - **ACT 843** (HB 1291 Smiley) - Designates "I Am Louisiana" by Jackson Mississippi radio personality Paul Ott and performed by the late humorist Justin Wilson of Amite as the state's cultural poem. Louisiana already has an official Senate poem and an official judicial poem.