

State and Local Government in Louisiana: An Overview



An introduction to government in Louisiana revised quadrennially and intended to serve as background information for newly elected members of the Louisiana House of Representatives.

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TABLE OF CONTENTS

Introduction	1
Chapter 1 – Organization of State Government	1A-1
Part A. The Legislative Branch	1A-1
Part B. The Judicial Branch	1B-1
Part C. The Executive Branch	1C-1
Chapter 2 – State Government Functions	2A-1
Part A. State Government Finance	2A-1
Part B. Public Safety and Corrections	2B-1
Part C. Education	2C-1
Part D. Health and Social Services	2D-1
Part E. Transportation and Infrastructure	2E-1
Part F. Natural Resources and the Environment	2F-1
Part G. Business and Labor	2G-1
Part H. Insurance	2H-1
Part I. Culture, Recreation and Tourism	2I-1
Part J. Public Officials and Public Employees	2J-1
Part K. Ethics and Related Matters	2K-1
Part L. Administrative Procedure	2L-1
Part M. Homeland Security and Emergency Preparedness	2M-1
Chapter 3 – Local Government	3A-1
Part A. Structure and Organization	3A-1
Part B. Constitutional Offices	3B-1
Part C. Local Civil Service	3C-1
Part D. Local Government Finance	3D-1

INTRODUCTION

State and Local Government in Louisiana: An Overview is published by House Legislative Services to provide an introduction to government in Louisiana at both the state and local levels. It is revised quadrennially and is primarily intended to serve as background information for newly elected members of the Louisiana House of Representatives.

State government in Louisiana is comprised of three coordinate and coequal branches, namely the executive, legislative, and judicial branches. The constitution and laws of the state distribute the powers of state government among the three branches. As a general principle, no branch of state government, nor any person holding office in any one of them, may exercise power belonging to another branch. This is referred to as the doctrine of the separation of powers and is common to the national government and all state governments.

The legislature is responsible for determining policy through the enactment of laws, subject to federal and state constitutional restrictions. In addition to general laws having statewide application, the legislature may also enact laws applying only to particular localities, but this power is subject to a number of specific constitutional limitations. The appropriation of funds to finance programs and functions of state government is a power vested solely in the legislature. Oversight of implementation and administration of state programs by executive branch agencies is another major legislative power.

The legislative branch includes the legislature, which is comprised of the House of Representatives and the Senate, as well as the officers and employees of the two houses and certain other officers and agencies responsible to the legislature. (See "Chapter 1, Part A. The Legislative Branch" beginning on page 1A-1.)

Article V of the Louisiana Constitution establishes the judicial branch and specifies the judicial power of state government. The judicial power of the state, which is the power to interpret the constitution and the laws of this state, is vested in a system of courts including the supreme court, courts of appeal, district courts, and courts of limited or specialized jurisdiction, which include family, juvenile, parish, city, municipal, traffic, justice of the peace, and mayor's courts. In the Louisiana court structure, there are five courts of appeal, 42 district courts, five family or juvenile courts, 50 city courts, and three parish courts. (See "Chapter 1, Part B. The Judicial Branch" beginning on page 1B-1.)

The executive branch is generally responsible for the administration and enforcement of the constitution and laws. The governor is the chief executive officer of the state. In accordance with authority granted by law, or by the constitution for certain agencies, many executive branch agencies exercise the power to make rules concerning particular aspects of general policy. The complexity of day-to-day operations of state government makes necessary this delegation of or sharing in the powers of the legislature. (See "Chapter 1, Part C. The Executive Branch"

Three Branches of State Government Legislative Executive Judicial

"The powers of government of the state are divided into three separate branches: legislative, executive, and judicial." (La. Const. Art. II, Sec. 1)

"Except as otherwise provided by this constitution, no one of these branches, nor any person holding office in one of them, shall exercise power belonging to either of the others." (La. Const. Art. II, Sec. 2)

beginning on page 1C-1.)

Fiscal responsibilities are shared by the governor and the legislature. The governor is responsible for preparing and submitting to the legislature both a fiscal year operating budget and a five-year capital outlay program. The legislature is empowered to appropriate funds for these and other purposes. The governor may veto any line item in an appropriation bill, but the legislature by a two-thirds vote may override a gubernatorial veto. Both the governor and the legislature are charged with ensuring that total appropriations for any fiscal year do not exceed anticipated revenues for that year. Legislative appropriations cannot exceed the official revenue forecast and, with certain exceptions, cannot exceed the expenditure limit for the fiscal year. However, the legislature may change the expenditure limit with a two-thirds vote of the elected members of each house. (See "Chapter 2, Part A. State Government Finance" beginning on page 2A-1.)

Local governments are also an important element of governing in Louisiana. In addition to parishes and municipalities, which have authority to deal with a wide variety of local issues, there are also numerous "special districts" in Louisiana. Generally a special district is created to levy a tax and provide a single governmental service in a specified local jurisdiction. These districts may be created by the legislature itself or by municipal or parish governments. Some examples of services provided by special districts in various areas throughout the state include: fire protection, hospitals, drinking water, levee maintenance, 911 emergency response service, and many others. Additionally, local governmental subdivisions (parishes and municipalities) are vested with broad power to cooperate with each other and to consolidate or merge special districts or other local public agencies into themselves. (See "Chapter 3, Part A. Structure and Organization" beginning on page 3A-1.)

Classically, under the Tenth Amendment to the U.S. Constitution, local governments are creatures of the state and are authorized to exercise only the powers specifically granted to them by the state. However, the Constitution of Louisiana provides that a parish or municipal governing authority may, if the local voters authorize it to do so, exercise any power that it is not prohibited from exercising. The constitution also authorizes and includes procedures for parishes and municipalities to adopt home rule charters. A home rule charter is akin to a local constitution in that it provides for the organization and authority of the local government. The adoption of a home rule charter is subject to local voter approval. In addition to having the authority to exercise powers not otherwise denied, the constitution provides that a home rule charter government is protected from certain types of legislative interference. Many municipalities and parishes around the state have adopted such charters.

Local governments remain dependent upon the state as a source of revenue to a significant degree. This is due, in part, to greater sources of revenue at the state level and to limitations upon the powers of local governments to raise revenues. The constitution mandates that certain revenue-sharing funds be distributed to local governments and political subdivisions. Statutes provide for other types of financial assistance by the state to local governments. Issues relating to sharing of responsibility for certain governmental functions by the state and local governments, the proper level of state financial assistance to local governments, and the appropriate balance between the taxing authority of the state government and of local governments continue to be important ones. (See "Chapter 3, Part C. Local Government Finance" beginning on page 3C-1.)

This is but a brief outline of the topics discussed in this overview of *State and Local Government in Louisiana*.

Chapter 1 – Organization of State Government

Part A. The Legislative Branch	1A-1
Legislative Powers	1A-1
Members	1A-1
Terms, Vacancies, and Temporary Successors	1A-1
Officers	1A-2
Sessions of the Legislature	1A-2
Continuous Body	1A-3
The Governor and the Legislature	1A-3
Additional Information About the Legislature	1A-3
Table: Annual Regular Legislative Session - Key Constitutional Provisions	1A-4

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 1 — ORGANIZATION OF STATE GOVERNMENT

Part A. The Legislative Branch

Legislative Powers

The Constitution of Louisiana establishes the legislative branch as one of the three branches of state government, vests it with the legislative power of the state, and provides that it consists of the Senate and the House of Representatives. Subject to limitations provided by the federal and state constitutions, the legislature is responsible for determining general policy for state government and the state's residents by the enactment of laws. The legislature and its committees also have the power to gather information and make investigations needed to enact laws. (Const. Art. II, §1 and Art. III, §1(A))

Legislative responsibility does not end with enactment; the legislature has an obligation to assure that legislative policy and intent are carried out by the executive branch. Therefore, oversight of the actions of the executive branch in administering state programs is another traditional legislative power. Two common ways the legislature exercises such oversight are hearings in which agency personnel and others discuss the implementation of the law and committee review of administrative rules proposed by executive branch agencies.

Members

The constitution sets the maximum number of senators at 39 and the maximum number of members of the House of Representatives at 105. (Const. Art. III, §3) Currently both houses are composed of the maximum number of members. The constitution requires single-member legislative districts; that is, each member of each chamber represents a separate district. (Const. Art. III, §1) The representation in both houses is based on population in accordance with state constitutional mandate and U.S. Supreme Court decisions. The legislature is required to redraw its districts by the end of the year following a decennial census year. (Const. Art. III, §6)

Terms, Vacancies, and Temporary Successors

Legislators are elected for four-year terms. Anyone who has been elected to serve more than two and one-half terms in three consecutive terms may not be elected to the succeeding term in the same house. (Const. Art. III, §4(E))

A legislative vacancy may be filled only for the remainder of the term during which it occurred and only by election of the voters of the district in which the vacancy occurred. (Const. Art. III, §4(D))

The state constitution and state law adopted pursuant to the constitution provide for an appointed, temporary member to succeed to the powers of an elected member who is ordered to active duty in the U.S. armed services. (Const. Art. III, §4(F); R.S. 24:77.1 et seq.)

Officers

The officers of each house of the legislature are elected at the beginning of each term to serve for the term. The House of Representatives elects from among its members a speaker and speaker pro tempore. It also elects its chief clerical officer, the clerk of the House, who is not a member. The Senate elects its presiding officer, the president of the Senate, from among its membership and also elects a president pro tempore from its membership. It selects its chief clerical officer, the secretary of the Senate, who is not a member of the Senate. The rules of the respective houses provide for such elections. (Const. Art. III, §7(C); R.S. 24:501 et seq.; House Rules 2.1 - 2.10; Senate Rules 3.1-3.11)

The rules of the respective chambers also provide for a sergeant at arms. The sergeant at arms of the House of Representatives is appointed by the speaker and serves at his pleasure. The Senate's sergeant at arms is elected by the senators. (House Rule 2.11; Senate Rule 3.8)

Sessions of the Legislature

The constitution requires that an organizational session be convened on the day the members take office (the second Monday in January after the quadrennial election). Organization of the two houses, including selection of officers, is the major purpose of an organizational session. Resolutions and rules can be adopted, but no matter intended to have the effect of law may be introduced. Such a session cannot exceed three legislative days. (Const. Art. III, §2(D)) A legislative day is a calendar day on which either house is in session. (Const. Art. III, §2(A)(1))

The state constitution provides that the legislature shall meet in regular annual sessions as follows:

- Even-numbered years: Convene at noon on the second Monday in March for not more than 60 legislative days within 85 calendar days. During such sessions, the legislature may consider legislation on almost any topic except certain matters related to state taxes.
- Odd-numbered years: Convene at noon on the second Monday in April for not more than 45 legislative days within 60 calendar days. During such sessions, the legislature may consider various fiscal matters, including tax issues that are prohibited during even-numbered year sessions, and most local issues. The legislature may also consider other matters during such sessions, but bills dealing with other matters must be prefiled, and a member may prefile not more than five such bills.

The table on page 1A-4 summarizes constitutional provisions applicable to regular legislative sessions and discusses the differences between sessions in even-numbered years and those in odd-numbered years.

Extraordinary sessions, commonly referred to as special sessions, may be convened by the governor at other times. Also, an extraordinary session is called by the presiding officers of the legislature if a petition signed by a majority of the members of each house requests them to do so. An extraordinary session is called by issuance of a proclamation which states the date on which it will convene, its maximum duration, and the objects on which legislation may be considered. (Const. Art. III, §2(B))

The constitution also requires that the legislature meet in a veto session after any regular or extraordinary session unless a majority of the members of either house declare in writing that a veto session is unnecessary. (Const. Art. III, §18(C))

Continuous Body

Though the legislature is not always in session, the constitution provides that the legislature is a continuous body during the time for which its members are elected. (Const. Art. III, §1(B)) Thus, legislative rules continue to be effective even when the legislature is not in session, and standing committees of the legislature have authority to conduct studies and hearings during the interim between sessions.

The Governor and the Legislature

Though the executive branch is separate and distinct from the legislative branch, the governor exercises certain powers that affect the legislature. In addition to calling extraordinary sessions, as discussed above, the constitution directs the governor, at the beginning of each regular session and at other times, to make reports and recommendations and to give information to the legislature concerning “the affairs of state, including its complete financial condition.” It also requires that he submit to the legislature an operating budget and a capital budget for each fiscal year. (Const. Art. IV, §5) The governor may veto any item in an appropriation bill and any bill passed by the legislature, except proposed constitutional amendments. The legislature can override a gubernatorial veto with a two-thirds vote of both houses. (Const. Art. III, §18 and Art. IV, §5)

Additional Information About the Legislature

As suggested by the title of this publication, this Part is not intended as a comprehensive review of legislative organization and procedure; rather, it provides an overview of the legislature. A separate publication, "Orientation Guide for Louisiana House Members", provides detailed information concerning the legislative branch.

The rules governing House procedure are contained in a body of rules officially adopted by the House of Representatives. These rules remain continuously in effect and are subject to amendment by the House as provided in the rules. They are published in a separate publication, "Rules of Order of the House of Representatives". The rules, together with the state constitution, comprise the major primary sources for specific information about the powers and functions of the legislature and its officers, as well as legislative organization and procedure.

In addition to the publications discussed above, the "Quick Guide to Committee Procedure in the Louisiana House of Representatives" and "Quick Guide to Floor Procedure in the Louisiana House of Representatives" provide practical, detailed information about House procedure. They include examples of the actual language used in making motions and in other parliamentary practice.

Annual Regular Legislative Sessions ~ Key Constitutional Provisions

Provision	Regular Sessions Even-Numbered Years	Regular Sessions Odd-Numbered Years
When session convenes	Noon, second Monday in March	Noon, second Monday in April
Maximum session length	60 legislative days in 85 calendar days	45 legislative days in 60 calendar days
Subject matter limitations	Prohibition on introducing or enacting any measure levying or authorizing a new tax or a tax increase by the state or by a statewide political subdivision or legislating with regard to state tax exemptions, exclusions, deductions, or credits	Prohibition on introduction or consideration of measure having effect of law (including suspension) unless its object is to enact a general appropriations bill; enact the comprehensive capital budget; make an appropriation; levy or authorize a new tax; increase an existing tax; levy, authorize, increase, decrease, or repeal a fee; dedicate revenue; legislate with regard to tax exemptions, exclusions, deductions, reductions, repeals, or credits; or legislate with regard to the issuance of bonds. Restrictions do not apply if: (1) The matter is prefiled by the prefiling deadline (this exception is limited to five such matters per member per session); or (2) The object of the matter is to enact a local or special law which is required to be and has been advertised in accordance with Const. Art. III, Sec. 13 and is not prohibited by Const. Art. III, Sec. 12
Number of bills member may introduce	Unlimited, except no more than five bills after prefiling deadline ¹	
Deadline for pre-filing of bills (except constitutional amendments)	5 p.m. on the 10th calendar day prior to 1st day of session	
Deadline for bill introduction (except constitutional amendments)	6 p.m. of the 23rd calendar day; bill introduction after deadline not permitted	6 p.m. of the 10th calendar day; bill introduction after deadline not permitted
Deadline for constitutional amendments	Noon on the 10th day prior to the 1st day of session; introduction during session not permitted	
Deadline for 3rd Reading / Final Passage	6 p.m. of 57th legislative day or 82nd calendar day, whichever occurs first (except by 2/3 vote of both houses)	6 p.m. of 42nd legislative day or 57th calendar day, whichever occurs first (except by 2/3 vote of both houses)
Latest time for adjournment sine die	6 p.m. on 85th calendar day or midnight on 60th legislative day, whichever occurs first	6 p.m. on 60th calendar day or midnight on 45th calendar day, whichever occurs first

¹ Joint Rule No. 18 provides that the following bills are not subject to five-bill limit: general appropriation bill; judicial branch appropriation; legislative branch appropriation; capital outlay bill; omnibus bond authorization bill; supplemental appropriations bill; revenue sharing bill; ancillary funds bill.

Chapter 1 – Organization of State Government

Part B. The Judicial Branch	1B-1
Judicial Branch Overview	1B-1
State Courts	1B-1
Supreme Court	1B-1
Courts of Appeal	1B-2
District Courts	1B-4
Courts of Limited and Specialized Jurisdiction	1B-4
Juvenile Courts/Family Courts	1B-4
Parish Courts	1B-5
City Courts	1B-5
Municipal and Traffic Courts of New Orleans	1B-5
Justice of the Peace Courts	1B-6
Issues Concerning the State Judiciary	1B-6
Funding of State Courts	1B-6
Court Costs and Fees	1B-6
Creation of New Courts	1B-6
Redistricting/Minority Subdistricts	1B-7
Judicial Compensation	1B-7
Judicial College	1B-8
Judicial Misconduct	1B-8
Emergency Sessions of Court	1B-8
Case Management Information System	1B-8
Table: Louisiana Court Structure - Supreme Court	1B-9

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 1 — ORGANIZATION OF STATE GOVERNMENT

Part B. The Judicial Branch

Judicial Branch Overview

Article V of the Louisiana Constitution establishes the judicial branch of state government. The judicial power of the state, which is the power to interpret the constitution and the laws of this state, is vested in a system of courts including the supreme court, courts of appeal, district courts, and courts of limited or specialized jurisdiction, which include family, juvenile, parish, city, municipal, traffic, justice of the peace, and mayor's courts. In the Louisiana court structure, there are five courts of appeal, 42 district courts, five family or juvenile courts, 50 city courts, and three parish courts. (See the "Louisiana Court Structure" chart on page 1B-9.)

In Louisiana, judges are elected by the voting electorate of their districts. Other states have varying methods of selecting judges. In some states, judges are nominated by a judicial selection committee and are appointed either by the governor or the legislature.

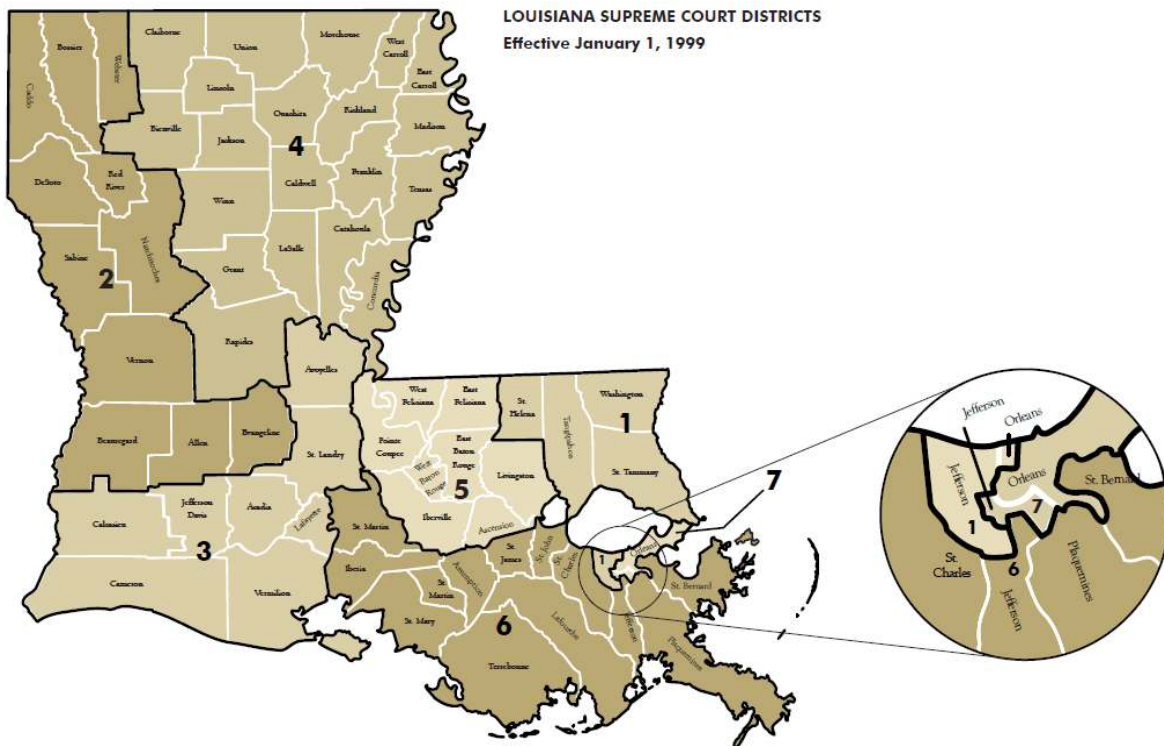
State Courts

Supreme Court

The supreme court is Louisiana's highest court and is domiciled in the city of New Orleans. The state constitution requires that the state be divided into at least six supreme court districts and that at least one judge be elected from each district (Const. Art. V, §4). Currently, Louisiana is divided into seven supreme court districts (See R.S. 13:101 and 101.1) (See the map on the next page). The supreme court is composed of a chief justice and six associate justices, four of whom must concur to render judgment (Const. Art. V, §3).

The supreme court has the following jurisdiction:

- General supervisory jurisdiction over all other courts.
- Exclusive original jurisdiction of disciplinary proceedings against a member of the bar.
- Appellate jurisdiction over any case in which a law or ordinance has been declared unconstitutional.
- Appellate jurisdiction over any case in which the defendant has been convicted of a capital offense and a penalty of death actually has been imposed.
- Appellate jurisdiction over all issues involved in a civil action properly before it.



The scope of review of the supreme court in civil cases extends to both law and facts, and in criminal cases its appellate jurisdiction extends only to questions of law (Const. Art. V, §5). In addition, the supreme court has sole authority to provide by rule for appointments of attorneys as temporary or ad hoc judges of city, municipal, traffic, parish, juvenile, or family courts and may establish procedural and administrative rules not in conflict with law (Const. Art. V, §5).

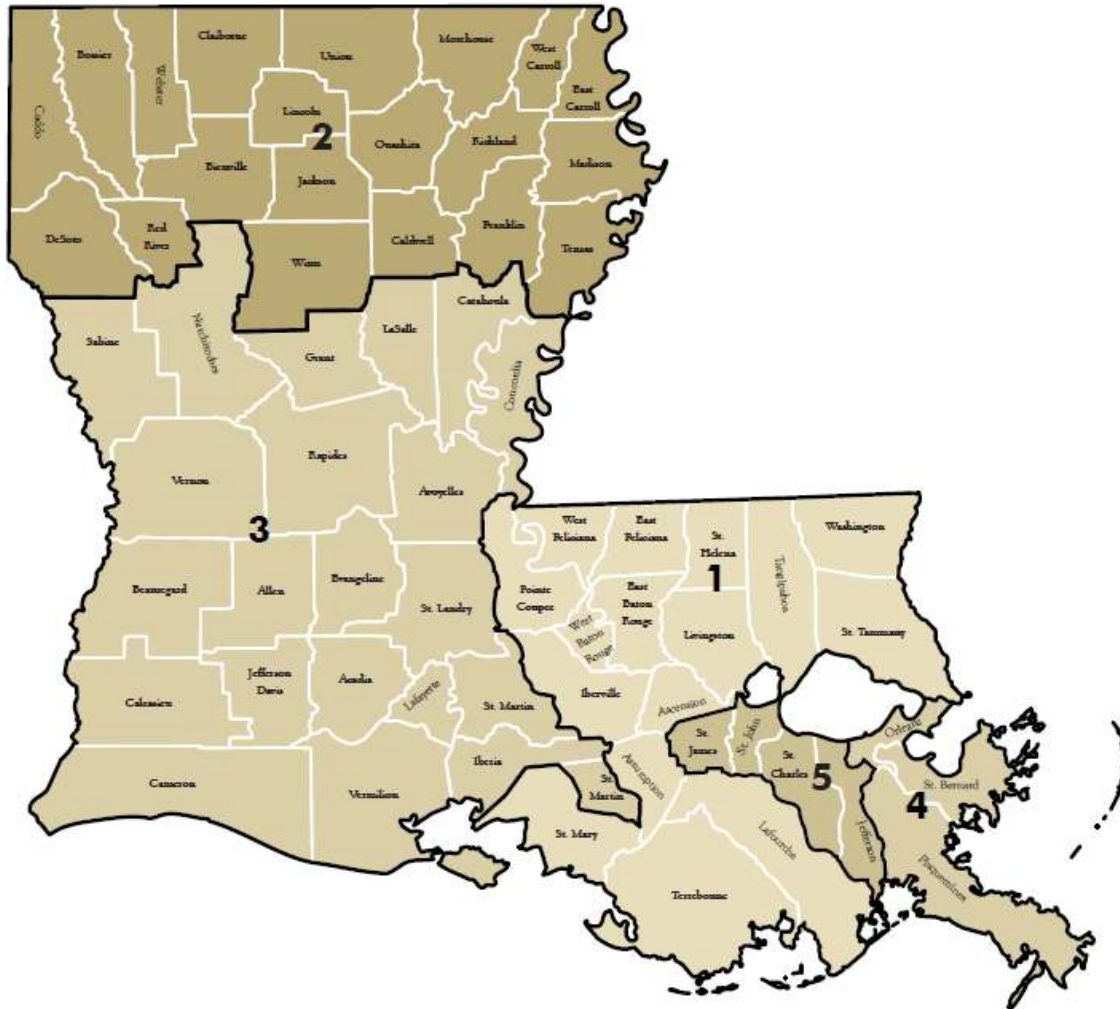
Supreme Court Districts

First District - Justice Greg Guidry
 Second District - Justice Jeffrey Victory
 Third District - Justice Jeannette Theriot Knoll
 Fourth District - Justice Marcus Clark
 Fifth District - Chief Justice Catherine Kimball
 Sixth District - Justice John Weimer
 Seventh District - Justice Bernette Johnson

The term of a supreme court judge is 10 years, and the judge with seniority on the supreme court shall serve as the chief judge.

Courts of Appeal

The Louisiana Constitution (Const. Art. V, §8(A)) requires that the state be divided into at least four circuits, each having a court of appeal. State law currently provides for five court of appeal circuits. (R.S. 13:312) (See the map on the next page.) Each circuit is required to be divided into at least three districts, with at least one judge elected from each such district. (Const. Art. V, §9) Each court of appeal sits in panels of at least three judges, and a majority of the judges sitting in a case must concur to render judgment. There are exceptions to this general rule, requiring a panel of five judges, in certain civil matters where a judgment of a district court is to be modified or reversed and in administrative agency determinations in workers' compensation claims.



Except in cases appealable to the supreme court and except as otherwise provided by the constitution (Const. Art. V, §10(A)), a court of appeal has jurisdiction over the following matters:

- Appellate jurisdiction of all civil matters, including direct review of administrative agency determinations in workers' compensation matters, all matters appealed from family and juvenile courts, and all criminal matters triable by a jury, except capital cases where the death penalty has been imposed.
- Jurisdiction of appeals from civil judgments of city courts and parish courts (C.C.P. Art. 5001 and R.S. 13:1452).
- Supervisory jurisdiction over cases which arise within its circuit (Const. Art. V, §10(A)).

Except as limited to questions of law by the constitution, or as provided by law in the review of administrative agency determinations, appellate jurisdiction of a court of appeal in civil matters extends to law and facts (Const. Art. V, §10(B)). In criminal matters, its appellate jurisdiction extends only to questions of law (Const. Art. V, §10).

The term of an appellate court judge is 10 years and the judge with seniority on each court of appeal shall serve as the chief judge of that court.

District Courts

The Louisiana Constitution (Const. Art. V, §14) requires that the state be divided into judicial districts, each composed of at least one parish and served by at least one judge. Currently, there are 42 judicial districts in the state, each constituting a district court. The parish of Orleans is served by a civil district court and a criminal district court, which courts will become consolidated into the 41st Judicial District, effective December 31, 2014.

District courts have jurisdiction as follows:

- Original jurisdiction of all civil and criminal matters except as otherwise provided by the state constitution, or provided by law for administrative agency determinations in workers' compensation matters (Const. Art. V, §16).
- Exclusive original jurisdiction of felony cases and of cases involving title to immovable property, except for divorce or annulment cases in a family court involving community property partitions or matrimonial regimes claims; the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or political subdivisions, or a succession, as a defendant; and the appointment of receivers or liquidators for corporations or partnerships (Const. Art. V, §16).
- Appellate review of civil cases from a justice of the peace court to the district court, if the justice of the peace court is in a parish having no parish court to which the appeal would otherwise lie (C.C.P. Art. 4924(A)). Appeals to the district court also lie in certain criminal matters from mayor's courts, justice of the peace courts, and city, parish, and municipal courts (R.S. 13:1896). The constitution further provides that district courts have appellate jurisdiction as provided by law (Const. Art. V, §16).

The term of a district court judge is six years and the number of judges in any judicial district may be changed by a law enacted by two-thirds vote of the legislature.

Courts of Limited and Specialized Jurisdiction

Courts of limited and specialized jurisdiction are an important part of our judicial system. Courts of limited jurisdiction, such as city or parish courts, afford citizens of this state with access to courts within their communities and frequently at a lower cost. Courts of specialized jurisdiction enable the judges serving on those courts to develop their expertise in specific areas of the law, and in the case of family courts or juvenile courts, to become familiar with all of the issues involving that family or juvenile.

Juvenile Courts / Family Courts

In the parishes of Caddo, East Baton Rouge, Jefferson, and Orleans, juvenile jurisdiction is exercised by juvenile courts; in all other parishes, that jurisdiction may be exercised by district, parish, or city courts. The following matters are dealt with by these juvenile courts:

- Certain juvenile delinquency proceedings, child in need of care proceedings, families in need of services proceedings, traffic proceedings, termination of parental rights proceedings, adoption proceedings, mental health proceedings, etc. (The juvenile jurisdiction of the courts is set forth in Title III of the Louisiana Children's Code, Articles 301 et seq.)

The East Baton Rouge Parish Family Court is a specialized court with jurisdiction over the following matters:

- Actions for divorce, annulment of marriage, establishment or disavowal of the paternity of children, spousal and child support and nonsupport, custody and visitation of children, partition of community property, termination or modification of a matrimonial regime, etc. (See R.S. 13:1401 for the jurisdiction of the East Baton Rouge Parish Family Court.)

Parish Courts

The only two parishes with parish courts are Ascension and Jefferson. Art. V, §15(A) of the La. Constitution provides that the legislature may establish trial courts of limited jurisdiction with parishwide territorial jurisdiction and subject matter jurisdiction which shall be uniform throughout the state. The Uniform Parish Court Jurisdiction and Procedure Act (R.S. 13:1441-1458) provides for uniform subject matter jurisdiction for all parish courts as required by the constitution.

The three existing parish courts have civil jurisdiction which is concurrent with that of the district court in cases where the amount in dispute, or the value of the property involved, does not exceed \$20,000 (R.S. 13:2561.1 et seq. and C.C.P. Art. 4842). In addition, the Uniform Parish Court Jurisdiction and Procedure Act provides that a parish court shall have criminal jurisdiction concurrent with the district court over all violations of state law and parish or municipal ordinances committed within its territorial jurisdiction, which are punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding six months, or both (R.S. 13:1446). (See R.S. 13:2561.3 and R.S. 13:2562.3 for the criminal jurisdiction of the First and Second Parish Courts of Jefferson Parish.)

City Courts

Presently, Louisiana has 50 "city courts", including, in the city of New Orleans, the First and Second City Courts, a municipal court, and a traffic court. Generally, the civil jurisdiction of a city court is concurrent with the district court in cases where the amount in dispute, or the value of the property involved, does not exceed a range depending on the particular city court, from \$15,000 to an amount which does not exceed the amount provided for in C.C.P. Article 1732(1) for purposes of demanding a jury trial (\$50,000) (C.C.P. Article 4843). The criminal jurisdiction of a city court (except in the parish of Orleans) is limited to the trial of offenses committed within the territorial jurisdiction of the court which are not punishable by imprisonment at hard labor, including the trial of cases involving the violation of any city or parochial ordinance (R.S. 13:1894, R.S. 13:2485.21, R.S. 13:2487.21, R.S. 13:2488.24). The First and Second City Courts of New Orleans have civil but no criminal jurisdiction (La. Const. 1921, Art. 7, §91 (continued as a statute under La. Const. Art. XIV, §16(A)(5))).

Municipal and Traffic Courts of New Orleans

The jurisdiction of the Municipal Court of New Orleans extends to the trial of violations of ordinances of the city of New Orleans, except traffic violations, and the court also has concurrent jurisdiction with that of the Criminal District Court for the Parish of Orleans with respect to the trial of violations of state statutes which are not triable by a jury. The Housing and Environmental Court Division of the municipal court has jurisdiction over violations of the city building code, zoning ordinances, and certain chapters of the City Code (R.S. 13:2493). The

jurisdiction of the Traffic Court of New Orleans extends to the trial of violations of city ordinances regulating traffic within the city, and the court also has concurrent jurisdiction with that of the Orleans Parish Criminal District Court with respect to the trial of offenses involving traffic and the regulation thereof punishable by state statute, including violations of the Criminal Code of Louisiana involving traffic, and the trial of violations relating to street and highway laws, and such other state laws as relate to the operation of a vehicle (R.S. 13:2501.1(F)).

Justice of the Peace Courts

"Justice of the peace courts" are not courts of record but exercise civil jurisdiction concurrent with the district court in cases where the amount in dispute does not exceed \$5,000 (C.C.P. Art. 4911 and R.S. 13:2586(A)). Justices of the peace have criminal jurisdiction as committing magistrates only and shall have the power to bail or discharge, in cases not capital or necessarily punishable at hard labor, and may require bonds to keep the peace (R.S. 13:2586(C)).

Issues Concerning the State Judiciary

Funding of State Courts

Louisiana does not have a unified state court funding system. The operations of district, parish, and city courts are primarily funded by local governments, with some expenses being funded by legislative appropriations. The operations of the Louisiana Supreme Court and the courts of appeal, as well as the salaries of supreme court justices and judges of the courts of appeal, district courts, family court, and juvenile court are funded through an annual legislative appropriation. The state also funds a portion of the salaries of parish and city court judges, as well as the compensation of retired and ad hoc judges.

Court Costs and Fees

District, parish, and city courts are funded through the use of court costs and fees which are imposed by those persons appearing before the court. The term "court costs" is a term referring to many different types of fees assessed and collected by the courts. For example, "court costs" may refer to fees charged to file a civil lawsuit, fees charged for making copies or the recordation of official documents, fees imposed on persons who are sentenced in criminal cases, and fees imposed on persons guilty of traffic violations. Every year, legislation is introduced to increase existing court costs and fees or to create new ones. Louisiana law prohibits the enactment of such legislation unless first submitted to the Judicial Council of the Supreme Court for review. The Judicial Council is required to make a recommendation as to whether the cost is reasonably related to the operation of the court or court system (R.S. 13:62). Legislative proposals shall be submitted by January 15th of each year, and the Judicial Council shall forward its recommendation to the legislature by March 15th of that same year.

Creation of New Courts

The 1974 Louisiana Constitution provides that the legislature may establish new trial courts of limited jurisdiction with parishwide territorial jurisdiction and subject matter jurisdiction which shall be uniform throughout the state (Const. Art. V, §15(A)). The legislature is also authorized to establish, divide, or merge judicial districts with approval in a referendum in each district and parish affected (Const. Art. V, §15(B)).

Since 1986, the legislature has passed several acts creating new lower courts. Those acts include

measures: creating a new juvenile court in East Baton Rouge Parish; creating and/or abolishing justice of the peace courts in Jefferson Parish, West Carroll Parish, Morehouse Parish, Grant Parish, and St. Charles Parish; and creating several new mayor's courts.

Two major reasons for this apparent trend in favor of creating new district and local courts: the citizens of the districts and localities are looking for convenience, and the governing authorities of the localities are looking for revenues from the imposition of fines for violations of local ordinances.

When there is a proposal to create a new judgeship, judicial district, or court, the Judicial Council organizes an evaluation team to conduct a site visit to the affected court. Among other criteria, the team analyzes the efficiency and case load of the present court and makes a recommendation to the full council. The council then makes its recommendation to the legislature.

Redistricting / Minority Subdistricts

The consent decree in the case of *Clark v. Edwards* established election subdistricts in nine district courts in response to violations of the Voting Rights Act of 1965 with regard to the manner in which judges were elected in certain courts. Minority subdistricts were created in the 1st, 4th, 9th, 14th, 15th, 18th, 19th, 24th, and 40th judicial districts, the East Baton Rouge Family Court, and one court of appeal circuit (1st Circuit, 2nd District). The consent decree also required the legislature to create subdistricts in two other district courts (23rd JDC and 27th JDC) and one other court of appeal circuit (2nd Circuit, 1st and 3rd Districts).

The creation of minority subdistricts for election purposes continues to be of interest to the legislature. When legislation is introduced to create a new judgeship, some of the issues involve whether a judge should be elected at large from the judicial district as a whole or whether a subdistrict should be created containing a majority minority population, which subdistrict electorate would vote for a judge who would have districtwide jurisdiction.

Following the release of the 2010 U.S. Census population figures, the legislature re-drew the boundary lines of the legislative districts, congressional districts, BESE districts, and the PSC districts. Despite being included in the proclamation for the 2011 First Extraordinary Session, no legislation was enacted to redraw the election districts of the supreme court or appellate court districts.

Judicial Compensation

In 1995, the legislature established the Judicial Compensation Commission to study the salaries payable to judges (R.S. 13:42 et seq.). The law requires the commission to submit a report to the legislature recommending judicial salaries 60 days prior to the commencement of any regular session of the legislature in even-numbered years. Any increase in salaries may be enacted by the legislature only after submission of the recommendations and must be approved by a favorable vote of the majority of the elected members of each house, whether in an odd-numbered or even-numbered year, or at any extraordinary session if included within the proclamation (or call) of that session.

Pursuant to the recommendation of the Judicial Compensation Commission, the legislature provided salary increases in 2007 for the supreme court, courts of appeal, and district court judges by 4-1/2%, 4-6/10%, and 4-9/10%, respectively, each year on July 1, 2008, July 1, 2009, and July 1, 2010, subject to an annual appropriation for such purpose (R.S. 13:49). This

provision of law also increased the state-paid actual salary of city court and parish court judges by 4-9/10% each year on July 1, 2008, July 1, 2009, and on July 1, 2010, subject to an annual appropriation. It is important to note that the compensation of a judge shall not be decreased during the term for which he is elected (Const. Art. V, § 21).

In addition, the Judges' Supplemental Compensation Fund, funded by filing fees, is used exclusively to pay for salary supplements and other administrative expenses of all judges and commissioners (R.S. 13:10.3).

Judicial College

The Louisiana Judicial College, established by order of the Supreme Court of Louisiana in 1976, provides continuing education of Louisiana judges and provides special pre-bench training for new judges. As an adjunct to this primary function, the college publishes and distributes "bench books" and other publications (including legislative analyses and a criminal law newsletter) to members of the judiciary. It also prepares and distributes other publications designed to assist in the training of court personnel, such as clerks of court and judicial law clerks. The Judicial College also works closely with the judges' associations in developing programs and fostering continuing education among the state's judiciary.

Judicial Misconduct

Const. Art. V, §25 provides for the Judiciary Commission. (See also R.S. 13:32-36, R.S. 44:10 and Sup. Ct. Rule XXIII.) On recommendation of the Judiciary Commission, the supreme court may: (1) censure, suspend with or without salary, remove from office, or involuntarily retire a judge for willful misconduct relating to his official duty, willful and persistent failure to perform his duty, persistent and public conduct prejudicial to the administration of justice that brings the judicial office into disrepute, and conduct while in office which would constitute a felony, or conviction of a felony; (2) disqualify a judge from exercising any judicial function, without loss of salary, during pendency of disciplinary proceedings in the supreme court; and (3) retire involuntarily a judge for disability that seriously interferes with the performance of his duties and that is or is likely to become permanent. The jurisdiction of the commission includes justices and judges of all courts of this state, including commissioners, magistrates, justices of the peace, and mayors who perform judicial functions.

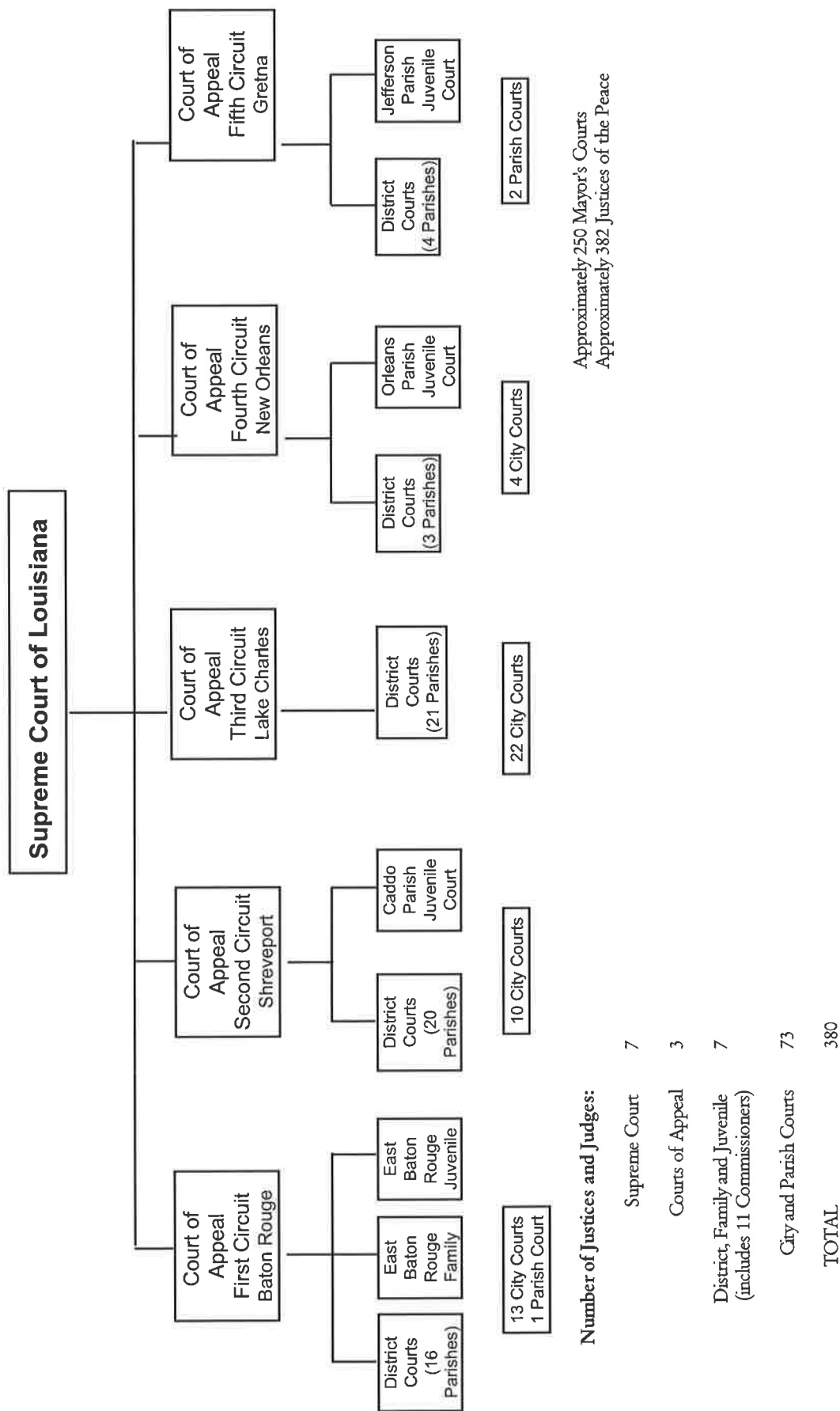
Emergency Sessions of Court

In response to Hurricanes Katrina and Rita, the legislature enacted provisions of law to assist those persons who were prevented by the hurricanes from timely access to courts. This legislation extended civil prescriptive and preemptive periods and other legal deadlines. Legislation was also enacted to provide for emergency sessions of criminal courts in the event of future disasters or emergencies. The Louisiana Supreme Court has implemented a number of technological advancements to ensure continuity of court operations in the event of future emergencies or disasters.

Case Management Information System

The Case Management Information System (CMIS) was created by the Supreme Court in 1993 to provide a statewide information system for tracking and managing criminal, civil, juvenile, traffic, and appellate cases as well as protective orders. Data is received from courts statewide and transferred to the CMIS registry. It is funded from a court cost assessed on all criminal and traffic convictions pursuant to C.Cr.P. Art. 887(F).

LOUISIANA COURT STRUCTURE



NOTE: This chart has been adapted from the chart included in the 2010 Annual Report of the Judicial Council of the Supreme Court of Louisiana.

Chapter 1 – Organization of State Government

Part C. The Executive Branch	1C-1
Reorganization	1C-1
Structure	1C-2
Legislative Authority	1C-2
Officers	1C-2
Office of Management and Finance (OMF)	1C-4
Transfer Types	1C-4
Table: Types of Transfers of Executive Branch Agencies	1C-5
Organization Charts	1C-6
Department of the Executive Branch	1C-7
Departments Under Direct Control of Governor and State Civil Service	1C-9
Departments Under Elected State Officials and Education	1C-11
Department of Agriculture and Forestry	1C-13
Department of Children and Family Services	1C-17
Department of Culture, Recreation and Tourism	1C-19
Department of Economic Development	1C-23
Department of Education	1C-25
Department of Environmental Quality	1C-29
Department of Health and Hospitals	1C-31
Department of Insurance	1C-37
Department of Justice	1C-39
Department of Natural Resources	1C-41
Department of Public Safety and Corrections	1C-43
Department of Public Service	1C-47
Department of Revenue	1C-49
Department of State	1C-51
Department of State Civil Service	1C-55
Department of Transportation and Development	1C-57
Department of the Treasury	1C-61
Department of Veterans Affairs	1C-65
Department of Wildlife and Fisheries	1C-67
Louisiana Workforce Commission	1C-71
Office of the Governor	1C-73
Office of the Lieutenant Governor	1C-75
Title 36 Also	1C-75
Agencies Not Included in Title 36	1C-75
Office of the Governor	1C-75
Department of Agriculture and Forestry	1C-76
Department of Health and Hospitals	1C-76
Department of Public Safety and Corrections	1C-76
Department of Veterans Affairs	1C-76
Agencies Not Placed in a Department	1C-76

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 1 — ORGANIZATION OF STATE GOVERNMENT

Part C. The Executive Branch

The executive branch of state government is charged with responsibility for executing the laws enacted by the legislature, that is, administering the programs and operations of state government. Therefore, the executive branch of state government directly serves the people. By far the largest branch of government, the governor has overall responsibility for directing its operations so as to assure responsiveness to the people and accomplishment of legislative intent.

Reorganization

Prior to the reorganization of the executive branch of state government as mandated by the 1974 state constitution, the executive branch was composed of an ever-growing number of relatively independent agencies. Little or no structure was provided through which the governor might control or direct their operations. Therefore, it was difficult if not impossible for the electorate to hold the governor accountable for the manner in which the agencies functioned and delivered services to the people.

Addressing this problem, the constitutional convention delegates recommended and the people adopted, as part of the 1974 Louisiana Constitution, a mandate to the legislature to "allocate, within not more than twenty departments, the functions, powers, duties, and responsibilities of all departments, offices, agencies, and other instrumentalities within the executive branch, except those allocated by this constitution... ." The reorganization was to be operative not later than December 31, 1977.

After extensive committee study and careful legislative consideration during three regular legislative sessions, the legislature completed the constitutional mandate by enacting and overseeing the implementation of the Executive Reorganization Act (Title 36 of the Louisiana Revised Statutes).

The legislative purpose of the Executive Reorganization Act was to create a responsive structure, promote economy and efficiency in

Purpose of Reorganization of the Executive Branch

"[T]o create a structure for the executive branch of state government which is responsive to the needs of the people of this state and which is sufficiently flexible to meet changing human and natural conditions; to promote economy and efficiency in the operation and management of state government and to strengthen the executive capacity for effective, efficient, and economic administration at all levels; to improve the quality of the functions performed and the programs and services rendered by state government for the citizens of the state; to conserve and enhance the human and natural resources of the state; to provide that the responsibility of the respective departments for the implementation of programs and policies is clearly fixed and ascertainable; and to eliminate to the fullest practicable extent duplication of effort within the executive branch of state government in order to use wisely the funds of the state and more conveniently to meet the needs of the citizens of Louisiana which are supported by revenues derived from the people and from the natural resources belonging to them."

Source: R.S. 36:2

government operation, strengthen capacity for effective administration, improve program and service quality, conserve resources, establish departmental responsibility clearly, and eliminate duplication.

Structure

To accomplish these ends, the reorganization consolidated some 300 independent agencies into 20 departments and the offices of the governor and the lieutenant governor, which are separate entities. (See Organization Chart I, page 1C-7)

Though the number of departments remains at 20 as required by the constitution, their names and composition have been changed by the legislature during the years since 1977 by merger, division, and amendment. (See list of the 20 departments below.)

Legislative Authority

Reorganization of the executive branch is an important on-going power of the legislative branch. The constitution (Const. Art. IV, §1(C)) specifies that reallocation of the "functions, powers, and duties of all departments, offices, agencies, and other instrumentalities of the executive branch, except those ... allocated by this constitution, shall be as provided by law. (emphasis added)"

Officers

The 12 so-called "cabinet" departments, those which are under the direct control of the governor, are each under the direction of a secretary, who is the executive head and chief administrative officer of that department. (See Organization Chart II, page 1C-9.) (The executive head of the Louisiana Workforce Commission (one of the 20 departments) is the equivalent of a department secretary but is called the executive director. Each secretary has the option of appointing a deputy secretary, subject to Senate confirmation; however, the secretary of the Department of Public Safety and Corrections is required to appoint a deputy secretary for public safety services and a deputy secretary for corrections services, subject to Senate confirmation, and the governor is required to appoint a deputy secretary of the Department of Public Safety and Corrections for youth services.

Each cabinet department in the executive branch has an office of management and finance (OMF). (See discussion below.) This office is under the direction and control of an undersecretary, who is the chief fiscal and accounting officer of the entire department. (The title may vary in some departments.) However, the Department of Public Safety and Corrections has an office of management and finance for public safety services, an office of management and finance for correction services, and an office of management and finance for youth services, each headed by an undersecretary appointed by the governor. The undersecretaries for public safety services and for corrections services are under the supervision and control of the

The 20 Departments of the Executive Branch

- (1) Department of Agriculture and Forestry
- (2) Department of Children and Family Services
- (3) Department of Culture, Recreation and Tourism
- (4) Department of Economic Development
- (5) Department of Education
- (6) Department of Environmental Quality
- (7) Department of Health and Hospitals
- (8) Department of Insurance
- (9) Department of Justice
- (10) Department of Natural Resources
- (11) Department of Public Safety and Corrections
- (12) Department of Public Service
- (13) Department of Revenue
- (14) Department of State
- (15) Department of State Civil Service
- (16) Department of Transportation and Development
- (17) Department of the Treasury
- (18) Department of Veterans Affairs
- (19) Department of Wildlife and Fisheries
- (20) Workforce Commission, Louisiana (formerly
Department of Labor)

Source: Title 36 of the Revised Statutes (as amended through the 2011 Regular Session)

secretary. The law provides that the undersecretary for youth services is directly responsible to and under the supervision and control of the deputy secretary for youth services. The management and finance functions in the Department of Children and Family Services are in a division of the office of children and family services (the only office in the department).

Generally each department has several statutorily created offices which are the organizational units through which programs are administered. (No such program offices are specified for the Department of Veterans Affairs.) An assistant secretary is the head of an office. Certain assistant secretaries bear other titles as well as the title of assistant secretary, such as the state librarian, the director of the Louisiana State Museum, and the commissioner of conservation. (These officers are the assistant secretaries of the office of the state library and the office of the state museum of the Department of Culture, Recreation and Tourism, and the office of conservation of the Department of Natural Resources, respectively.)

Secretaries, undersecretaries, and assistant secretaries of cabinet departments are generally appointed by the governor, with consent of the Senate, and serve at his pleasure. The Department of Culture, Recreation and Tourism (DCRT) is a significant exception to this rule, as 1986 legislation placed that department in the office of the lieutenant governor who was made the department commissioner. The DCRT officers are appointed by the lieutenant governor and the secretary performs his functions under the general direction of the lieutenant governor. (However, the deputy secretary of DCRT is appointed by the secretary.) Other exceptions relative to appointment of officers of the various departments are noted on the organizational charts in this Part. In most cases, the salaries of department officers are set by the governor, not to exceed the amount approved for them by the legislature during session (usually through the appropriations process). The salaries of DCRT officers are set by the lieutenant governor (except the deputy secretary's is set by the secretary) subject to legislatively approved limits.

The other eight departments include the Department of State Civil Service, which is under the jurisdiction of the State Civil Service Commission (See Organization Chart II, page 1C-9.) and seven departments under the jurisdiction of elected state officials. (These include five statewide elected officials, the Public Service Commission, and the superintendent of education who formerly was elected by the state's voters but now is appointed by the partially elected Board of Elementary and Secondary Education.) (See Organization Chart III on page 1C-11.) The structure of these eight departments is much like that of the cabinet departments, although department officers often have different titles such as "commissioner" or "superintendent". In some of these departments – the smaller ones – functions are consolidated in the department's chief executive officer and his office. In these cases, structure is not detailed in the law so as not to overstructure a small department. Officers of departments under elected state officials are generally appointed by the official heading that department, with consent of the Senate, and serve at that official's pleasure. Their salaries are usually set by the same official, subject to legislatively approved limits.

Salaries of the governor and statewide elected officials are provided by statute. An Act of the 2007 Regular Session of the legislature (effective upon the new term of office on January 14, 2008) increased the governor's salary to \$130,000 and the salaries of the other statewide elected officials to \$115,000. The last change in these salaries prior to this 2007 Act was effective on January 8, 1996, when the governor's salary was set at \$95,000 and the salaries of the other statewide elected officials were set at the same amount as that of the chief justice of the Supreme Court as of October 1, 1995 (\$85,000).

Office of Management and Finance (OMF)

The office of management and finance is probably the most essential feature of each department. This office (or the equivalent entity in the department) usually is responsible for accounting and budget control, procurement and contract management, management and program analysis, data processing, personnel management, grants management, and fiscal oversight and program evaluation for the entire department. R.S. 36:8 specifically requires each OMF to evaluate programs and operations of the department and its agencies to determine if they are meeting their goals and objectives, are effective and efficient, and what specific changes, if any, should be made in them. The OMF in each department provides the means for centralized accountability to the governor for the operations of the executive branch. It provides tools for department oversight and control of operations of its offices and agencies. It facilitates oversight of the department and its agencies by the legislature. The implications for cost control are evident.

Transfer Types

To accomplish the merger and consolidation of agencies into the 20 departments, the Executive Reorganization Act provides for various transfer mechanisms, referred to informally as "transfer types", which are provisions of law detailing how agencies are placed within a department. The type of transfer determines the degree to which the agency continues to exercise its own functions, the degree of agency independence from the department officers, and the degree of department control over the agency, particularly in fiscal and personnel matters. In other words, the transfer type determines the extent to which the agency and its functions are integrated into the department.

There are a number of different transfer types, some of which are tailored to provide independence for some particular function of an agency or which otherwise provide specifically for the agency. Without going into detail concerning each transfer type, it is possible to identify five general major categories:

- (1) Those which provide that the agency is totally independent.
- (2) Those in which the agency maintains a great deal of independence, controlling its own policy and personnel and fiscal matters for policy and regulatory functions.
- (3) Those in which the agency remains independent in policymaking and regulatory matters, but for which the department controls personnel and fiscal matters.
- (4) Those which make the agency advisory only.
- (5) Those which provide that the department totally controls the agency (usually institutions or facilities).

The following chart outlines the major kinds of transfers used in Title 36 of the Louisiana Revised Statutes, the Executive Reorganization Act:

Types of Transfers of Executive Branch Agencies*		
Type	Description	Citation
1.1 Totally independent	Agency continues to administer and implement all of its functions and programs, including office of management and finance (OMF) functions, i.e. accounting and budget control, procurement and contract management, management and program analysis, data processing, personnel management, and grants management. Board or agency head is appointing authority. Agency implements functions and programs independently of department officers.	R.S. 36:801.1
1 Partly independent	Agency continues to be composed and selected as provided by law; retains all of its policymaking, rulemaking, licensing, regulation, enforcement, or adjudication powers and functions; administers and implements these functions. Agency head is appointing authority relative to such functions, subject to budgetary control and applicable laws. Secretary and undersecretary perform only certain administrative, budgetary, and accounting functions. Secretary exercises payroll, personnel management, procurement and contract management functions (except retirement systems).	R.S. 36:801
2 Policymaking	Agency continues to be composed and selected as provided by law; retains all of its policymaking, rulemaking, licensing, regulation, enforcement, or adjudication powers and functions (to be exercised independently of secretary and any assistant secretary). Secretary (not agency head) is appointing authority, except assistant secretaries appoint personnel for their offices and for agencies in them. Implementation and administration is department officers' responsibility. Undersecretary performs OMF functions.	R.S. 36:802
3 Nonindependent	Agency's powers, duties, and functions are transferred to the secretary, who determines how they are to be carried out (subject to office functions provided by law).	R.S. 36:851 et seq.
4 Advisory	Same as Type 3 above except that the agency becomes advisory only.	R.S. 36:901 et seq.
Agency Abolished	Agency is abolished; its powers, duties, and functions are transferred as for Type 3 above.	R.S. 36:921 et seq.

* Only general major categories of transfers included; there are many other transfers tailored for individual agencies.

In addition, a great number of agencies have been abolished and their functions transferred to a department, to be performed by the department offices. Examples of transfer types which are variations on these categories, but are tailored to fit particular agencies or types of agencies, include those which specifically provide for licensing boards, retirement systems, and agricultural promotion agencies.

Organization Charts

The following organization charts diagram the internal structure of each of the 20 departments of the executive branch as provided in the Executive Reorganization Act. Each chart includes a listing of the functions of each department office or administrative section as well as a listing of the boards and commissions in that department. Following each chart is a list of each agency in the department, with the legal citation of its transfer type, and each abolished agency whose functions are now exercised by the department. Below the list is information about the number of employees for each department and its appropriation for the 2011-2012 Fiscal Year.

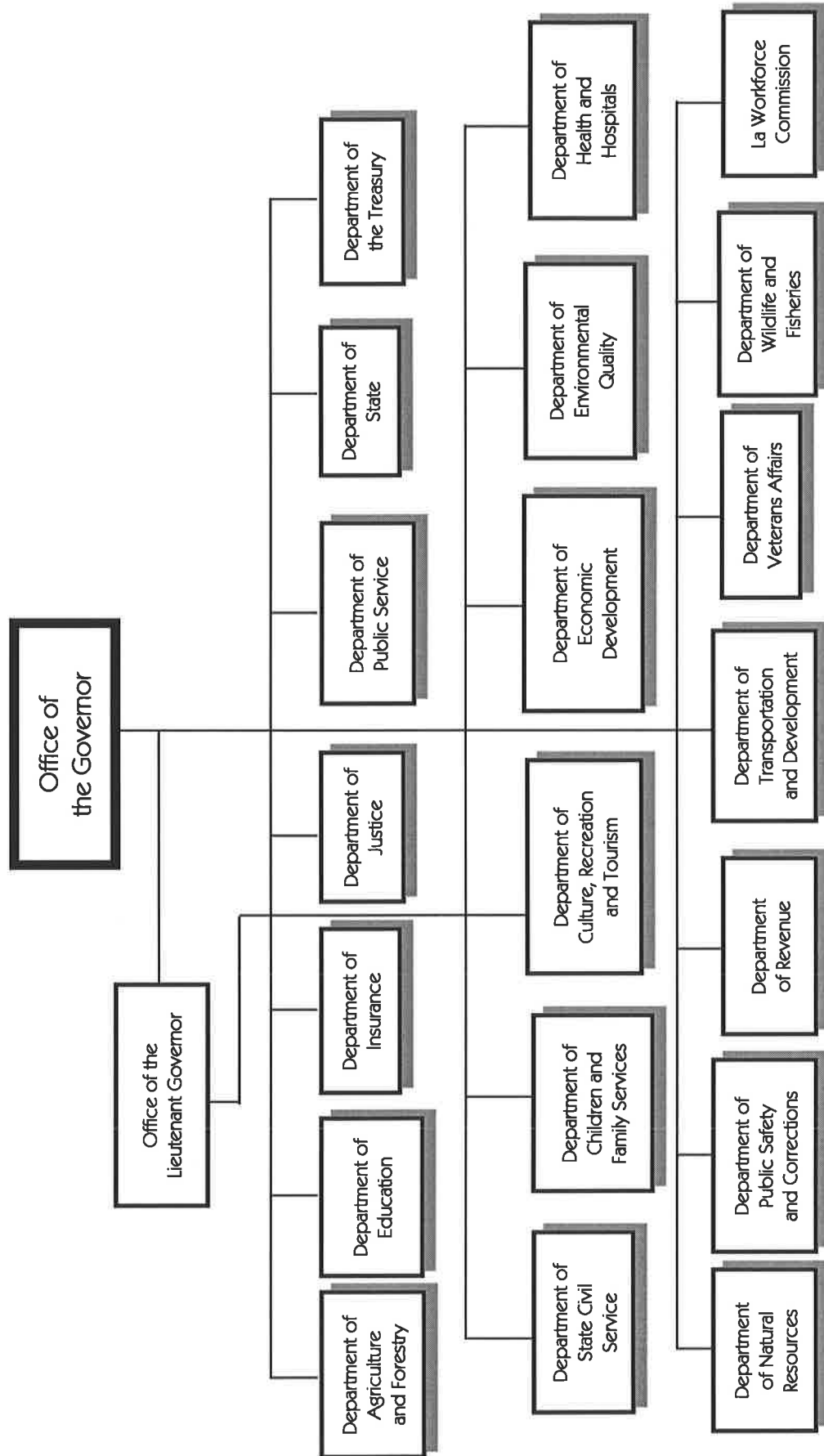
The appropriation amounts shown for each department are as reported in *State Budget, Fiscal Year 2011-2012* and contained in tables designated as *Comparison of Existing Operating Budget to Enacted State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*, published by the office of planning and budget of the division of administration. The figure shown for each department does not include amounts which may be attributable to a particular department or its agencies but which are included under headings such as "Non-Appropriated" or "Ancillary Appropriations".

Two sets of employee data are provided. The first set is the number of authorized positions for each department as contained in *State Budget, Fiscal Year 2011-2012* cited above prepared by the office of planning and budget. For comparison, employment figures reported by the Department of State Civil Service are also provided. (Classified employees in the State Police Service are also included in the Department of Public Safety and Corrections.) The office of planning and budget figures are only for department organizational units and agencies which are included in the department appropriation. Also, these figures have been computed in terms of full-time equivalent positions. The civil service figures are the total number of employees for the department and all of its agencies as of September 30, 2011. (These are actual employees, while the office and planning and budget figures are authorized positions.) In the civil service figures, unclassified employees include not only regular unclassified employees, but such personnel as members of boards and commissions; students; faculty of colleges, universities, vocational-technical schools, and special schools; and certain hourly employees. The civil service figures are not converted to full-time equivalents; part-time employees are counted as employees in the same way as full-time employees. The office of planning and budget figures do not include many of the positions which are included in the civil service figures, such as members of boards and commissions, students, etc. and, to reiterate, they include only positions which are included in the department appropriation and they are converted to full-time equivalents.

Following the department organization charts is a listing of those agencies placed in the office of the governor by Title 36. Also provided is a listing of those agencies of the executive branch created by legislative Act but not properly placed in the executive branch by inclusion in the provisions of Title 36.

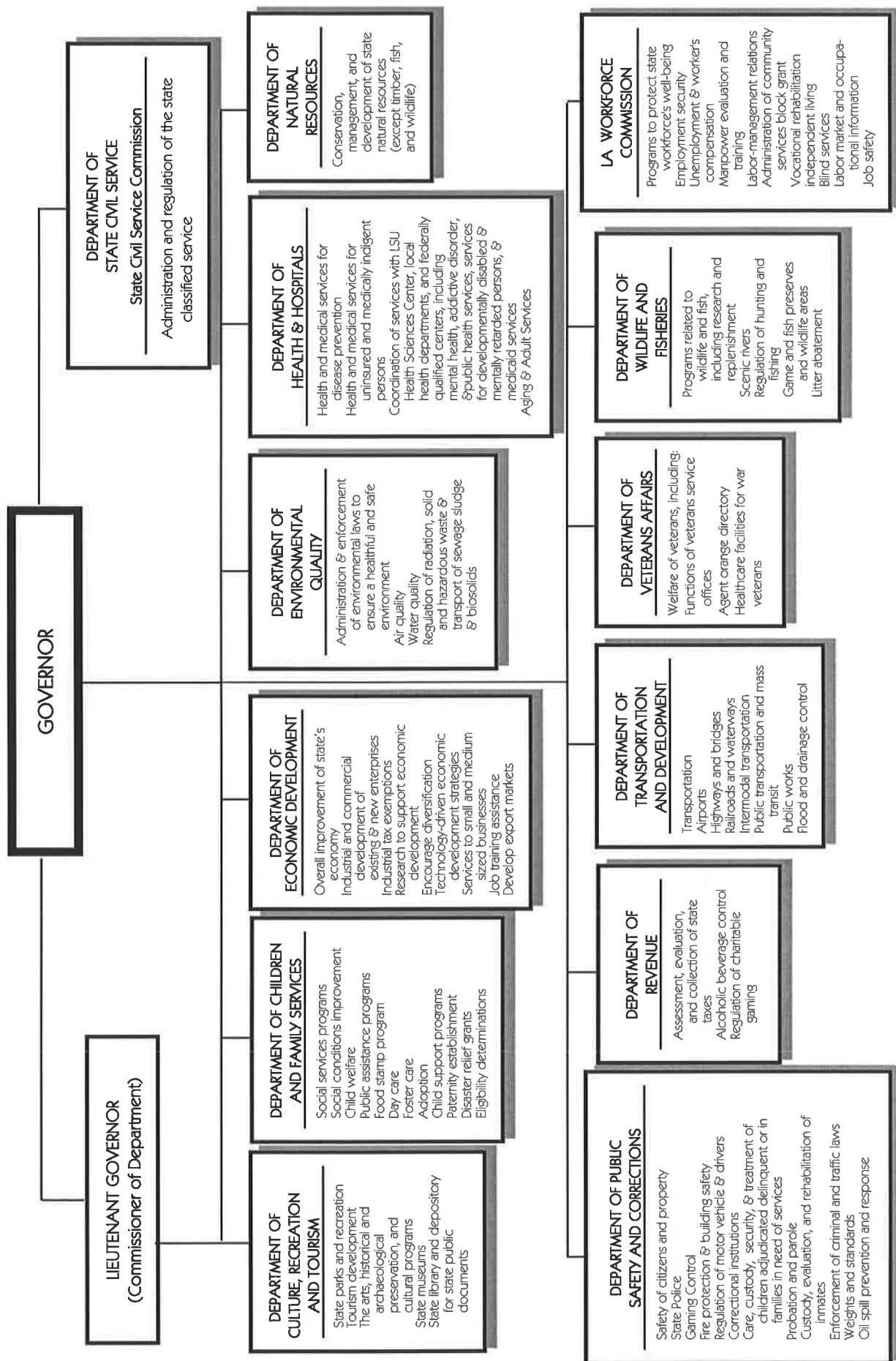
I. DEPARTMENTS OF THE EXECUTIVE BRANCH

STATE OF LOUISIANA



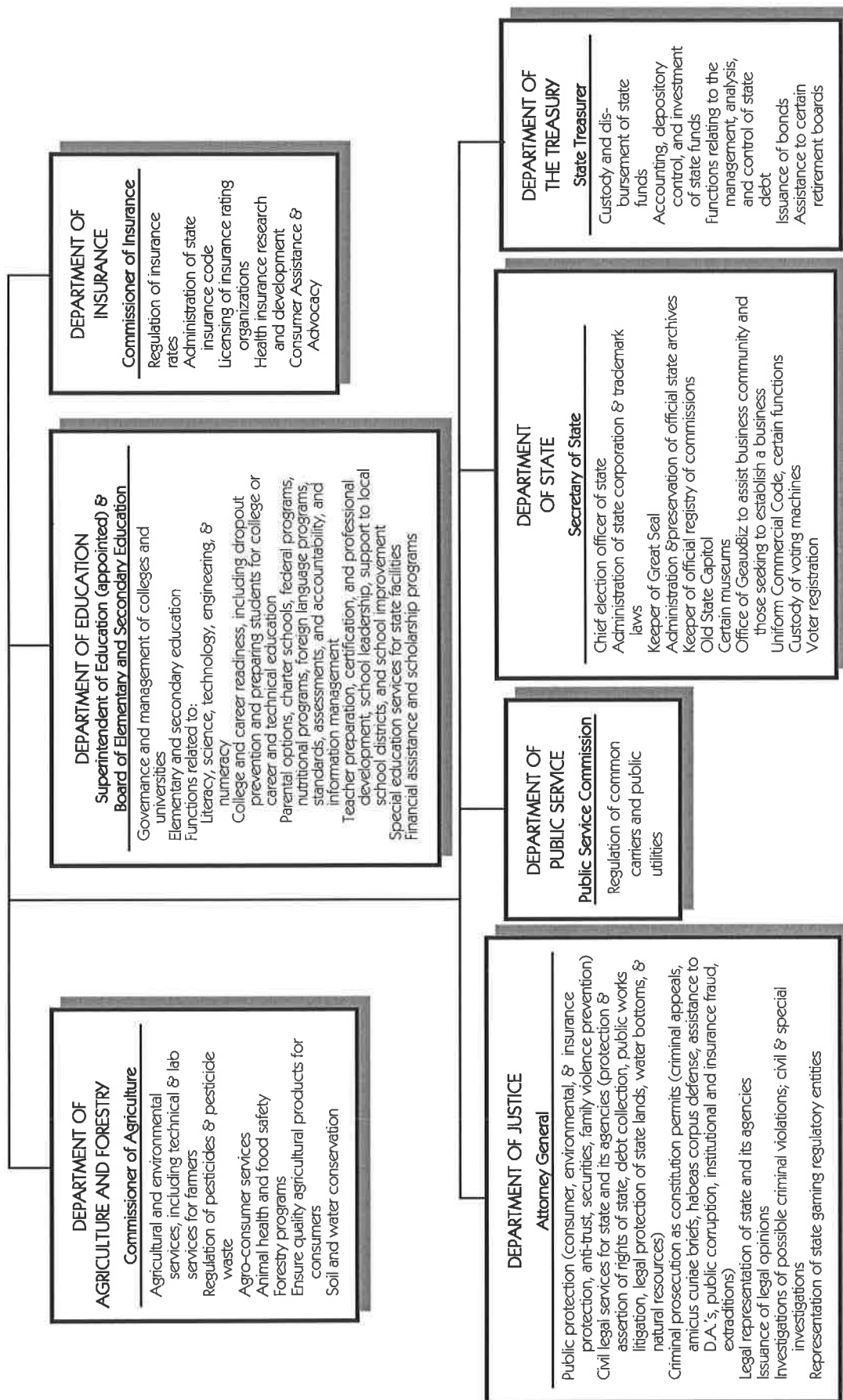
II. THE DEPARTMENTS UNDER THE DIRECT CONTROL OF THE GOVERNOR AND THE DEPARTMENT OF STATE CIVIL SERVICE

STATE OF LOUISIANA

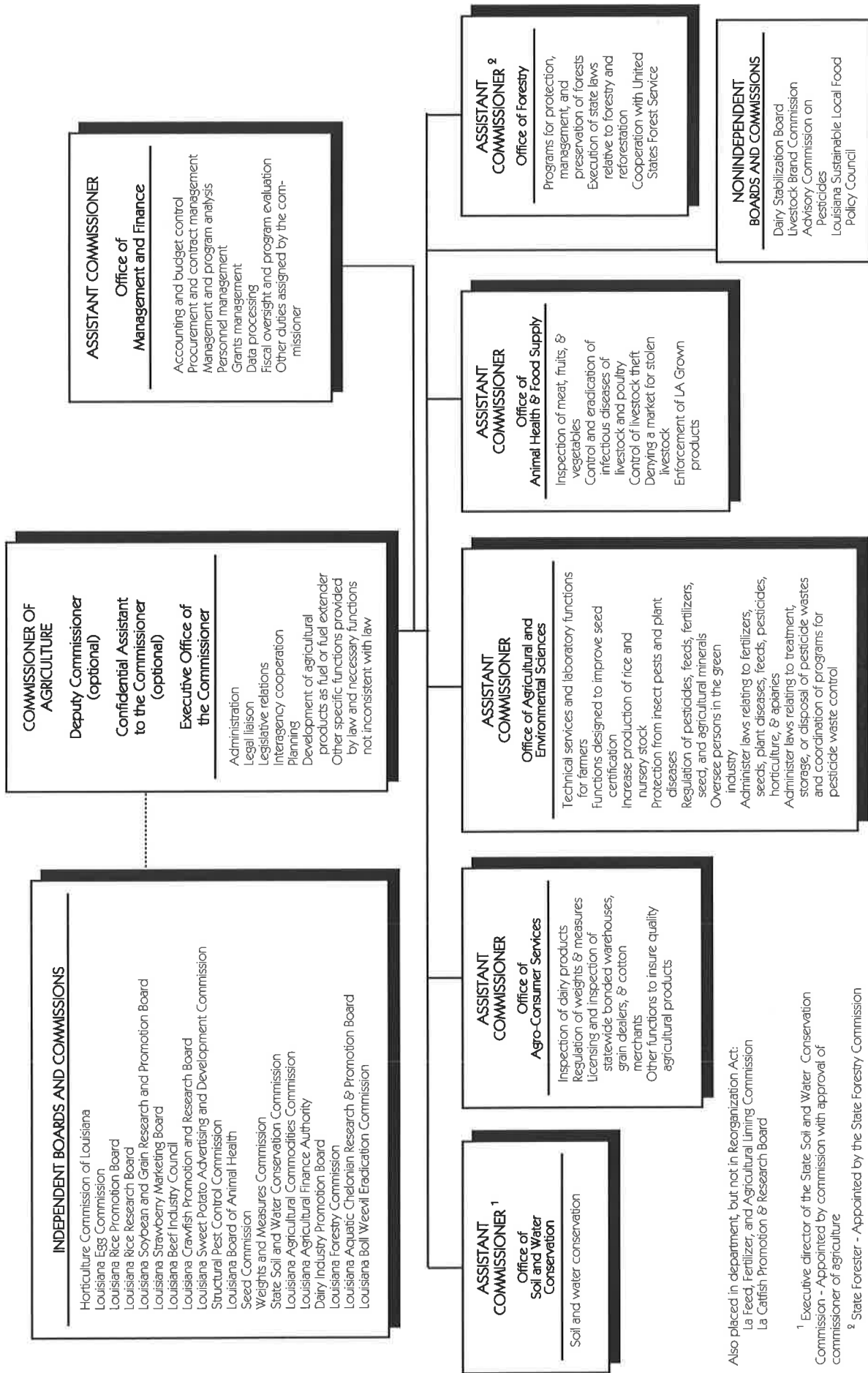


III. THE DEPARTMENTS UNDER ELECTED STATE OFFICIALS AND THE DEPARTMENT OF EDUCATION

STATE OF LOUISIANA



DEPARTMENT OF AGRICULTURE AND FORESTRY



Also placed in department, but not in Reorganization Act:
La Feed, Fertilizer, and Agricultural Lining Commission
La Catfish Promotion & Research Board

¹ Executive Director of the State Soil and Water Conservation Commission - Appointed by commission with approval of commissioner of agriculture

² State Forester - Appointed by the State Forestry Commission

AGENCIES TRANSFERRED TO DEPARTMENT OF AGRICULTURE AND FORESTRY

Transferred Agency	Citation of transfer type
The Horticulture Commission of Louisiana	R.S. 36:802
Louisiana Egg Commission	R.S. 36:802.1
Louisiana Rice Promotion Board	R.S. 36:802.1
Louisiana Rice Research Board	R.S. 36:802.1
Louisiana Soybean & Grain Research & Promotion Board	R.S. 36:802.1
Louisiana Strawberry Marketing Board	R.S. 36:802.1
Louisiana Beef Industry Council	R.S. 36:802.1
Louisiana Crawfish Promotion and Research Board	R.S. 36:802.1
The Louisiana Sweet Potato Advertising and Development Commission	R.S. 36:802.2
Structural Pest Control Commission	R.S. 36:802.3
Louisiana Board of Animal Health (but advisory only for meat inspection program)	R.S. 36:802.3
Seed Commission	R.S. 36:802.3
Weights and Measures Commission	R.S. 36:802.3
The Louisiana Aquatic Chelonian Research and Promotion Board	R.S. 36:802.3
The Louisiana Agricultural Commodities Commission	R.S. 36:802.6
The Louisiana Agricultural Finance Authority	R.S. 36:802.6
The Dairy Industry Promotion Board	R.S. 36:802.7
Louisiana Forestry Commission	R.S. 36:802.10
The State Soil and Water Conservation Commission	R.S. 36:802.12
Louisiana Boll Weevil Eradication Commission	as provided by law
The Dairy Stabilization Board	R.S. 36:901 et seq.
Livestock Brand Commission	R.S. 36:913
Advisory Commission on Pesticides	R.S. 36:913
The Louisiana Sustainable Local Food Policy Council	R.S. 36:919.10

DEPARTMENT OF AGRICULTURE AND FORESTRY

Appropriation for 2011-2012 Fiscal Year ¹:

State General Fund	\$ 27,649,022
Total Means of Financing	78,049,452

Appropriated and Authorized FTE Department Positions ²: 644

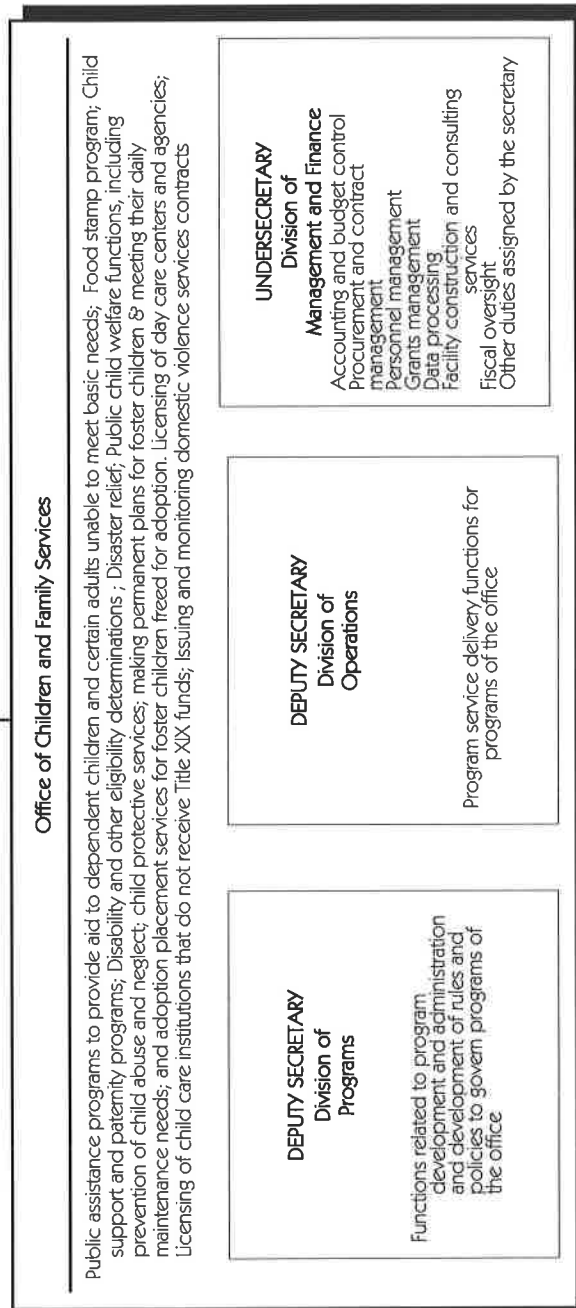
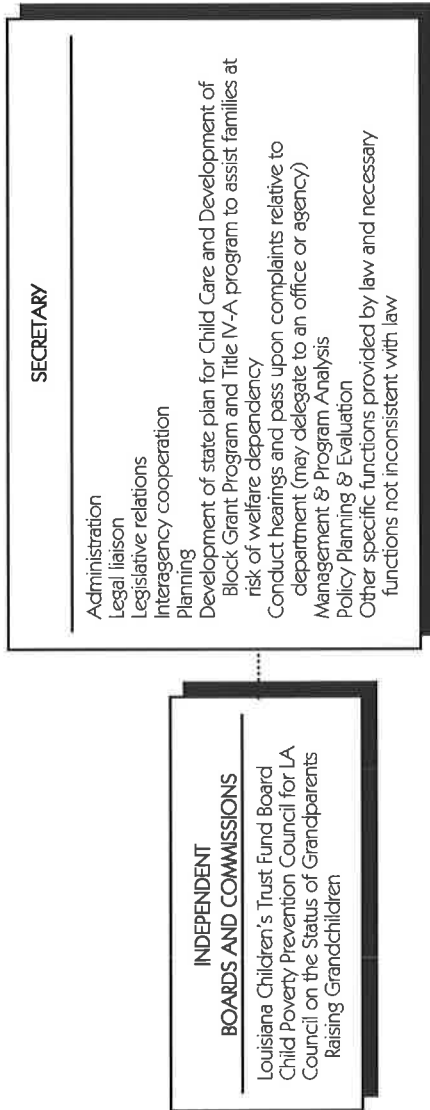
Total Employees (Actual) ³ :	731
Total unclassified:	189
Total classified:	542

¹ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

² Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

³ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES



Also in department: La. Evaluation Center for Exceptional Children

AGENCIES TRANSFERRED TO THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Transferred Agency	Citation of transfer type
The Child Poverty Prevention Council for Louisiana	R.S. 36:801
The Council on the Status of Grandparents Raising Grandchildren	R.S. 36:801
The Louisiana Children's Trust Fund Board	R.S. 36:802.9
The Louisiana Evaluation Center for Exceptional Children	R.S. 36:851 et seq.
Agencies abolished with functions transferred to department (R.S. 36:921 et seq.)	
Louisiana Health and Human Resources Administration (to the extent that the cited provisions provide with respect to agencies or functions placed in or transferred to the Department of Social Services)	
State Youth Planning Advisory Commission	
State Department of Public Welfare	
State Board of Public Welfare	
Louisiana Commission on Human Relations, Rights and Responsibilities	
Louisiana Commission on the Status of Women	
Advisory Committee on Assistance to Parents of Exceptional Children	
Special Commission on Child Protection	

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Appropriation for 2011-2012 Fiscal Year ⁴:

State General Fund	\$ 146,976,254
Total Means of Financing	930,361,701

Appropriated and Authorized FTE Department Positions ⁵: 4,082

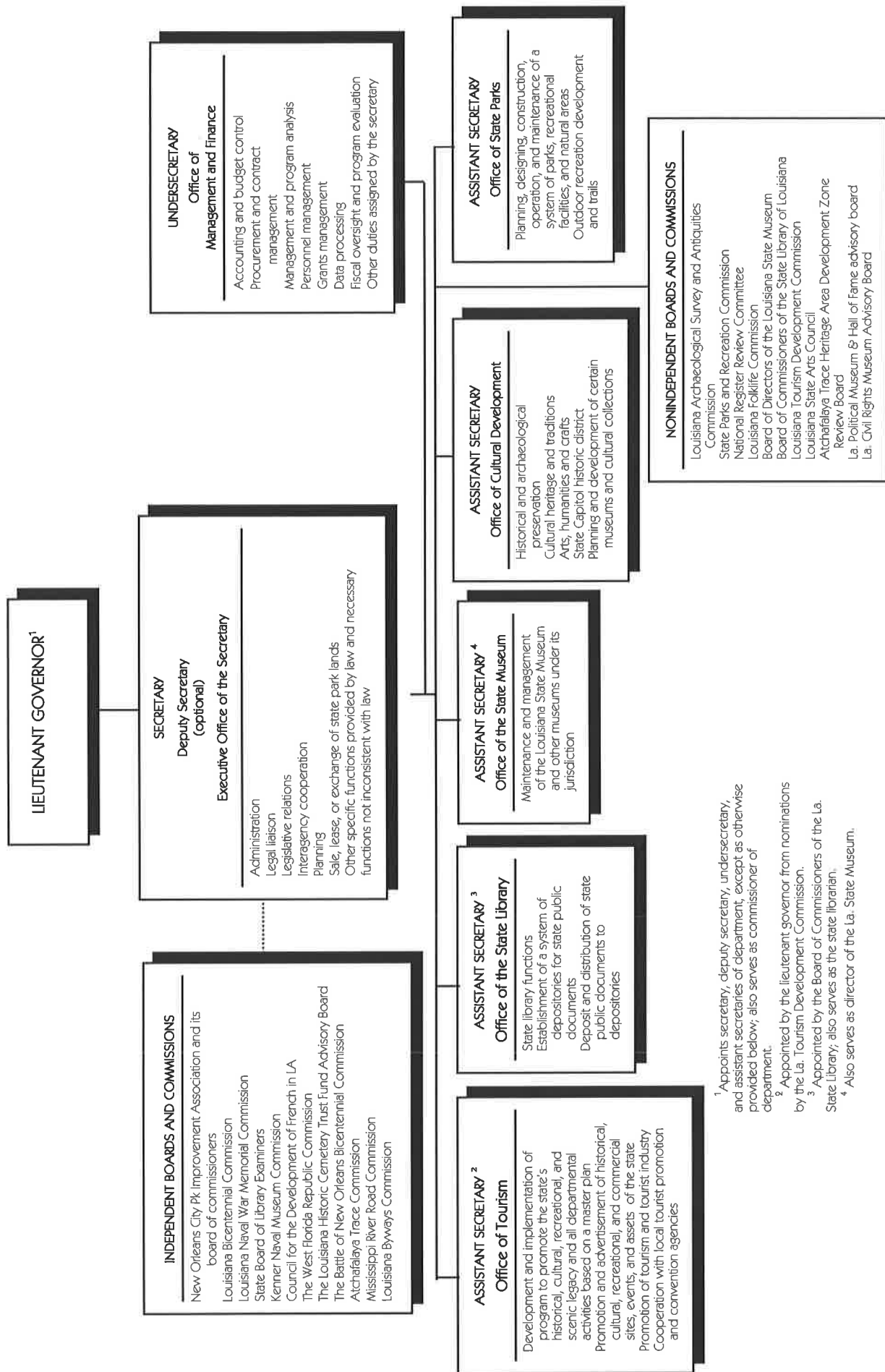
Total Employees (Actual) ⁶ :	4,105
Total unclassified:	180
Total classified:	3,925

⁴ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

⁵ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

⁶ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF CULTURE, RECREATION AND TOURISM



¹ Appoints secretary, deputy secretary, undersecretary, and assistant secretaries of department, except as otherwise provided below; also serves as commissioner of department.
² Appointed by the lieutenant governor from nominations by the La. Tourism Development Commission.
³ Appointed by the Board of Commissioners of the La. State Library; also serves as the state librarian.
⁴ Also serves as director of the La. State Museum.

AGENCIES TRANSFERRED TO DEPARTMENT OF CULTURE, RECREATION AND TOURISM

Transferred Agency	Citation of transfer type
The Louisiana Naval War Memorial Commission	R.S. 36:801.1
The Kenner Naval Museum Commission	R.S. 36:801.1
The Council for the Development of French in Louisiana	R.S. 36:801.1
The West Florida Republic Commission	R.S. 36:801.1
The Edward Douglass White Historic Site	R.S. 36:801.8 & R.S. 25:380.10 et seq.
The Louisiana Bicentennial Commission	R.S. 36:802
The Louisiana Historic Cemetery Trust Fund Advisory Board	R.S. 36:802
The Battle of New Orleans Bicentennial Commission	R.S. 36:802
The Atchafalaya Trace Commission	R.S. 36:802.3
The Mississippi River Road Commission	R.S. 36:802.17
The Louisiana Byways Commission	R.S. 36:802.19
The New Orleans City Park Improvement Association & its board of commissioners	R.S. 36:802.22
The State Board of Library Examiners	R.S. 36:803
The Wedell-Williams Memorial Aviation Museum	R.S. 36:851 et seq.
Confederate Memorial Hall	R.S. 36:851 et seq.
Wildlife and Fisheries Museum in New Orleans	R.S. 36:851 et seq.
The Louisiana Cypress Sawmill Museum	R.S. 36:851 et seq.
The Louisiana Civil Rights Museum	R.S. 36:851 et seq.
The Natchitoches Parish Old Courthouse Museum	R.S. 36:851.1
The Louisiana Political Museum and Hall of Fame	R.S. 36:851.1
The Louisiana Forestry Museum	R.S. 36:851.1
The Louisiana Sports Hall of Fame	R.S. 36:851.1
The Winn Parish Museum	R.S. 36:851.1
Louisiana Archaeological Survey and Antiquities Commission	R.S. 36:901 et seq.
State Parks and Recreation Commission	R.S. 36:901 et seq.
The Louisiana National Register Review Committee	R.S. 36:901 et seq.
The Louisiana Folklife Commission	R.S. 36:901 et seq.
The Atchafalaya Trace Heritage Area Development Zone Review Board	R.S. 36:901 et seq.

AGENCIES TRANSFERRED TO DEPARTMENT OF CULTURE, RECREATION AND TOURISM

Transferred Agency	Citation of transfer type
The Board of Directors of the Louisiana State Museum	R.S. 36:909
The Board of Commissioners of the State Library of Louisiana	R.S. 36:910
The Louisiana State Arts Council	R.S. 36:911
The Louisiana Tourism Development Commission	R.S. 36:912
Louisiana Political Museum & Hall of Fame advisory board	R.S. 36:914
The Louisiana Civil Rights Museum Advisory Board	R.S. 36:919.9 & R.S. 25:841 et seq.
Agencies abolished with functions transferred to department (R.S. 36:921 et seq.)	
State Art, Historical and Cultural Preservation Agency	
State Library of Louisiana	
Toledo Bend Forest Scenic Drive Commission	
Louisiana Art Commission	
Edward Douglas White Memorial Commission	
Louisiana Historical Preservation and Cultural Commission	
Old Arsenal Museum Commission	
Orleans Parish Landmarks Commission	
Board of Managers of the Louisiana Military History and State Weapons Museum	

DEPARTMENT OF CULTURE, RECREATION AND TOURISM

Appropriation for 2011-2012 Fiscal Year ⁷:

State General Fund	\$ 38,384,668
Total Means of Financing	86,426,558

Appropriated and Authorized FTE Department Positions ⁸: 630

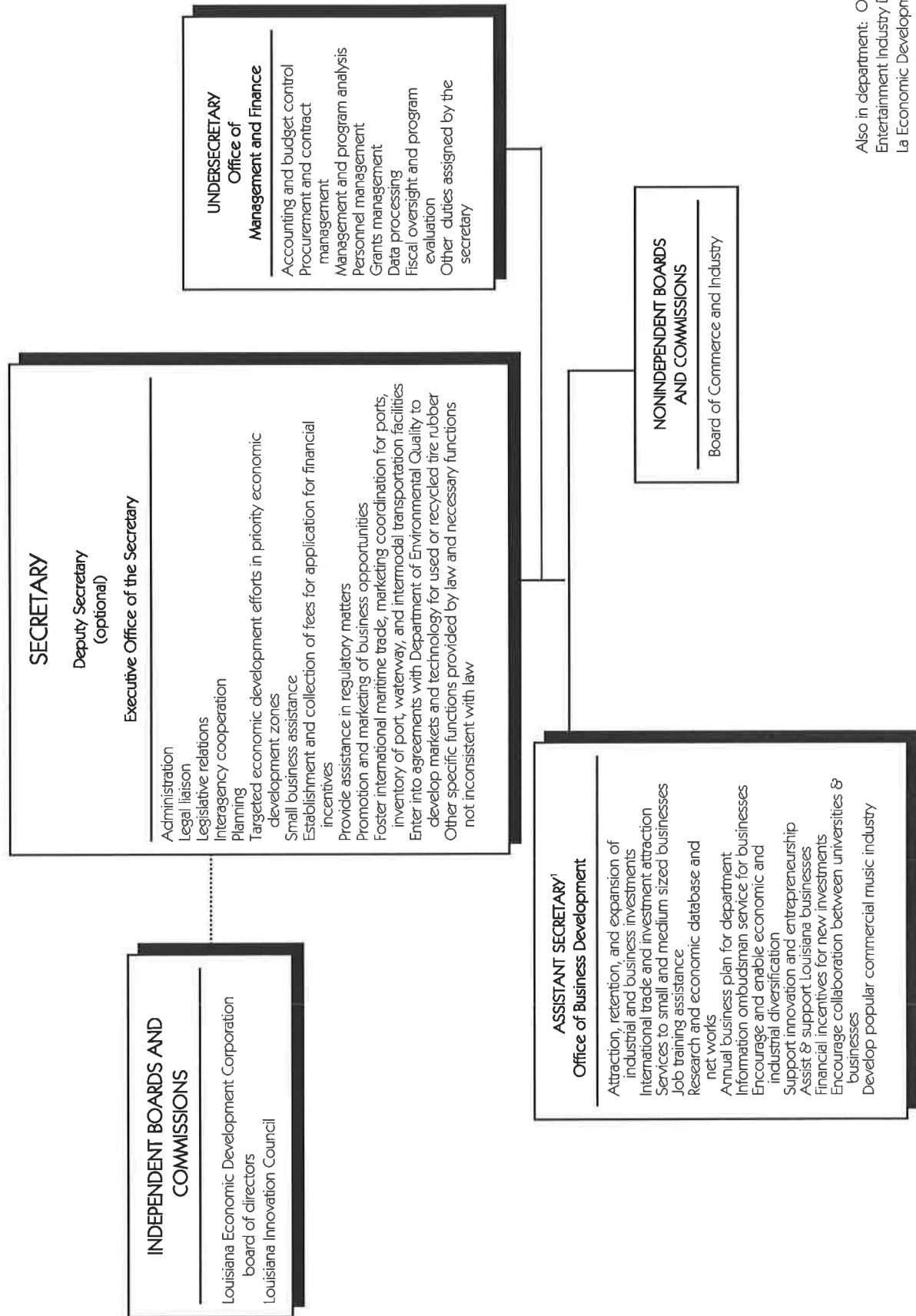
Total Employees (Actual) ⁹ :	1,093
Total unclassified:	500
Total classified:	593

⁷ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

⁸ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

⁹ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF ECONOMIC DEVELOPMENT



Also in department: Office of Entertainment Industry Development & La Economic Development Corp

AGENCIES TRANSFERRED TO DEPARTMENT OF ECONOMIC DEVELOPMENT

Transferred Agency	Citation of transfer type
The Louisiana Innovation Council	R.S. 36:801
The Louisiana Economic Development Corporation	R.S. 36:801
The Board of Commerce and Industry	R.S. 36:908
The office of entertainment industry development	as provided by law
Agencies abolished with functions transferred to department (R.S. 36:921 et seq.)	
Department of Commerce and Industry	

DEPARTMENT OF ECONOMIC DEVELOPMENT

Appropriation for 2011-2012 Fiscal Year ¹⁰:

State General Fund	\$ 10,758,123
Total Means of Financing	58,655,744

Appropriated and Authorized FTE Department Positions ¹¹: 124

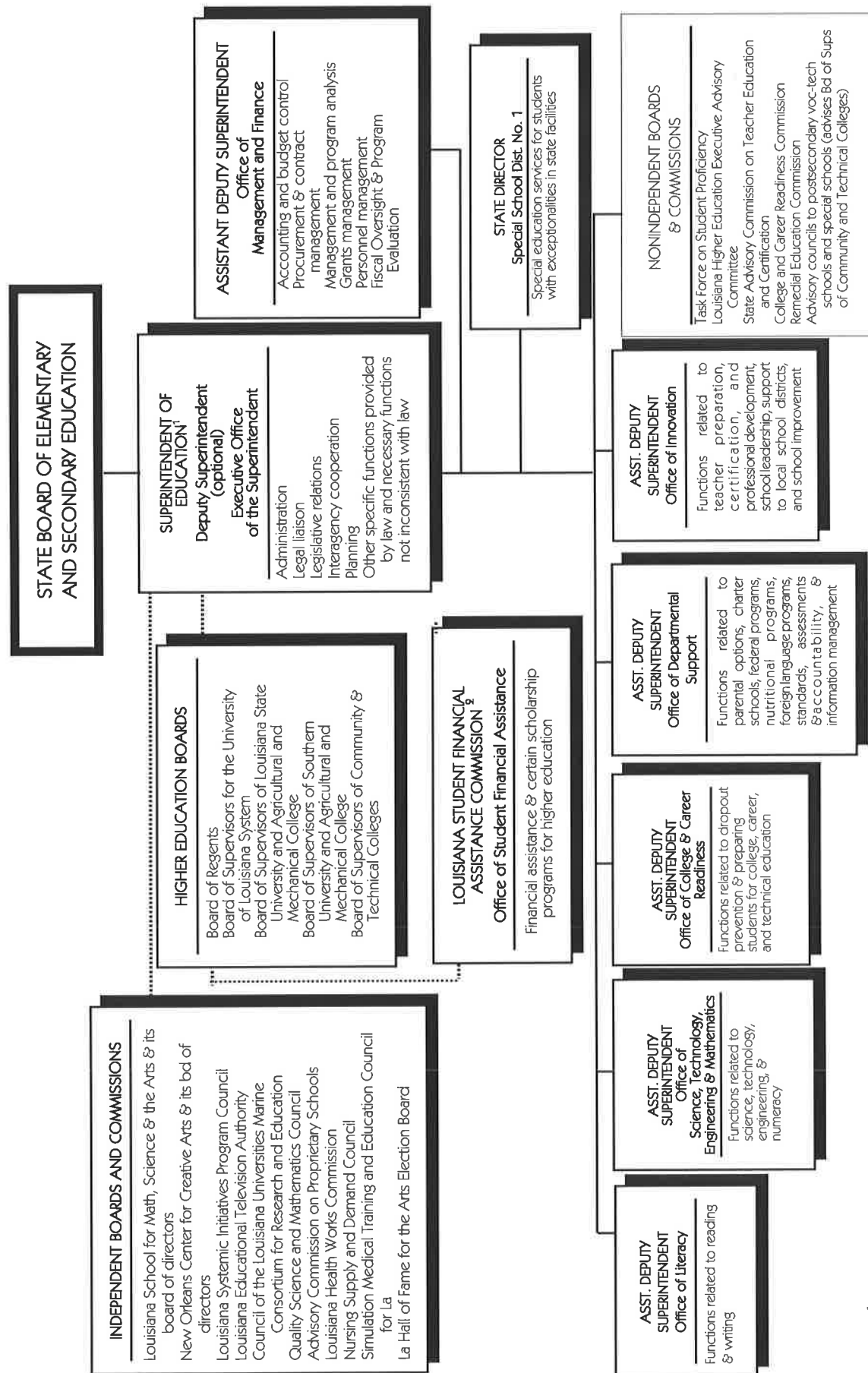
Total Employees (Actual) ¹² :	122
Total unclassified:	52
Total classified:	70

¹⁰ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

¹¹ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

¹² As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF EDUCATION



Other entities in depl.: office of instructional technology (R.S. 36:801), Recovery School District (R.S. 36:802), & public colleges/univs, state voc-tech & special schools; Governor's Program for Gifted Children

¹ Appointed by 2/3 vote of Board of Elementary and Secondary Education.
² The Louisiana Student Financial Assistance Commission selects director to administer office. The commission is under the jurisdiction of the Board of Regents.

AGENCIES TRANSFERRED TO THE DEPARTMENT OF EDUCATION

Transferred Agency	Citation of transfer type
The Board of Supervisors for the University of Louisiana System	R.S. 36:801.1
Board of Regents	R.S. 36:801.1
Board of Supervisors of Louisiana State University and Agricultural and Mechanical College	R.S. 36:801.1
Board of Supervisors of Southern University and Agricultural and Mechanical College	R.S. 36:801.1
The Board of Supervisors of Community and Technical Colleges	R.S. 36:801.1
Louisiana Systemic Initiatives Program Council	R.S. 36:801.1
New Orleans Center for Creative Arts & its board of directors	R.S. 36:801.1
Louisiana School of Math, Science, and the Arts & its board of directors	R.S. 36:801.1
The Quality Science and Mathematics Council	R.S. 36:801.1
The Governor's Program for Gifted Children	R.S. 36:801.1
Louisiana Student Financial Assistance Commission	R.S. 36:801.1
The State Board of Elementary and Secondary Education	R.S. 36:801.2
The Council of the Louisiana Universities Marine Consortium for Research and Education	R.S. 36:801.4
The Advisory Commission on Proprietary Schools	R.S. 36:801.5
The Louisiana Health Works Commission	R.S. 36:801.5
The Nursing Supply and Demand Council	R.S. 36:801.5
The Simulation Medical Training and Education Council for Louisiana	R.S. 36:801.5
The Louisiana Educational Television Authority	R.S. 36:801
The office of instructional technology	R.S. 36:801
The Recovery School District	R.S. 36:802
The College and Career Readiness Commission	R.S. 36:901 et seq.
The Remedial Education Commission	R.S. 36:901 et seq.
The Task Force on Student Proficiency	R.S. 36:901 et seq.
The Louisiana Higher Education Executive Advisory Committee	R.S. 36:901 et seq.
The State Advisory Commission on Teacher Education and Certification	R.S. 36:901 et seq.
The Louisiana Hall of Fame for the Arts election board	As provided by law
Public colleges & universities, state vocational-technical schools & special schools	As provided by constitution & law
Advisory councils to post-secondary vocational-technical schools	Advises Bd. of Sups of Com & Tech Colleges

AGENCIES TRANSFERRED TO THE DEPARTMENT OF EDUCATION

Transferred Agency	Citation of transfer type
Agencies abolished with functions transferred to department (R.S. 36:921 et seq.)	
The State Department of Education	
T. H. Harris Scholarship Foundation Board of Trustees (functions transferred to Student Financial Assistance Commission)	
Louisiana Higher Education Assistance Commission (functions transferred to Student Financial Assistance Commission)	

DEPARTMENT OF EDUCATION

Appropriation for 2011-2012 Fiscal Year ¹³:

State General Fund	
\$ 1,058,273,311	Higher Education
43,144,568	Special Schools & Commissions
64,261,831	LSUMC Health Care Services
3,264,231,046	Dept. of Education
<u>\$ 4,429,910,756</u>	TOTAL
Total Means of Financing	
\$ 3,011,910,054	Higher Education
93,418,647	Special Schools & Commissions
804,543,457	LSUMC Health Care Services
5,619,579,582	Dept. of Education
<u>\$ 9,529,451,740</u>	TOTAL

Appropriated and Authorized FTE Department Positions ¹⁴: 36,036

Higher Education Total	27,703
Other Education Total	750
LSU Health Care Services Division Total	6,929
Dept. of Education Total	654

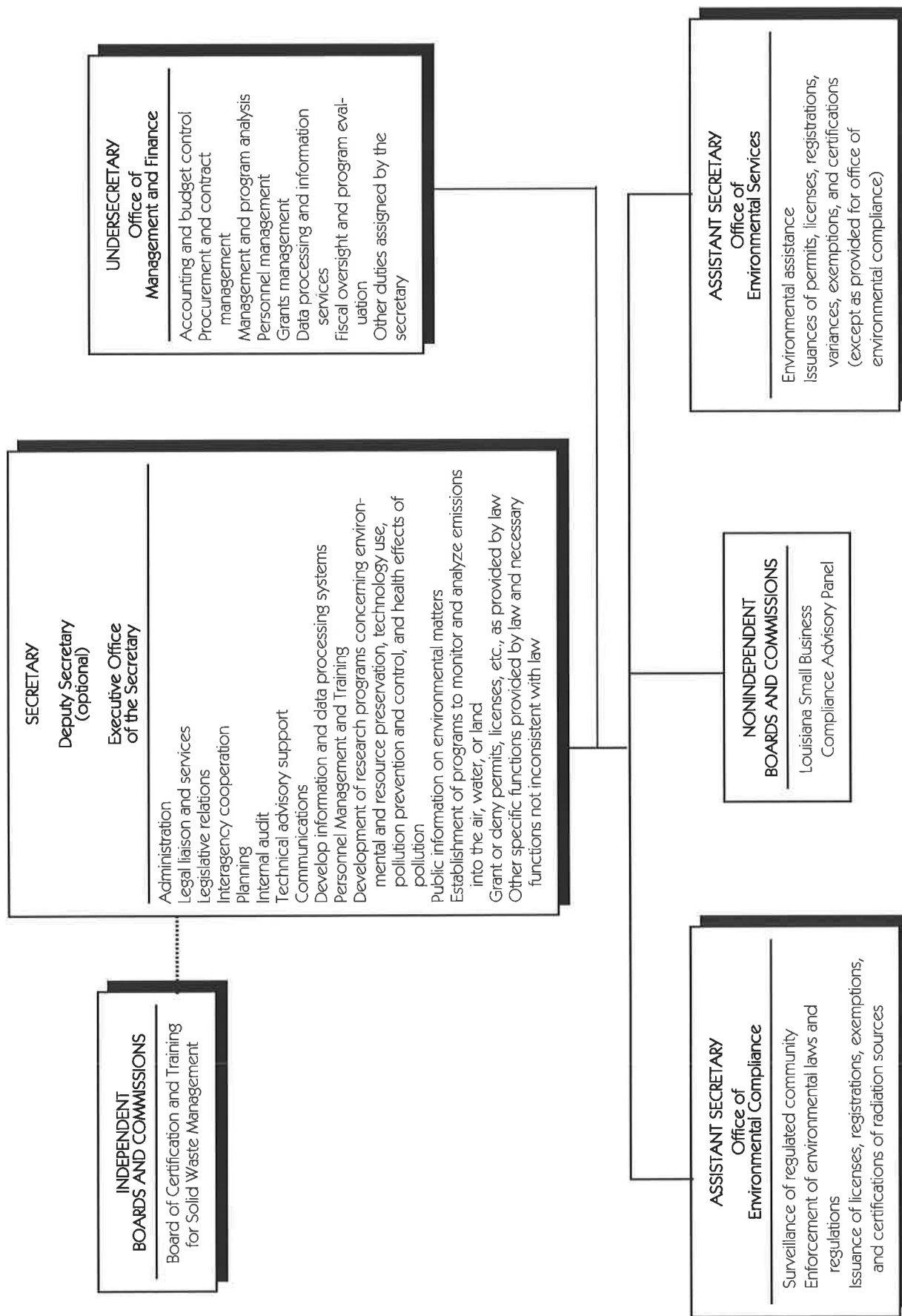
¹³ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

¹⁴ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. (Note that For Higher Education, 6,004 T.O. positions which are funded from 100% restricted funds are not included and are off-budget positions for FY2011-2012.) Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

Total Employees (Actual) ¹⁵ :	45,212
Total unclassified:	27,738
Total classified:	17,474
Higher Education Total	35,282
Total unclassified:	24,619
Total classified:	10,663
Other Education Total	908
Total unclassified:	518
Total classified:	390
LSU Health Care Services Division & Hospitals Total	7,188
Total unclassified:	1,261
Total classified:	5,927
Dept. of Education Total	1,834
Total unclassified:	1,340
Total classified:	494

¹⁵ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF ENVIRONMENTAL QUALITY



AGENCIES TRANSFERRED TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY

Transferred Agency	Citation of transfer type
The Board of Certification and Training for Solid Waste Management System Operators	R.S. 36:803
The Louisiana Small Business Compliance Advisory Panel	R.S. 36:914
Agencies abolished with functions transferred to department (R.S. 36:921 et seq.)	
Governor's Council on Environmental Quality	
Citizen's Advisory Board to the Governor's Council on Environmental Quality	
Office of Science, Technology, and Environmental Policy	
Environmental Control Commission	
The Hazardous Waste Advisory Board	
The Louisiana Litter Reduction and Public Action Commission (previously abolished)	

DEPARTMENT OF ENVIRONMENTAL QUALITY

Appropriation for 2011-2012 Fiscal Year¹⁶:

State General Fund	\$ 250,000
Total Means of Financing	133,112,802

Appropriated and Authorized FTE Department Positions¹⁷: 805

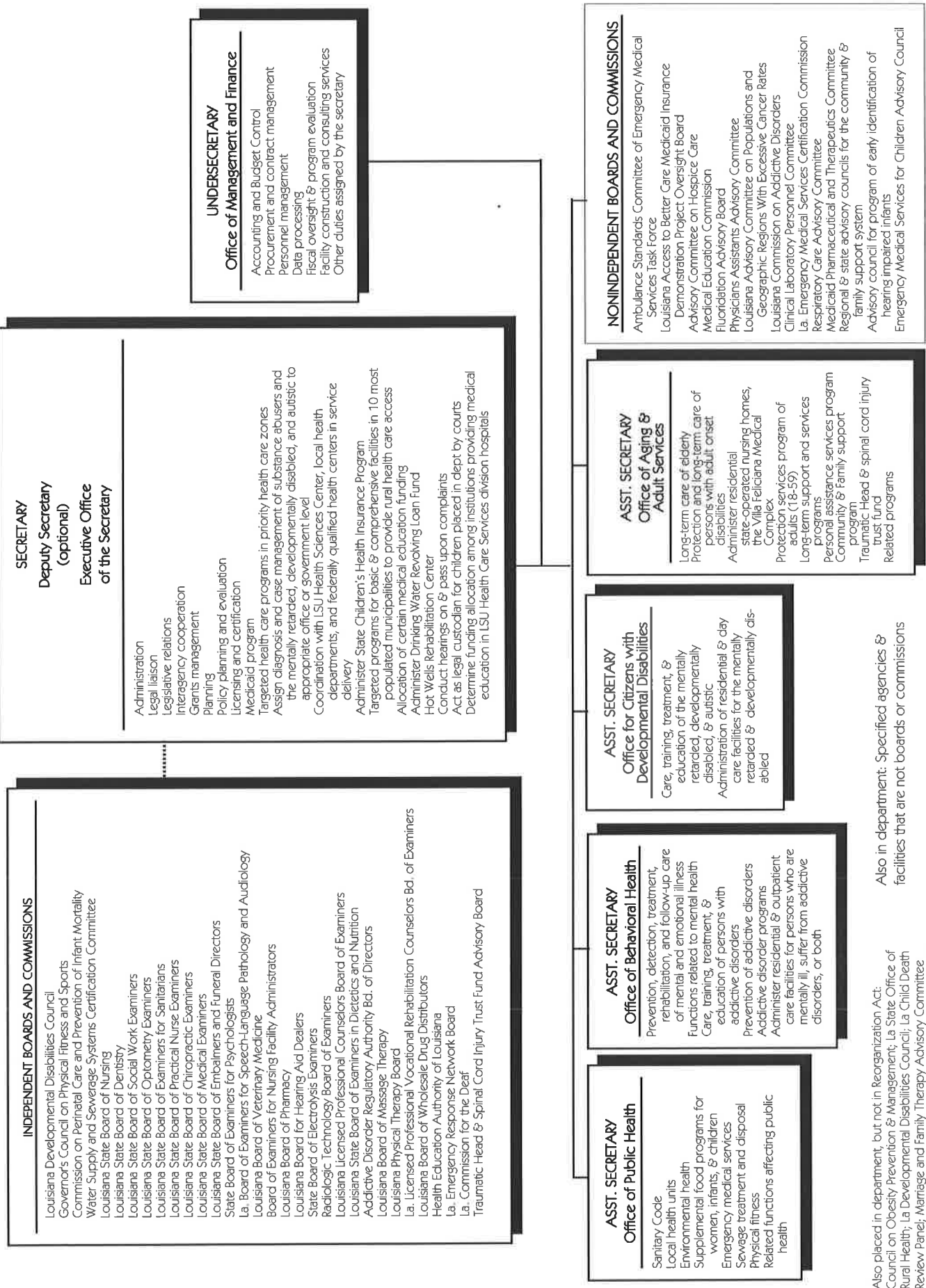
Total Employees (Actual) ¹⁸ :	775
Total unclassified:	28
Total classified:	747

¹⁶ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

¹⁷ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

¹⁸ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF HEALTH AND HOSPITALS



Also placed in department, but not in Reorganization Act:
Council on Obesity Prevention & Management; La State Office of Rural Health; La Developmental Disabilities Council; La Child Death Review Panel; Marriage and Family Therapy Advisory Committee.

Also in department: Specified agencies & facilities that are not boards or commissions

AGENCIES TRANSFERRED TO THE DEPARTMENT OF HEALTH AND HOSPITALS

Transferred Agency	Citation of transfer type
The Louisiana Emergency Response Network Board	R.S. 36:801.1
The Louisiana Developmental Disabilities Council	R.S. 36:801.1
The Governor's Council on Physical Fitness and Sports	R.S. 36:802
The Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board	R.S. 36:802
The Louisiana Commission for the Deaf	R.S. 36:802
Commission on Perinatal Care and Prevention of Infant Mortality	R.S. 36:802
State Office of Comprehensive Health Planning	R.S. 36:802
Water Supply and Sewerage Systems Certification Committee	R.S. 36:802
Louisiana State Board of Nursing	R.S. 36:803
Louisiana State Board of Dentistry	R.S. 36:803
Louisiana State Board of Social Work Examiners	R.S. 36:803
Louisiana State Board of Optometry Examiners	R.S. 36:803
Louisiana State Board of Examiners for Sanitarians	R.S. 36:803
Louisiana State Board of Practical Nurse Examiners	R.S. 36:803
Louisiana Board of Chiropractic Examiners	R.S. 36:803
Louisiana State Board of Medical Examiners	R.S. 36:803
Louisiana State Board of Embalmers and Funeral Directors	R.S. 36:803
State Board of Examiners for Psychologists	R.S. 36:803
Louisiana Board of Examiners for Speech-Language Pathology and Audiology	R.S. 36:803
Louisiana Board of Veterinary Medicine	R.S. 36:803
Board of Examiners for Nursing Facility Administrators	R.S. 36:803
Louisiana Board of Pharmacy	R.S. 36:803
Louisiana Board for Hearing Aid Dealers	R.S. 36:803
Radiologic Technology Board of Examiners	R.S. 36:803
Louisiana Physical Therapy Board	R.S. 36:803
The Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners	R.S. 36:803
The Addictive Disorder Regulatory Authority Bd. of Directors	R.S. 36:803
The State Board of Electrolysis Examiners	R.S. 36:803
The Louisiana State Board of Examiners in Dietetics and Nutrition	R.S. 36:803

AGENCIES TRANSFERRED TO THE DEPARTMENT OF HEALTH AND HOSPITALS

Transferred Agency	Citation of transfer type
The Louisiana Licensed Professional Counselors Board of Examiners	R.S. 36:803
The Louisiana Board of Wholesale Drug Distributors	R.S. 36:803
The Louisiana Board of Massage Therapy	R.S. 36:803
The Health Education Authority of Louisiana	R.S. 36:804
Greenwell Springs Hospital (Greenwell Springs)	R.S. 36:851 et seq.
Southeast Louisiana State Hospital (Mandeville)	R.S. 36:851 et seq.
East Louisiana State Hospital (Jackson)	R.S. 36:851 et seq.
Jonesboro Charity Hospital (Jonesboro)	R.S. 36:851 et seq.
Central Louisiana State Hospital (Pineville)	R.S. 36:851 et seq.
Pinecrest Supports and Services Center	R.S. 36:851 et seq.
North Lake Supports and Services Center	R.S. 36:851 et seq.
Columbia Community Residential and Employment Services	R.S. 36:851 et seq.
The mental health facilities located in New Orleans, Baton Rouge, Shreveport, Monroe, Lake Charles, Alexandria, Lafayette, Metairie, Hammond, Natchitoches, Ruston, Chalmette, Houma, Harvey, Marksville, Bogalusa, Pineville, Many, New Roads, Covington, Crowley, Donaldsonville, Plaquemine, Raceland, Leesville, Norco, Mandeville, Ville Platte, Patterson, Tallulah, Columbia, Oakdale, and any other state owned or operated facilities as may be hereinafter established	R.S. 36:851 et seq.
Bayou Region Supports and Services Center	R.S. 36:851 et seq.
Northeast Supports and Services Center	R.S. 36:851 et seq.
Greater New Orleans Supports and Services Center	R.S. 36:851 et seq.
Acadiana Region Supports and Services Center	R.S. 36:851 et seq.
Northwest Supports and Services Center	R.S. 36:851 et seq.
Leesville Residential and Employment Services	R.S. 36:851 et seq.
Villa Feliciana Medical Complex	R.S. 36:851 et seq.
The Health Maintenance Organization of New Orleans Charity Hospital	R.S. 36:851 et seq.
Acadiana Employment Services at Eunice	R.S. 36:851 et seq.
Acadiana Employment Services at Opelousas	R.S. 36:851 et seq.
The Ambulance Standards Committee of the Emergency Medical Services Task Force (established by asst. sec. of office of public health)	R.S. 36:901 et seq.
The Louisiana Access to Better Care Medicaid Insurance Demonstration Project Oversight Board	R.S. 36:901 et seq.
The Advisory Committee on Hospice Care	R.S. 36:901 et seq.
The Medical Education Commission	R.S. 36:901 et seq.

AGENCIES TRANSFERRED TO THE DEPARTMENT OF HEALTH AND HOSPITALS

Transferred Agency	Citation of transfer type
Medicaid Pharmaceutical and Therapeutics Committee	As provided by law
Regional & state advisory councils for the community & family support system	As provided by law
Advisory council for program of early identification of hearing impaired infants	As provided by law
Emergency Medical Services for Children Advisory Council	As provided by law
Respiratory Care Advisory Committee	R.S. 36:914
The Louisiana Commission on Addictive Disorders	R.S. 36:914
The Physician Assistants Advisory Committee	R.S. 36:914
The Louisiana Advisory Committee on Populations and Geographic Regions With Excessive Cancer Rates	R.S. 36:914
The Fluoridation Advisory Board	R.S. 36:914
The Clinical Laboratory Personnel Committee (under La. State Board of Medical Examiners jurisdiction)	R.S. 36:919.2
The Louisiana Emergency Medical Services Certification Commission	R.S. 36:919.4
Agencies abolished with functions transferred to department (R.S. 36:921 et seq.)	
Louisiana Health and Human Resources Administration (to the extent that the cited provisions provide with respect to agencies or functions placed in or transferred to the Department of Health and Hospitals)	
Home Care Service Council	
Louisiana State Board of Health and the Louisiana Department of Health & its subsidiary boards	
Louisiana Narcotics Rehabilitation Commission	
Louisiana Narcotics Rehabilitation Advisory Council	
Interdepartmental Health Policy Commission	
Anatomical Board	
Board of Commissioners of the South Louisiana Health Services District	
Louisiana State Planning and Advisory Council on Developmental Disabilities	
Nursing Home Advisory Committee	
Hospital Licensing Council	

DEPARTMENT OF HEALTH AND HOSPITALS

Appropriation for 2011-2012 Fiscal Year ¹⁹:

State General Fund	\$ 1,724,052,808
Total Means of Financing	8,246,639,356

Appropriated and Authorized FTE Department Positions ²⁰: 8,458

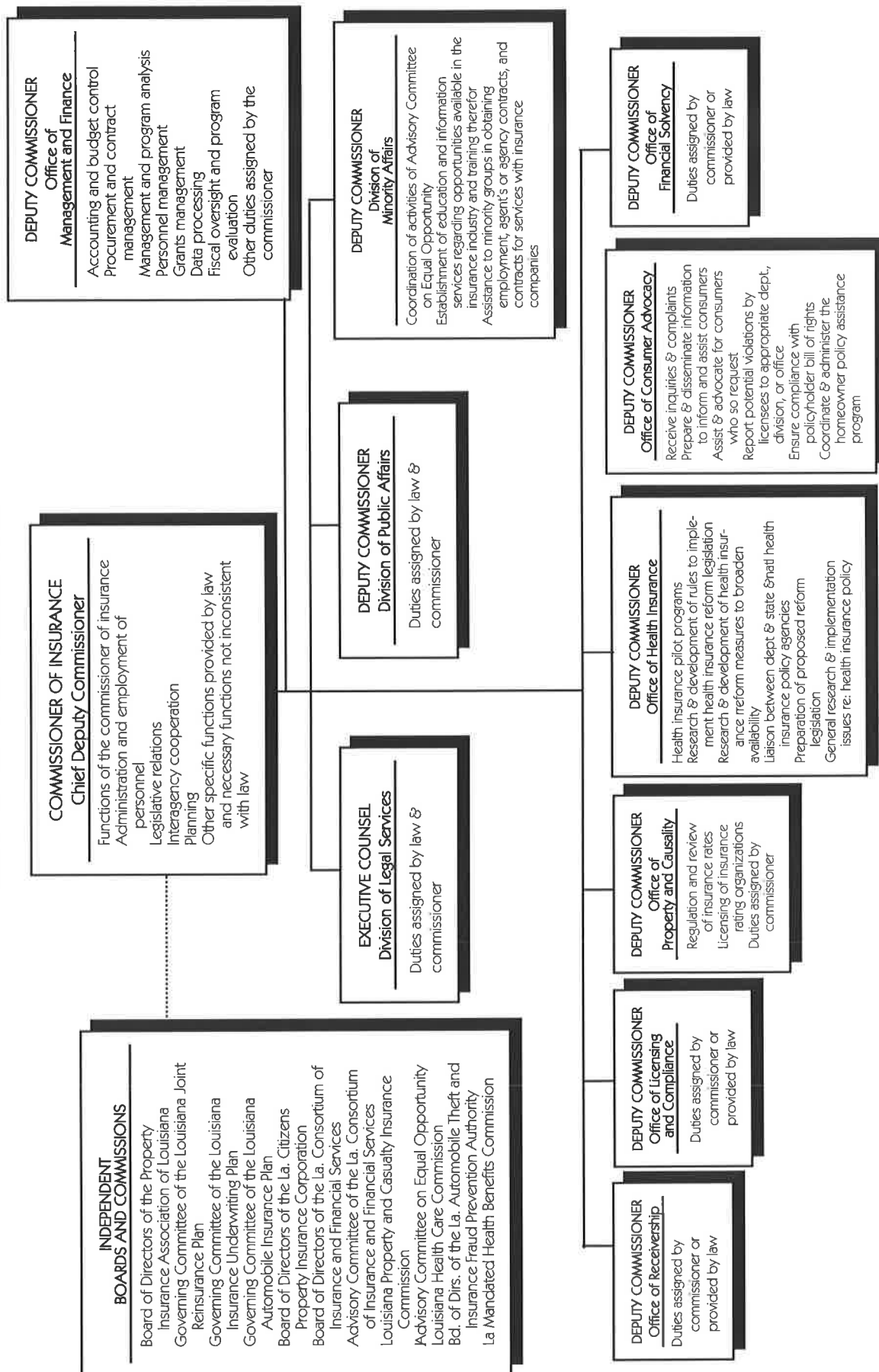
Total Employees (Actual) ²¹ :	10,131
Total unclassified:	1,074
Total classified:	9,057

¹⁹ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

²⁰ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. (Note: 45 T.O. positions from *Citizens with Developmental Disabilities* have been transferred to deliver waiver services in area human services authorities for FY 2011-2012 and therefore are not included in the department T.O.) Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

²¹ As reported by state civil service for 9/30/11. Also includes employees of area human services authorities which are local in nature and not part of department in Title 36. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF INSURANCE



AGENCIES TRANSFERRED TO THE DEPARTMENT OF INSURANCE

Transferred Agency	Citation of transfer type
The Board of Directors of the Property Insurance Association of Louisiana	R.S. 36:801.1
The Governing Committee of the Louisiana Joint Reinsurance Plan	R.S. 36:801.1
The Governing Committee of the Louisiana Insurance Underwriting Plan	R.S. 36:801.1
The Governing Committee of the Louisiana Automobile Insurance Plan	R.S. 36:801.1
The Board of Directors of the Louisiana Citizens Property Insurance Corporation	R.S. 36:801.1
The Board of Directors of the Louisiana Consortium of Insurance and Financial Services	R.S. 36:801
The Advisory Committee of the Louisiana Consortium of Insurance and Financial Services	R.S. 36:801
The Louisiana Property and Casualty Insurance Commission	R.S. 36:802
The Advisory Committee on Equal Opportunity	R.S. 36:802
The Louisiana Mandated Health Benefits Commission	R.S. 36:802
The Louisiana Health Care Commission	R.S. 36:802.16
The Board of Directors of the Louisiana Automobile Theft and Insurance Fraud Prevention Authority	R.S. 36:802.21

DEPARTMENT OF INSURANCE

Appropriation for 2011-2012 Fiscal Year ²²:

State General Fund	\$ 0
Total Means of Financing	33,476,973

Appropriated and Authorized FTE Department Positions ²³: 265

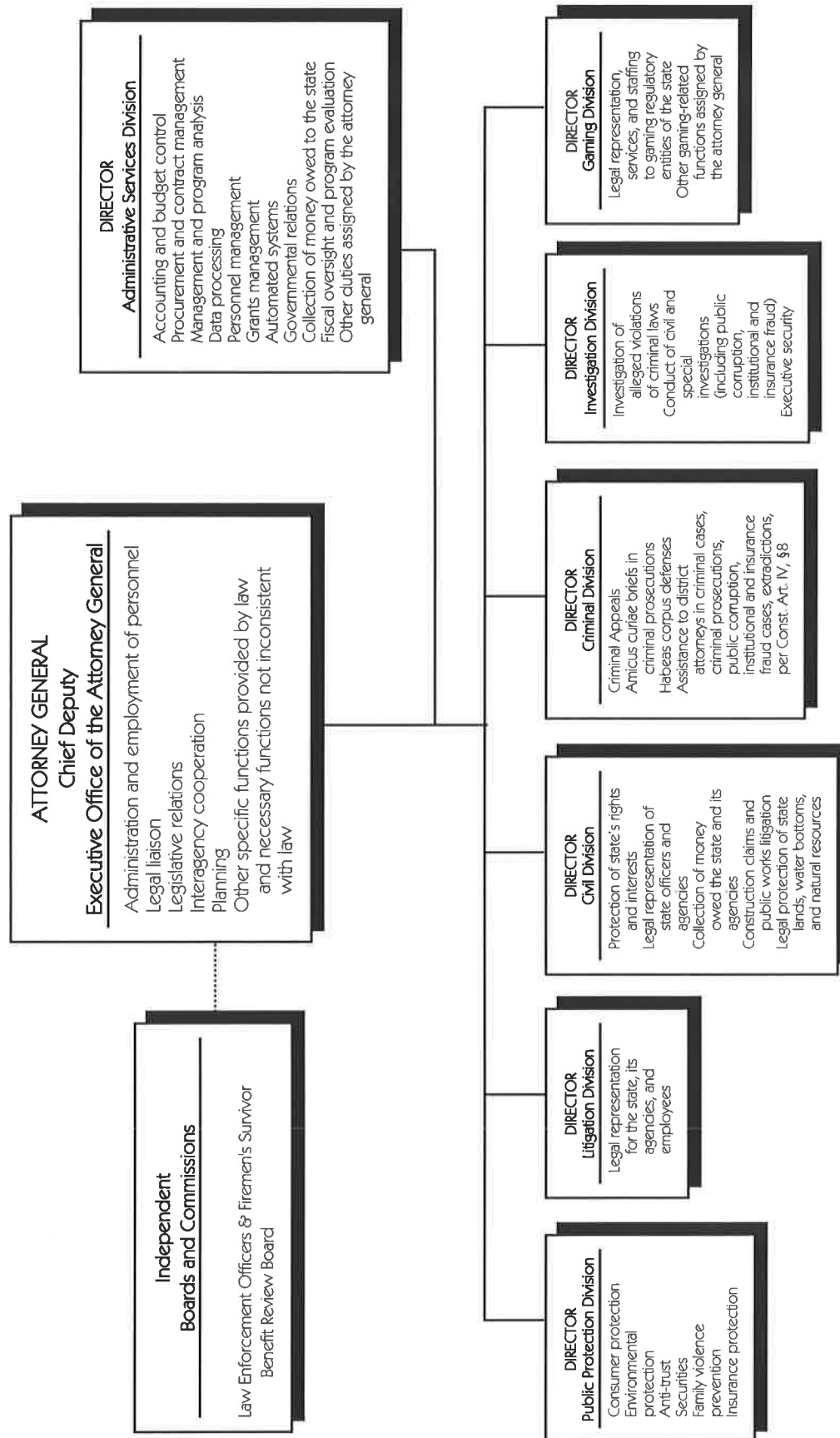
Total Employees (Actual) ²⁴ :	273
Total unclassified:	39
Total classified:	234

²² Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

²³ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

²⁴ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF JUSTICE



AGENCIES TRANSFERRED TO THE DEPARTMENT OF JUSTICE

Transferred Agency	Citation of transfer type
Law Enforcement Officers & Firemen's Survivor Benefit Review Board	As provided by law
Agencies abolished with functions transferred to department (R.S. 36:921 et seq.)	
The Governor's Consumer Protection Division	

DEPARTMENT OF JUSTICE

Appropriation for 2011-2012 Fiscal Year ²⁵:

State General Fund	\$ 12,265,198
Total Means of Financing	70,184,524

Appropriated and Authorized FTE Department Positions ²⁶: 480

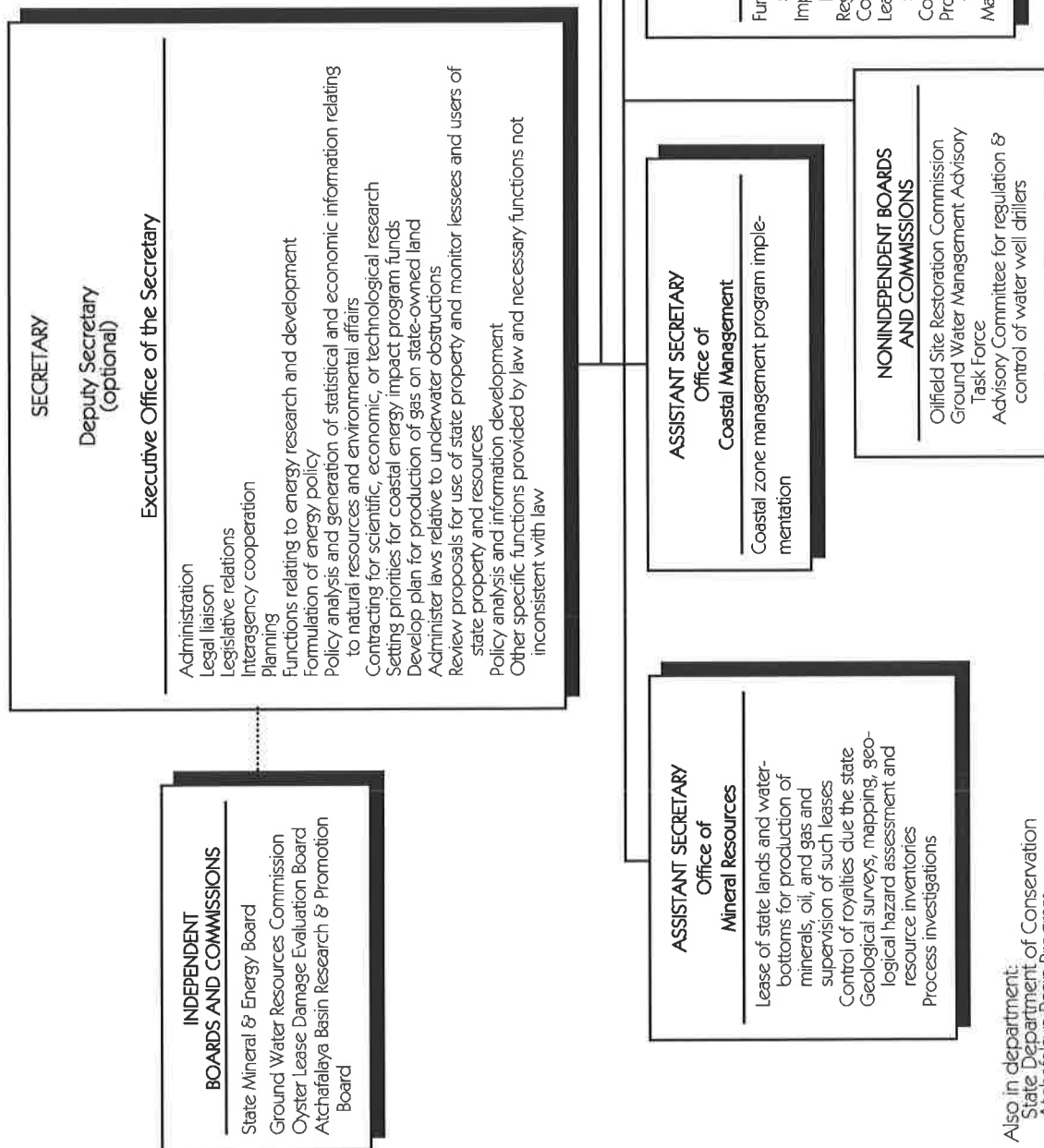
Total Employees (Actual) ²⁷ :	520
Total unclassified:	520
Total classified:	0

²⁵ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

²⁶ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

²⁷ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF NATURAL RESOURCES



Also in department:
State Department of Conservation
Atchafalaya Basin Program

¹ Commissioner of Conservation

AGENCIES TRANSFERRED TO THE DEPARTMENT OF NATURAL RESOURCES

Transferred Agency	Citation of transfer type
The Ground Water Resources Commission	R.S. 36:802.18
The State Department of Conservation	R.S. 36:806
The State Mineral and Energy Board	R.S. 36:807
Oyster Lease Damage Evaluation Board	As provided by law
The Oilfield Site Restoration Commission	R.S. 36:901 et seq.
Ground Water Management Advisory Task Force	As provided by law
Advisory committee for regulation & control of water well drillers	As provided by law
The Atchafalaya Basin Program (Atchafalaya Basin Research & Promotion Board is within the program)	As provided by law

DEPARTMENT OF NATURAL RESOURCES

Appropriation for 2011-2012 Fiscal Year ²⁸:

State General Fund	\$ 4,991,326
Total Means of Financing	202,659,012

Appropriated and Authorized FTE Department Positions ²⁹: 380

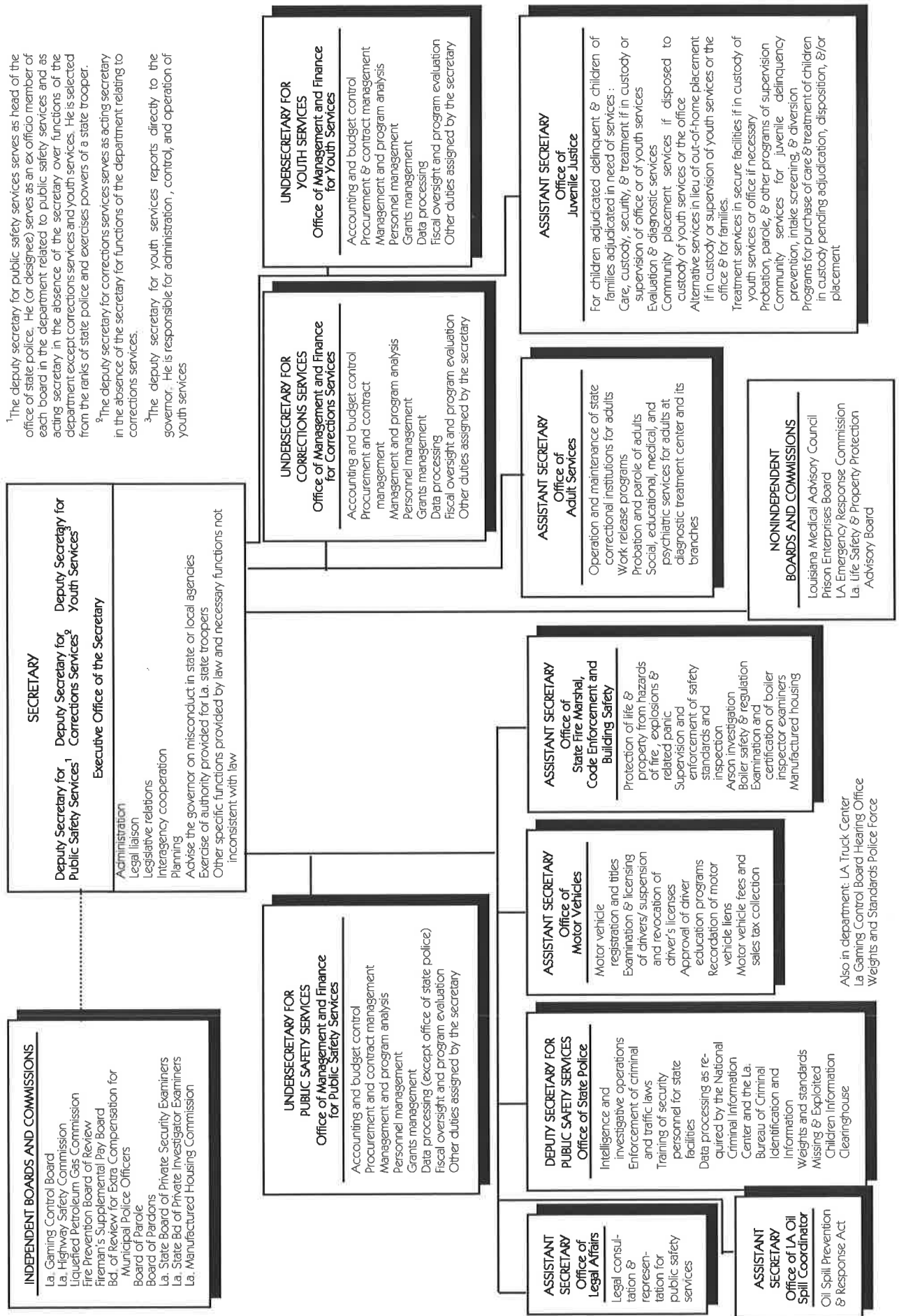
Total Employees (Actual) ³⁰ :	405
Total unclassified:	38
Total classified:	367

²⁸ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

²⁹ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

³⁰ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS



¹The deputy secretary for public safety services serves as head of the office of state police. He (or designee) serves as an ex officio member of each board in the department related to public safety services and as acting secretary in the absence of the secretary over functions of the department except corrections services and youth services. He is selected from the ranks of state police and exercises powers of a state trooper.

²The deputy secretary for corrections services serves as acting secretary in the absence of the secretary for functions of the department relating to corrections services.

³The deputy secretary for youth services reports directly to the governor. He is responsible for administration, control, and operation of youth services

AGENCIES TRANSFERRED TO THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

Transferred Agency	Citation of transfer type
The Louisiana Gaming Control Board	R.S. 36:801.1
The Louisiana Highway Safety Commission	R.S. 36:801
Fire Prevention Board of Review	R.S. 36:802
Fireman's Supplemental Pay Board	R.S. 36:802
Board of Review for extra compensation for municipal police officers	R.S. 36:802
Board of Parole	R.S. 36:802
Board of Pardons	R.S. 36:802
The Weights and Standards Police Force	R.S. 36:802
The Liquified Petroleum Gas Commission (dir. or asst. dir. continue to be appointed as provided by law)	R.S. 36:802
The office of the Louisiana oil spill coordinator	R.S. 36:802
Louisiana State Board of Private Security Examiners	R.S. 36:803
The Louisiana State Board of Private Investigator Examiners	R.S. 36:803
The Louisiana Manufactured Housing Commission	R.S. 36:803.1
The Louisiana state administrative agency (manufactured housing)	As provided by law
The Louisiana Truck Center	R.S. 36:851
The Prison Enterprises Board	R.S. 36:901 et seq.
The Louisiana Emergency Response Commission	As provided by law
The Louisiana Life Safety and Property Protection Advisory Board	R.S. 36:919.3
The Louisiana Medical Advisory Council	R.S. 36:951 et seq.
The Louisiana Gaming Control Board Hearing Office (div. of La. Gaming Control Board)	R.S. 27:25
Agencies abolished with functions transferred to department (R.S. 36:921 et seq.)	
Department of Public Safety	
State Fire Marshal	
The Interagency Recreation Board	
Louisiana Criminal Justice Information System	
Louisiana State Board of Boiler Inspector Examiners	
The Department of Corrections	

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

Appropriation for 2011-2012 Fiscal Year ³¹:

State General Fund	
\$ 439,159,351	Corrections Services
2,290,614	Public Safety Services
<u>115,506,465</u>	Youth Services
\$ 556,956,430	TOTAL

Total Means of Financing	
\$ 495,655,721	Corrections Services
399,564,607	Public Safety Services
<u>143,022,365</u>	Youth Services
\$ 1,038,242,693	TOTAL

Appropriated and Authorized FTE Department Positions ³²: 9,015

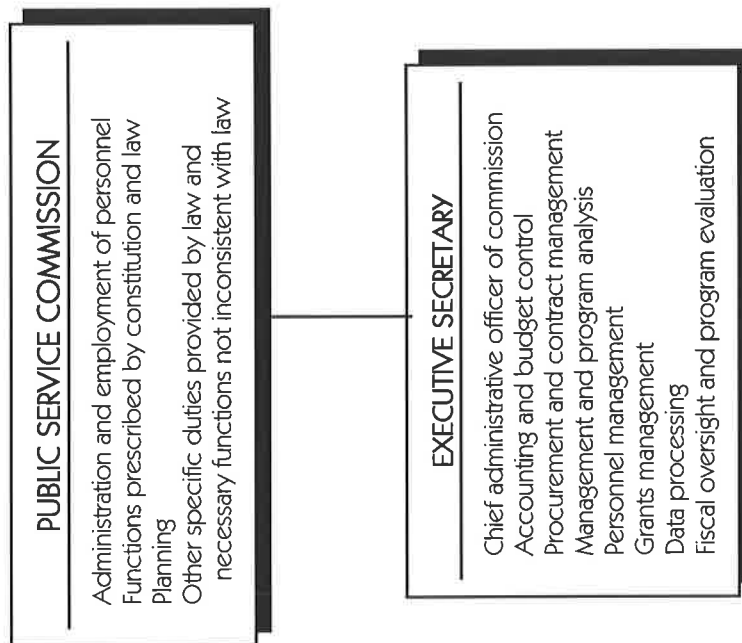
Corrections Services Total	5,284
Public Safety Services Total	2,675
Youth Development Total	1,056
Total Employees (Actual) ³³ :	9,164
Total unclassified:	443
Total classified:	8,721
Corrections Services Total	5,339
Total unclassified:	142
Total classified:	5,197
Public Safety Services Total	2,816
Total unclassified:	196
Total classified:	2,620
Youth Development Total	1,009
Total unclassified:	105
Total classified:	904

³¹ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

³² Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

³³ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF PUBLIC SERVICE



AGENCIES TRANSFERRED TO THE DEPARTMENT OF PUBLIC SERVICE

Transferred Agency	Citation of transfer type
The Public Service Commission	R.S. 36:801.1

DEPARTMENT OF PUBLIC SERVICE

Appropriation for 2011-2012 Fiscal Year ³⁴:

State General Fund	\$ 0
Total Means of Financing	9,724,407

Appropriated and Authorized FTE Department Positions ³⁵: 97

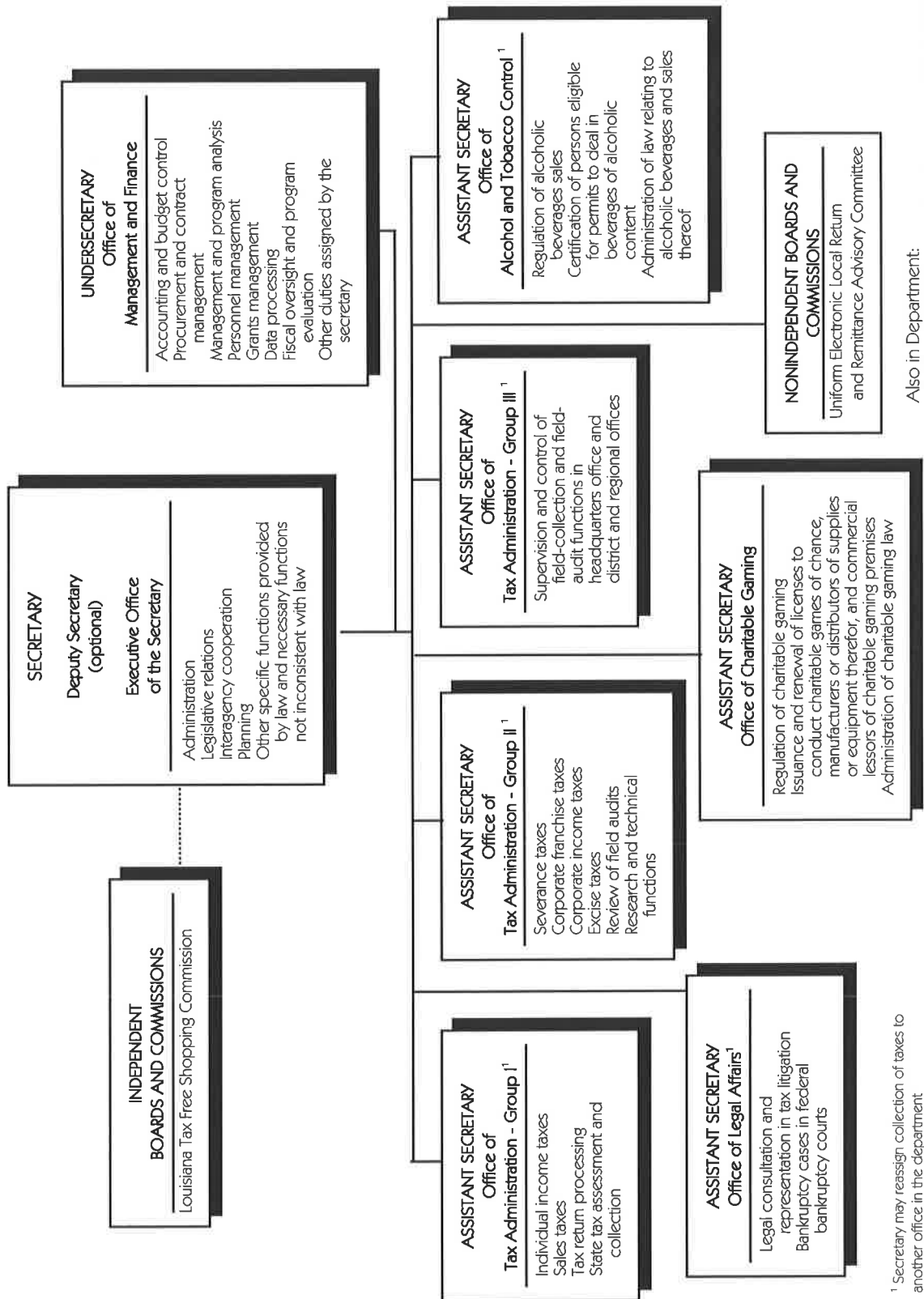
Total Employees (Actual) ³⁶ :	100
Total unclassified:	20
Total classified:	80

³⁴ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

³⁵ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

³⁶ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF REVENUE



¹ Secretary may reassign collection of taxes to another office in the department

Also in Department:
Public administrators appointed pursuant to R.S. 9:1581

AGENCIES TRANSFERRED TO THE DEPARTMENT OF REVENUE

Transferred Agency	Citation of transfer type
Public administrators for all parishes (appointed pursuant to R.S. 9:1581)	R.S. 36:802
The Louisiana Tax Free Shopping Commission	R.S. 36:802
The Uniform Electronic Local Return and Remittance Advisory Committee	R.S. 36:901
Agencies abolished with functions transferred to department (R.S. 36:921 et seq.)	
The Department of Revenue	
The office of alcoholic beverage control (powers, duties, functions, employees, and responsibilities transferred to the office of alcohol and tobacco control)	
The division of charitable gaming control, office of state police, Department of Public Safety and Corrections (powers, duties, functions, programs, and operations transferred to office of charitable gaming, Dept. of Revenue, except commissioned law enforcement officers remain with the office of state police; other employees transferred at discretion of Dept. of Revenue secretary & insofar as practicable and necessary continue to perform duties heretofore assigned, subject to applicable state civil service laws & rules)	

DEPARTMENT OF REVENUE

Appropriation for 2011-2012 Fiscal Year ³⁷:

State General Fund	\$ 0
Total Means of Financing	96,840,096

Appropriated and Authorized FTE Department Positions ³⁸: 802

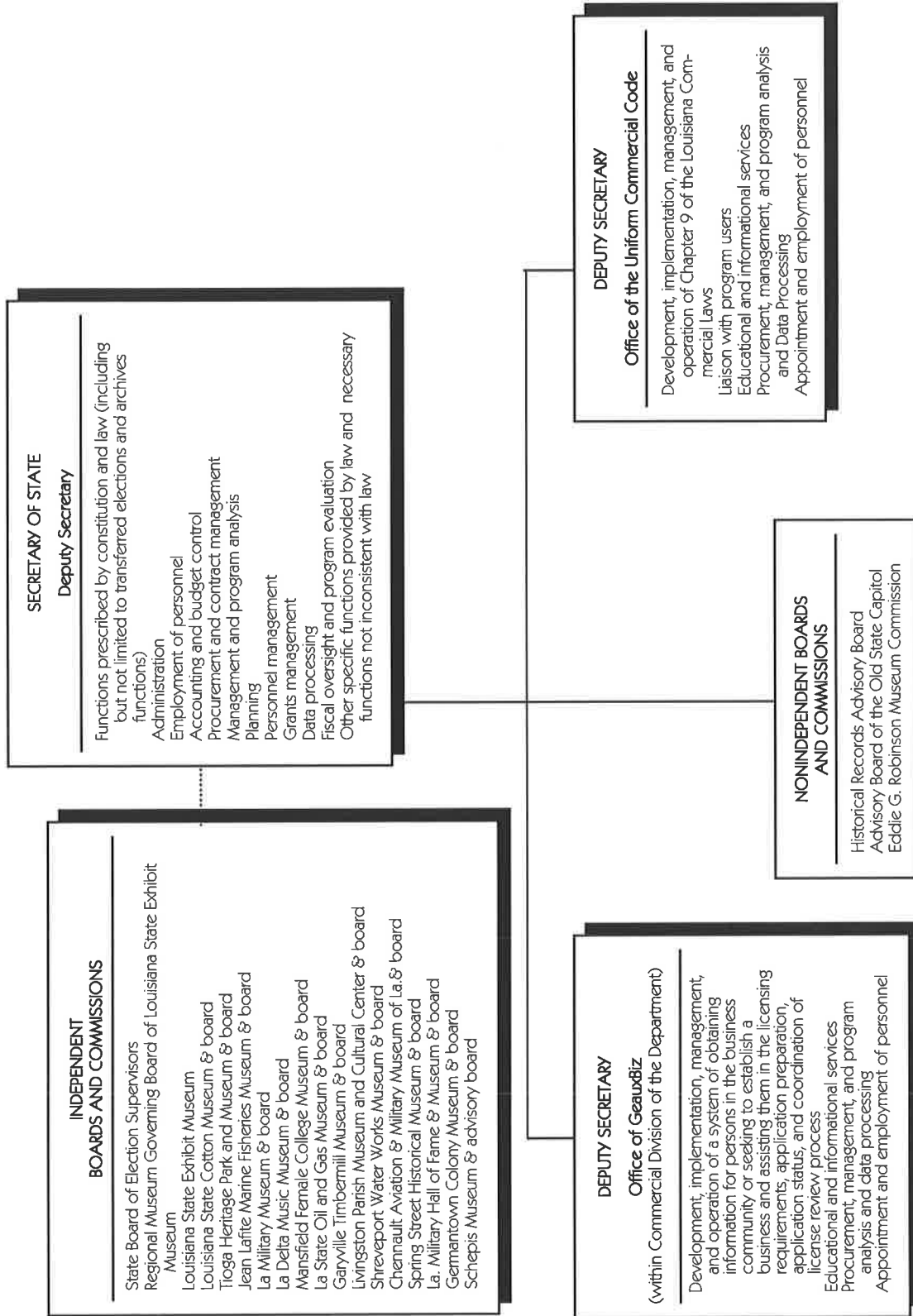
Total Employees (Actual) ³⁹ :	838
Total unclassified:	76
Total classified:	762

³⁷ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

³⁸ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

³⁹ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF STATE



AGENCIES TRANSFERRED TO THE DEPARTMENT OF STATE

Transferred Agency	Citation of transfer type
The Regional Museum Governing Board of Louisiana State Exhibit Museum	R.S. 36:801.6
The Louisiana State Exhibit Museum	R.S. 36:801.6
The Louisiana State Cotton Museum	R.S. 36:801.7
The Louisiana State Oil and Gas Museum	R.S. 36:801.9
The Garyville Timbermill Museum & its bd. of directors	R.S. 36:801.10
The Livingston Parish Museum and Cultural Center & its governing board	R.S. 36:801.11
The Louisiana Delta Music Museum & its governing board	R.S. 36:801.12
The Louisiana Military Museum & its governing board	R.S. 36:801.13
The Jean Lafitte Marine Fisheries Museum & its governing board	R.S. 36:801.14
The Tioga Heritage Park and Museum & its governing board	R.S. 36:801.15
The Mansfield Female College Museum & its governing board	R.S. 36:801.16
The Shreveport Water Works Museum & its governing board	R.S. 36:801.17
The Chennault Aviation and Military Museum of Louisiana & its governing board	R.S. 36:801.18
The Spring Street Historical Museum & its governing board	R.S. 36:801.19
The Louisiana Military Hall of Fame and Museum & its governing board	R.S. 36:801.20
The Germantown Colony Museum	R.S. 36:801.22
The Schepis Museum	R.S. 36:801.23
The State Board of Election Supervisors	R.S. 36:802
The Historical Records Advisory Commission	R.S. 36:901 et seq.
The Advisory Board of the Old State Capitol	R.S. 36:919.1
The Eddie G. Robinson Museum Commission	R.S. 36:919.6
Merger of office of commissioner of elections with office of secretary of state & Dept. of Elections and Registration with Dept. of State (Const. Art. IV, § 20)	
The office of commissioner of elections (commissioner to be agent for service of process per R.S. 18:44(B)(7))	R.S. 36:851 et seq.
The Department of Elections and Registration	R.S. 36:851 et seq.
The Old State Capitol	R.S. 36:851 et seq.

Agencies abolished/functions transferred to department (R.S. 36:921 et seq.)

The Archives and Records Commission and the Archives and Records Service

The Old State Capitol Memorial Commission

DEPARTMENT OF STATE

Appropriation for 2011-2012 Fiscal Year ⁴⁰:

State General Fund	\$ 49,690,115
Total Means of Financing	80,886,348

Appropriated and Authorized FTE Department Positions ⁴¹: 317

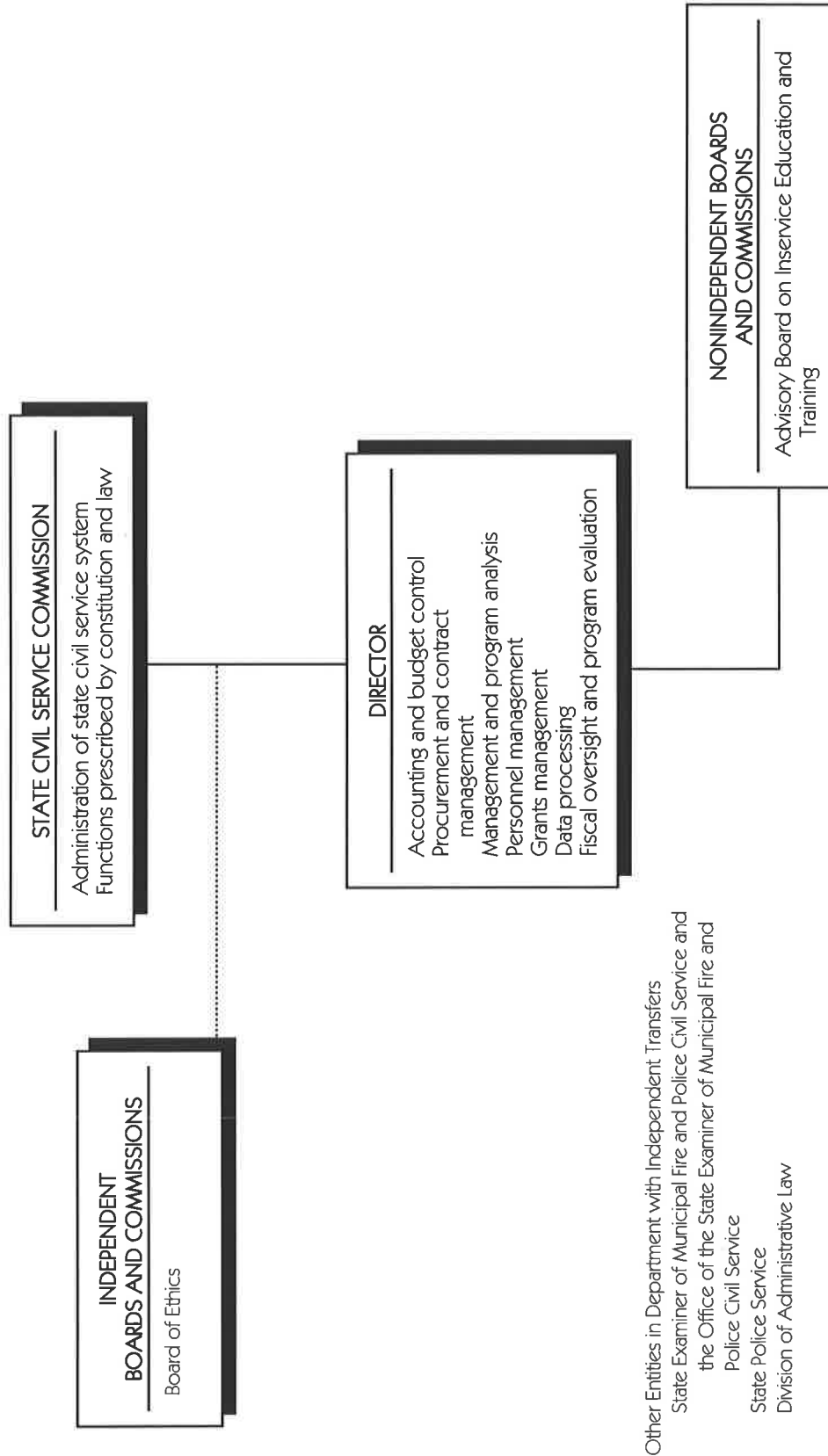
Total Employees (Actual) ⁴² :	757
Total unclassified:	383
Total classified:	374

⁴⁰ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

⁴¹ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

⁴² As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF STATE CIVIL SERVICE



AGENCIES TRANSFERRED TO THE DEPARTMENT OF STATE CIVIL SERVICE

Transferred Agency	Citation of transfer type
The State Police Service	R.S. 36:801.1
The state examiner of municipal fire and police civil service & the office of the state examiner or municipal fire and police civil service	R.S. 36:801
The division of administrative law	R.S. 36:801
The Board of Ethics	R.S. 36:809
Advisory Board on Inservice Training and Education	R.S. 36:901 et seq.

DEPARTMENT OF STATE CIVIL SERVICE

Appropriation for 2011-2012 Fiscal Year ⁴³:

State General Fund	\$ 4,665,607
Total Means of Financing	24,909,786

Appropriated and Authorized FTE Department Positions ⁴⁴: 212

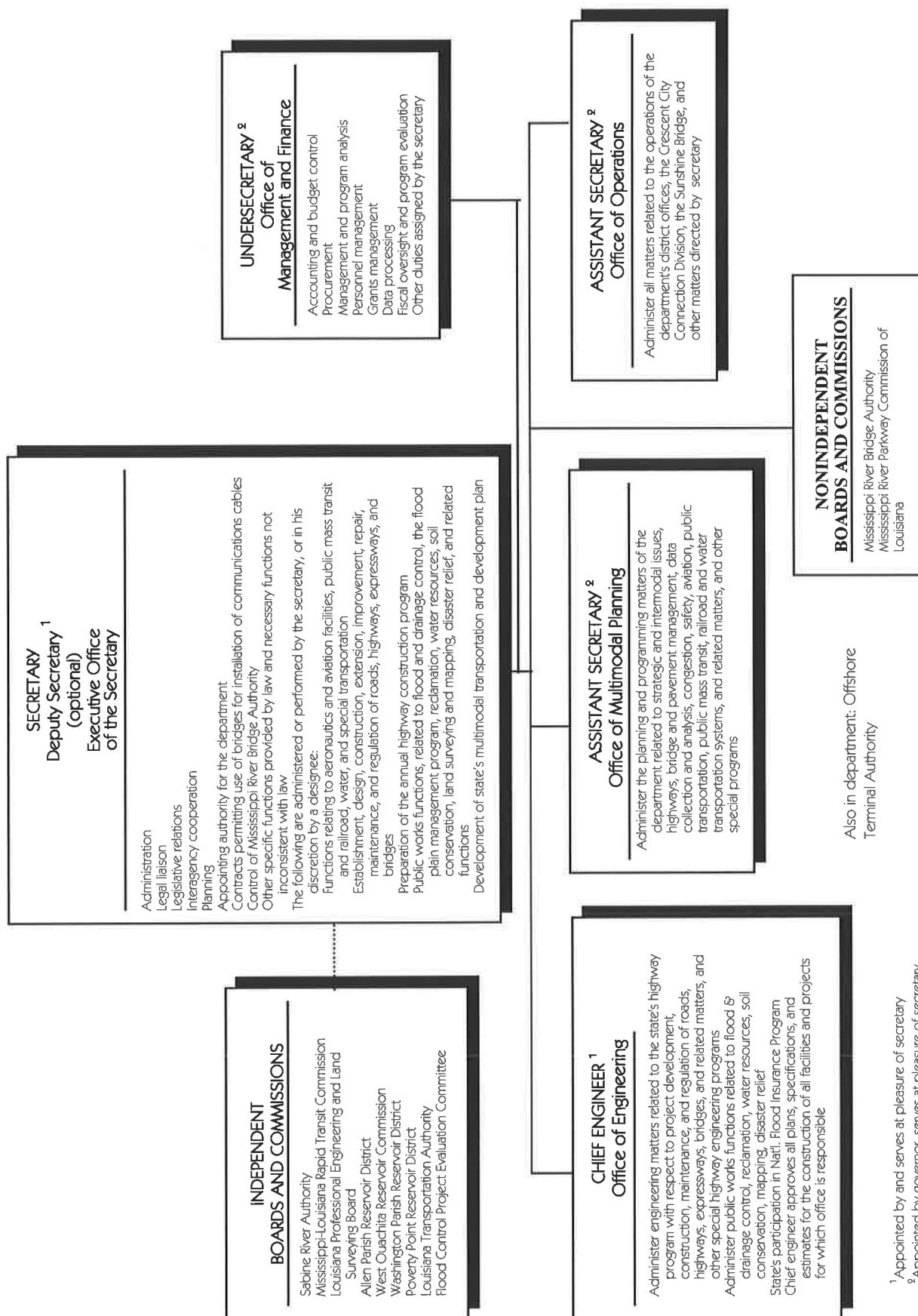
Total Employees (Actual) ⁴⁵ :	290
Total unclassified:	82
Total classified:	208

⁴³ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

⁴⁴ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

⁴⁵ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT



¹Appointed by and serves at pleasure of secretary
²Appointed by governor, serves at pleasure of secretary

AGENCIES TRANSFERRED TO THE DEPARTMENT OF TRANSPORTATION AND
DEVELOPMENT

Transferred Agency	Citation of transfer type
The Sabine River Authority, state of Louisiana	R.S. 36:801.1
The Poverty Point Reservoir District	R.S. 36:801.1
The Allen Parish Reservoir District	R.S. 36:801.1
The Washington Parish Reservoir District	R.S. 36:801.1
The West Ouachita Reservoir Commission	R.S. 36:801.1
The Louisiana Transportation Authority	R.S. 36:801
The Mississippi-Louisiana Rapid Transit Commission	R.S. 36:802
The Louisiana Professional Engineering and Land Surveying Board	R.S. 36:803
Floor Control Project Evaluation Committee	As provided by law
The Offshore Terminal Authority	As provided by law
The Mississippi River Bridge Authority	R.S. 36:901
The Mississippi River Parkway Commission of Louisiana	R.S. 36:901 et seq.

Agencies abolished with functions transferred to department (R.S. 36:921 et seq.)

Governor's Commission on Intermodal Transportation
The Department of Highways
Department of Public Works
The Board of Public Works
The State Board of Highways
Louisiana Expressway Authority
Larose-Lafitte Toll Road Authority
South Central Louisiana Toll Road Authority

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

Appropriation for 2011-2012 Fiscal Year ⁴⁶:

State General Fund	\$ 0
Total Means of Financing	536,329,553

Appropriated and Authorized FTE Department Positions ⁴⁷: 4,494

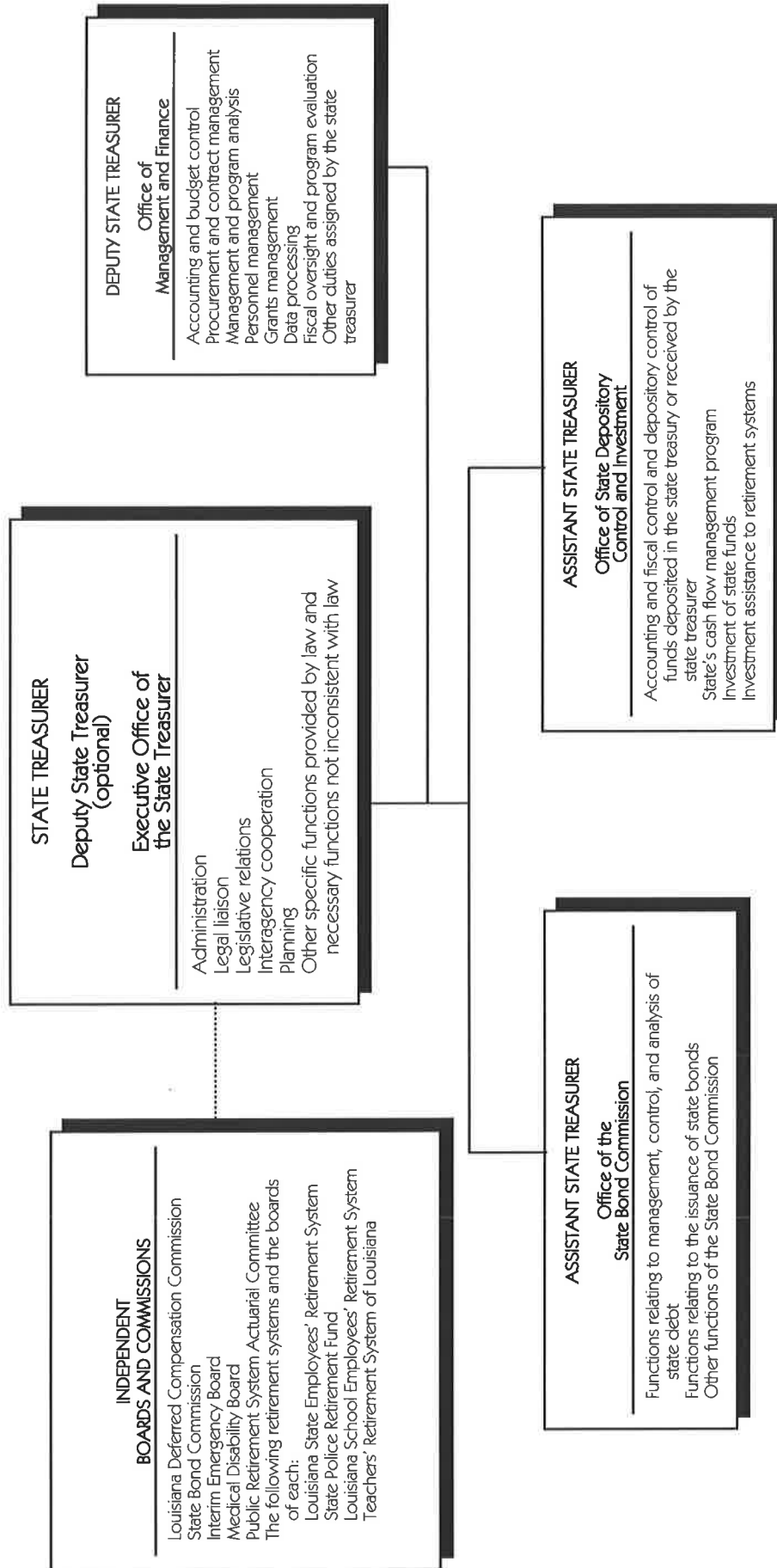
Total Employees (Actual) ⁴⁸ :	4,515
Total unclassified:	72
Total classified:	4,443

⁴⁶ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

⁴⁷ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

⁴⁸ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF THE TREASURY



AGENCIES TRANSFERRED TO THE DEPARTMENT OF THE TREASURY

Transferred Agency	Citation of transfer type
The Louisiana Deferred Compensation Commission	R.S. 36:801.1
Louisiana State Employees' Retirement System and its board	R.S. 36:801.3
State Police Retirement Fund and its board	R.S. 36:801.3
Louisiana School Employees' Retirement System and its board	R.S. 36:801.3
Teachers' Retirement System of Louisiana and its board	R.S. 36:801.3
State Bond Commission (including the powers, duties, functions, and responsibilities of agencies previously transferred to the commission)	R.S. 36:802
Interim Emergency Board	R.S. 36:802
The Medical Disability Board	R.S. 36:802
Public Retirement System Actuarial Committee	As provided by law
Agencies abolished/functions transferred to department (R.S. 36:921 et seq.)	
Public Employees Board	
Agencies abolished with functions transferred to department (powers, duties, functions, and responsibilities to be exercised within the Dept. of the Treasury to the extent and in the manner provided by law)	
State Bond and Tax Board	

DEPARTMENT OF THE TREASURY

Appropriation for 2011-2012 Fiscal Year ⁴⁹:

State General Fund	\$ 0
Department	0
Retirement Systems	0
 Total Means of Financing	 12,718,272
Department	12,718,272
Retirement Systems	0

Appropriated and Authorized FTE Department Positions ⁵⁰: 59

Department	59
Retirement Systems	0

Total Employees (Actual) ⁵¹:

Total unclassified:	124
Total classified:	471

Treasury Total	89
Total Unclassified	43
Total Classified	46

Retirement Systems Total	371
Total Unclassified	63
Total Classified	308

Other Total	135
Total Unclassified	18
Total Classified	117

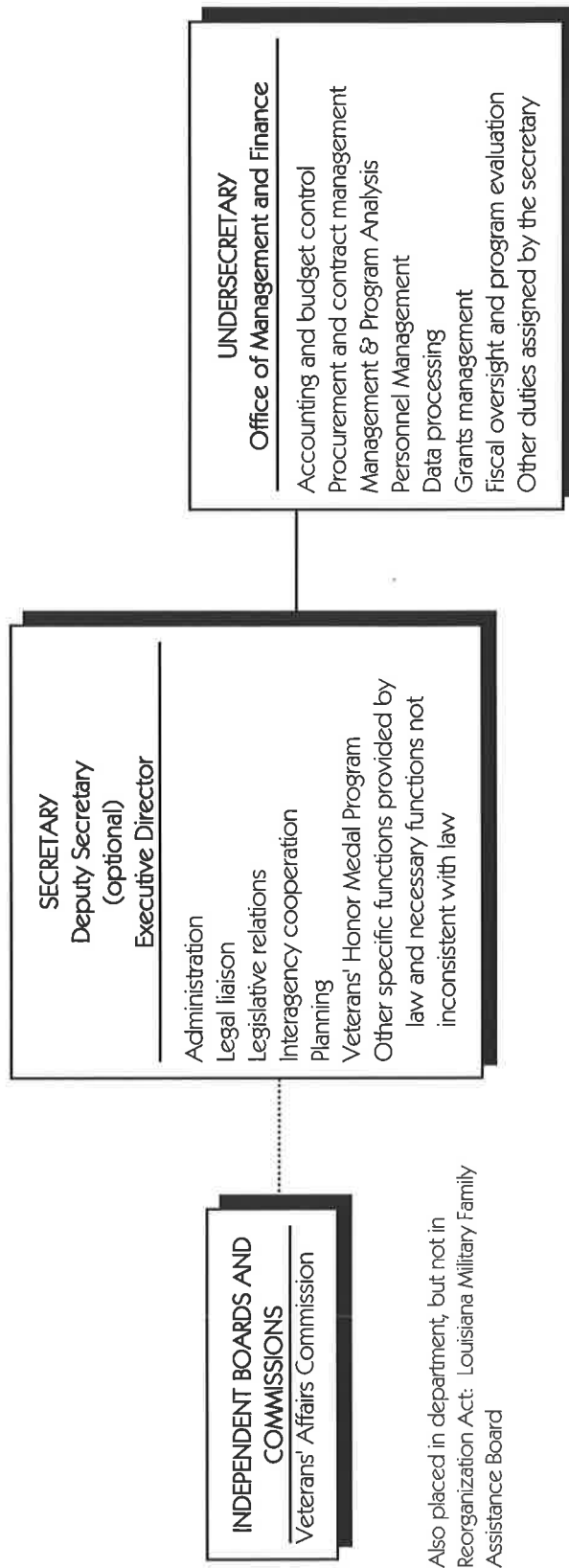
These 135 positions are attributable to the La. Housing Finance Agency which is to be transferred to and be a subsidiary of the La. Housing Corporation on 12/31/11 and will be abolished and its functions transferred to the La. Housing Corporation on 6/30/12. The LHFA board of commissioners is being abolished on 12/31/11.

⁴⁹ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

⁵⁰ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

⁵¹ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF VETERANS AFFAIRS



AGENCIES TRANSFERRED TO THE DEPARTMENT OF VETERANS AFFAIRS

Transferred Agency	Citation of transfer type
The Veterans' Affairs Commission	R.S. 36:802
Agencies abolished with functions transferred to department (R.S. 36:921 et seq.)	
The Department of Veterans Affairs	

DEPARTMENT OF VETERANS AFFAIRS

Appropriation for 2011-2012 Fiscal Year ⁵²:

State General Fund	\$ 5,509,517
Total Means of Financing	53,917,171

Appropriated and Authorized FTE Department Positions ⁵³: 830

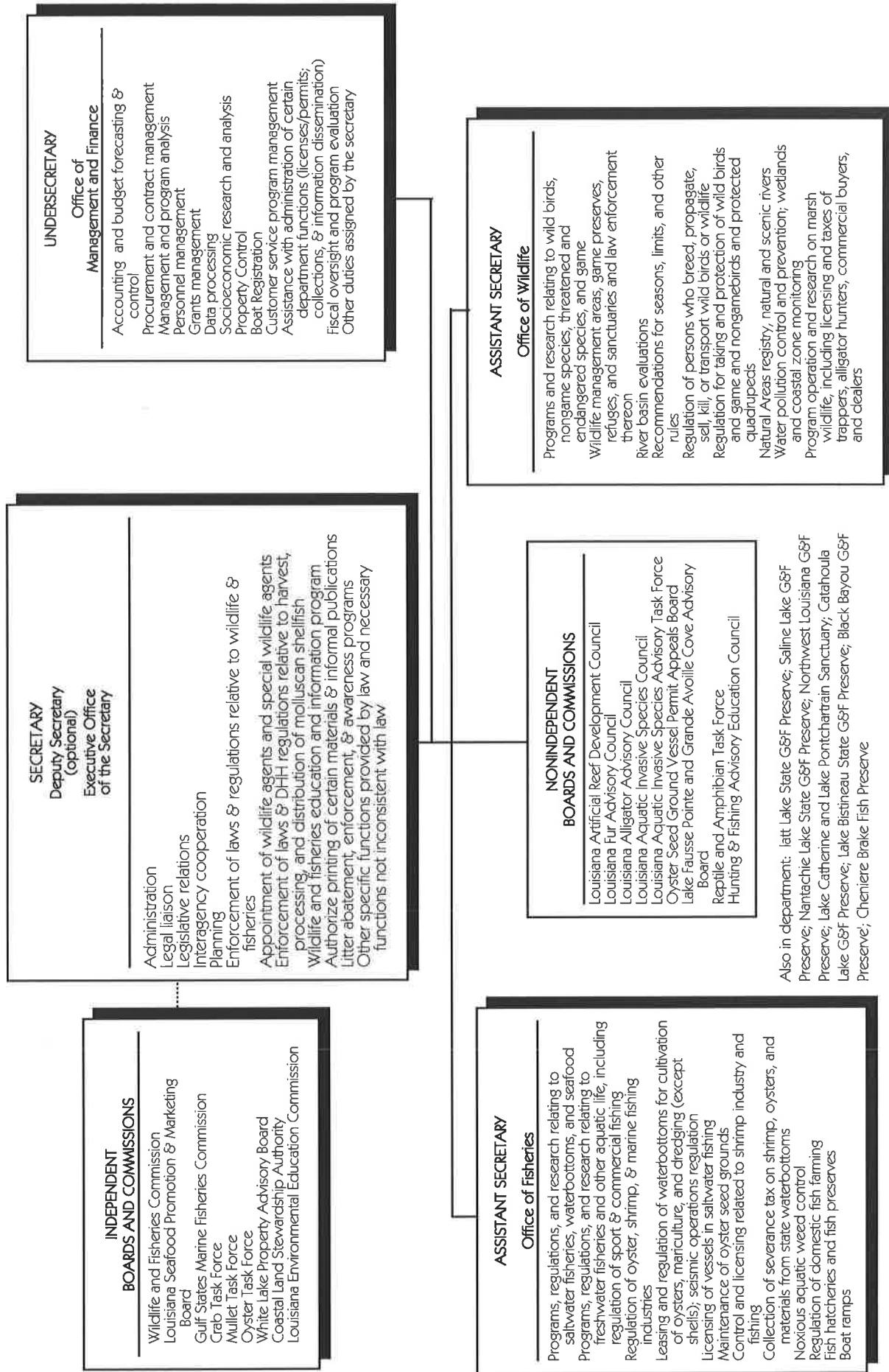
Total Employees (Actual) ⁵⁴ :	889
Total unclassified	88
Total classified	801

⁵² Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

⁵³ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

⁵⁴ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF WILDLIFE AND FISHERIES



AGENCIES TRANSFERRED TO THE DEPARTMENT OF WILDLIFE AND FISHERIES

Transferred Agency	Citation of transfer type
The White Lake Property Advisory Board	R.S. 36:801
Coastal Land Stewardship Authority	R.S. 36:801
The Wildlife and Fisheries Commission	R.S. 36:802
Gulf States Marine Fisheries Commission	R.S. 36:802
Northwest Louisiana Game and Fish Preserve	R.S. 36:802
Iatt Lake State Game and Fish Preserve	R.S. 36:802
Saline Lake Game and Fish Preserve	R.S. 36:802
Nantachie Lake State Game and Fish Preserve	R.S. 36:802
The Oyster Task Force	R.S. 36:802
The Crab Task Force	R.S. 36:802
The Mullet Task Force	R.S. 36:802
Louisiana Environmental Education Commission	R.S. 36:802
The Louisiana Seafood Promotion and Marketing Board	R.S. 36:802.5
Lake Catherine and Lake Pontchartrain Sanctuary	R.S. 36:851 et seq.
Catahoula Lake Game and Fish Preserve	R.S. 36:851 et seq.
Lake Bistineau State Game and Fish Preserve	R.S. 36:851 et seq.
Black Bayou Game and Fish Preserve	R.S. 36:851 et seq.
Cheniere Brake Fish Preserve	R.S. 36:851 et seq.
The Louisiana Artificial Reef Development Council	R.S. 36:901 et seq.
The Louisiana Fur Advisory Council	R.S. 36:901 et seq.
The Louisiana Alligator Advisory Council	R.S. 36:901 et seq.
The Louisiana Aquatic Invasive Species Council and the Louisiana Aquatic Invasive Species Advisory Task Force	R.S. 36:901 et seq.
Oyster Seed Ground Vessel Permit Appeals Board	R.S. 36:901 et seq.
Lake Fausse Pointe and Grande Avoille Cove Advisory Board	R.S. 36:901 et seq.
Reptile and Amphibian Task Force	R.S. 36:901 et seq.
Hunting & Fishing Advisory Education Council	R.S. 36:901 et seq.

AGENCIES TRANSFERRED TO THE DEPARTMENT OF WILDLIFE AND FISHERIES

Transferred Agency	Citation of transfer type
Commissions abolished/functions transferred to department (R.S. 36:921 et seq.) Game and fish preserves transferred (R.S. 36:851 et seq.) (Parishes by governing authority resolution may appoint a game and fish commission in relation to such preserves (R.S. 56:721 et seq)	
Bayou Bonne Idee Game and Fish Commission	
Bayou Pierre State Game and Fish Commission	
Beauregard Old River Game and Fish Preserve Commission	
Bundicks Game and Fish Commission	
Cocodrie Lake Game and Fish Commission	
Lake Fields Game and Fish Management Commission	
St. Martin-Lafayette Game and Fish Preserve	
Spanish Lake State Game and Fish Commission	
Cornie Lake Game and Fish Preserve	
Turkey Creek Game and Fish Preserve	
West Atchafalaya Floodway Game and Fish Management Preserve	
Hard Water Lake State Game and Fish Preserve	

DEPARTMENT OF WILDLIFE AND FISHERIES

Appropriation for 2011-2012 Fiscal Year ⁵⁵:

State General Fund	\$ 0
Total Means of Financing	208,008,965

Appropriated and Authorized FTE Department Positions ⁵⁶: 775

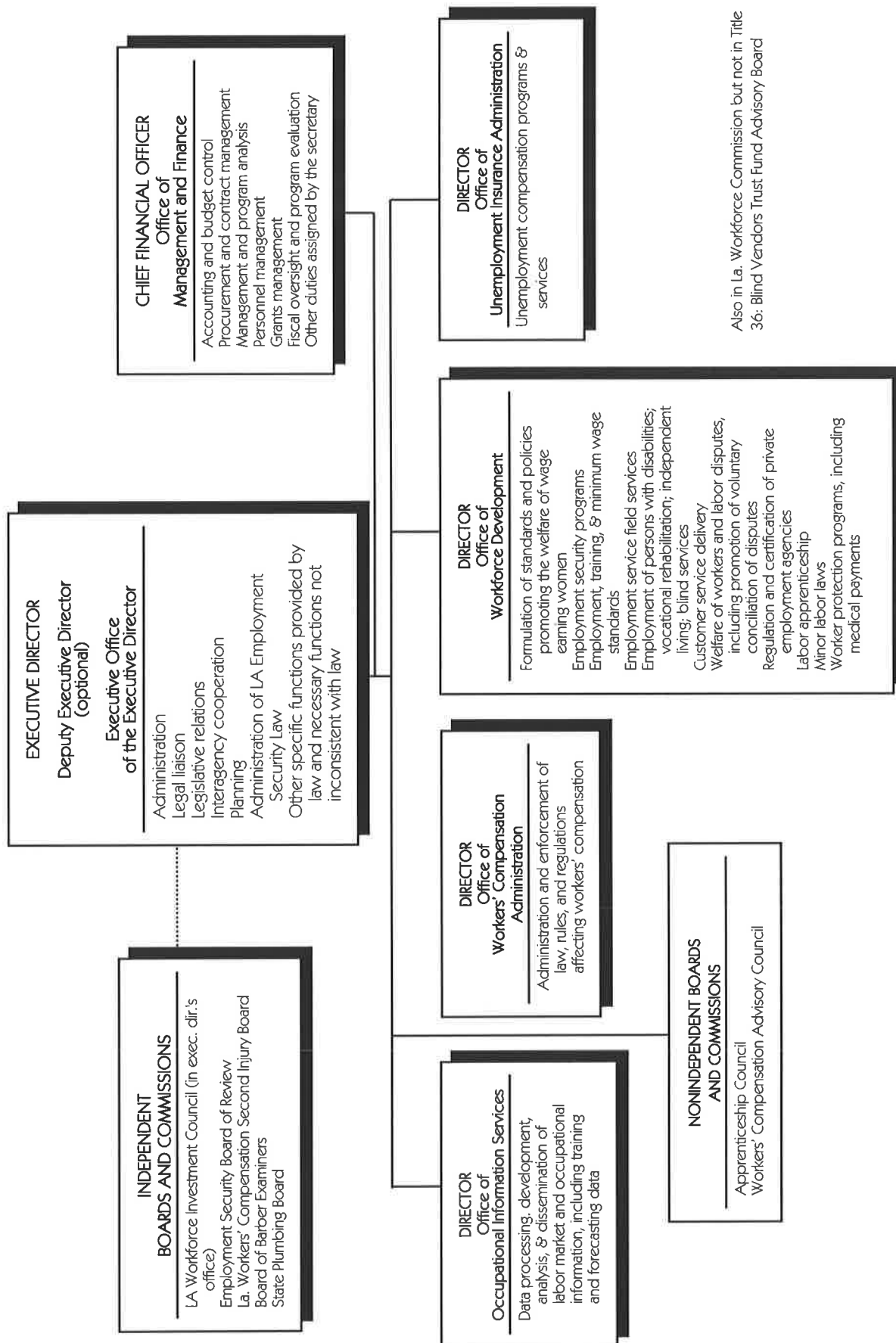
Total Employees (Actual) ⁵⁷ :	945
Total unclassified:	77
Total classified:	868

⁵⁵ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

⁵⁶ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

⁵⁷ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

LOUISIANA WORKFORCE COMMISSION



Also in La. Workforce Commission but not in Title 36: Blind Vendors Trust Fund Advisory Board

AGENCIES TRANSFERRED TO THE LOUISIANA WORKFORCE COMMISSION

Transferred Agency	Citation of transfer type
Louisiana Workforce Investment Council	R.S. 36:802
Employment Security Board of Review	R.S. 36:802
Louisiana Worker's Compensation Second Injury Board	R.S. 36:802
Board of Barber Examiners	R.S. 36:803
State Plumbing Board	R.S. 36:803
Apprenticeship Council	R.S. 36:901 et seq.
Worker's Compensation Advisory Council	R.S. 36:901 et seq.

LOUISIANA WORKFORCE COMMISSION

Appropriation for 2011-2012 Fiscal Year ⁵⁸:

State General Fund	\$ 8,239,768
Total Means of Financing	283,212,449

Appropriated and Authorized FTE Department Positions ⁵⁹: 1,191

Total Employees (Actual) ⁶⁰ :	1,251
Total unclassified:	133
Total classified:	1,118

⁵⁸ Appropriation amounts are from *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget, division of administration and contained in tables under the heading *Comparison of Existing Operating Budget to Enacted* that are designated as *State General Fund - General Operating Appropriations* and *Total Means of Financing - General Operating Appropriations*. The figures do not include amounts which may be attributable to the department or its offices or agencies but which are included under headings such as "Other Requirements", "Non-Appropriated", or "Ancillary Appropriations".

⁵⁹ Total positions appropriated for the department (includes appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the appropriation. Source is *State Budget, Fiscal Year 2011-2012* published by the office of planning and budget of the division of administration in a table designated as *Position Analysis* under the heading *Comparison of Existing Operating Budget to Appropriated*.

⁶⁰ As reported by state civil service for 9/30/11. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

Office of the Governor

The Executive Reorganization Act transfers the following agencies and their functions to the office of the governor:

- (1) Division of administration
- (2) Office of contractual review, division of administration
- (3) Division of State Buildings
- (4) Office of facility planning and control, division of administration
- (5) Office of information technology, including the Louisiana Geographic Information Systems Council, division of administration
- (6) Occupational Forecasting Conference
- (7) Patient's Compensation Fund Oversight Board
- (8) Crime Victims Reparations Board (under jurisdiction of La. Commission on Law Enforcement and Administration of Criminal Justice)
- (9) Council on Peace Officer Standards and Training (under jurisdiction of La. Commission on Law Enforcement and Administration of Criminal Justice)
- (10) Office of the State Register, division of administration
- (11) Louisiana Architects Selection Board
- (12) Louisiana Engineers Selection Board
- (13) Louisiana Landscape Architects Selection Board
- (14) Military Department, State of Louisiana (including the Ansel M. Stroud, Jr. Military History and Weapons Museum)
- (15) Office of Group Benefits (within the division of administration) and the Group Benefits Policy and Planning Board (within the Office of Group Benefits)
- (16) Board of Tax Appeals
- (17) Ozarks Regional Commission
- (18) Louisiana Stadium and Exposition District, Board of Commissioners
- (19) Mental Health Advocacy Service and its board of trustees
- (20) Louisiana Commission on Law Enforcement and Administration of Criminal Justice
- (21) Office of Elderly Affairs and the Louisiana Executive Board on Aging
- (22) Louisiana Commission on Human Rights
- (23) Cash Management Review Board
- (24) Drug Policy Board
- (25) Office of Rural Development
- (26) Office of disability affairs
- (27) Office on women's policy
- (28) Governor's Office of Indian Affairs
- (29) Office of life-long learning
- (30) The Law Enforcement Executive Management Institute and its board
- (31) Children's Cabinet and the Children's Cabinet Advisory Board
- (32) Louisiana Sentencing Commission (under jurisdiction of Louisiana Commission on Law Enforcement and Administration of Criminal Justice)
- (33) Louisiana Commission on HIV and AIDS

- (34) Governor's Advisory Commission on Coastal Protection, Restoration and Conservation and the Coastal Protection and Restoration Authority and the Office of Coastal Protection and Restoration
- (35) Office of the state inspector general
- (36) Louisiana Tax Commission (as provided in R.S. 36:801.1)
- (37) Witness Protection Services Board
- (38) Latino Commission
- (39) Louisiana Public Defender Board (as provided in R.S. 36:801.1)
- (40) Louisiana State Interagency Coordinating Council for Child Net: Louisiana's Early Intervention Program for Infants and Toddlers with Special Needs and their Families
- (41) Louisiana Animal Welfare Commission
- (42) Pet Overpopulation Advisory Council
- (43) Juvenile Justice Reform Act Implementation Commission
- (44) The office of the coordinator of faith-based programs
- (45) The Louisiana Broadband Advisory Council (placed within the Office of Rural Development)

The Executive Reorganization Act (R.S. 36:4.1) also transferred the agencies listed below from the Department of Economic Development to the office of the governor. R.S. 36:4.1 provides for particular transfers for these agencies and provides that the commissioner of administration shall be considered the "secretary" and the "undersecretary" for purposes of these transfers:

- | | |
|--|---------------|
| (1) The Office of Financial Institutions | R.S. 36:801.1 |
| (2) Louisiana State Racing Commission | R.S. 36:801.1 |
| (3) Louisiana State Board of Cosmetology | R.S. 36:803 |
| (4) Louisiana Cemetery Board | R.S. 36:803 |
| (5) State Board of Certified Public Accountants of Louisiana | R.S. 36:803 |
| (6) State Board of Architectural Examiners | R.S. 36:803 |
| (7) Louisiana Real Estate Commission | R.S. 36:803 |
| (8) Louisiana State Board of Home Inspectors | R.S. 36:803 |
| (9) State Licensing Board for Contractors. | R.S. 36:803 |
| (10) Board of Examiners of Certified Shorthand Reporters | R.S. 36:803 |
| (11) Louisiana Auctioneers Licensing Board | R.S. 36:803 |
| (12) State Board of Examiners of Interior Designers | R.S. 36:803 |
| (13) Louisiana Real Estate Appraisers Board | R.S. 36:803 |
| (14) State Boxing and Wrestling Commission | R.S. 36:803 |
| (15) Louisiana Motor Vehicle Commission | R.S. 36:803 |
| (16) Louisiana Used Motor Vehicle Commission | R.S. 36:803 |
| (17) Polygraph Board | R.S. 36:803 |

Office of the Lieutenant Governor

The Executive Reorganization Act transfers the following agencies and their functions to the office of the lieutenant governor:

- (1) Louisiana Serve Commission
- (2) Encore Louisiana Commission
- (3) Louisiana Council on the Social Status of Black Men and Boys

Title 36 also:

Authorizes the governor to establish an office of civil rights.

Provides that the Public Buildings Board is abolished and its powers, duties, functions, and responsibilities are transferred to the governor.

Places the management of state-owned aircraft previously managed by DOTD and the functions of the abolished state land office in the division of administration.

Transfers the powers and functions of the abolished Bd. of Commissioners of the Camp Moore Confederate Cemetery to the division of administration, state land office, and authorizes cooperative endeavor agreement with Camp Moore Historical Assn. to operate and maintain Camp Moore Museum and Cemetery.

Transfers the functions of the abolished Department of Occupational Standards to the governor, through the commissioner of administration.

Authorizes the governor to allocate within his office the powers, duties, personnel, appropriations, functions, and responsibilities of the agencies transferred to his office and to provide for their administration and for the organization of his office.

Agencies Not Included in Title 36

The executive branch agencies below were created by the legislature and placed by statute in the departments indicated, but were not included in the provisions of the Executive Reorganization Act (Title 36). (The list below is only a partial list, as all such agencies have not been identified. In addition, the list does not include agencies created by legislative resolution or executive order of the governor.)

Office of the Governor

Louisiana Commission on HIV, AIDS and Hepatitis C (R.S. 40:2018.1)

Post Employment Benefits Trust Fund, Board of Trustees of (R.S. 39:100.115) (Created in Office of the Governor, division of administration)

Department of Agriculture and Forestry

Louisiana Feed, Fertilizer, and Agricultural Liming Commission (R.S. 3:1381 et seq.)
Louisiana Catfish Promotion and Research Board (R.S. 3:558.3)

Department of Health and Hospitals

Louisiana State Office of Rural Health (referred to, not actually created) (R.S. 40:2195.1)
Council on Obesity Prevention and Management (R.S. 46:2611 et seq.)
Louisiana Child Death Review Panel (R.S. 40:2019)
Marriage and Family Therapy Advisory Committee (of the La. Licensed Professional Counselors Board of Examiners) (R.S. 37:1104)

Department of Public Safety and Corrections

Reentry Advisory Council (R.S. 15:1199.4)

Department of Veterans Affairs

Louisiana Military Family Assistance Board (R.S. 46:123)

Agencies Not Placed in a Department

The state agencies listed below have not been placed in an executive branch department by provisions of Title 36 or any other statute. The list is not exhaustive, as identification of such agencies is difficult. (Does not include agencies created by legislative resolution or executive order of the governor.)

Rev. Avery C. Alexander Memorial Commission (R.S. 49:149.61) (expires 12/31/2014)

Louisiana Information Technology Advisory Board (R.S. 39:15.4) (Advises Chief Information Officer in office of information technology, division of administration)

Louisiana Technology Advisory Group (R.S. 39:15.5) (Advises Chief Information Officer in office of information technology, division of administration)

Louisiana Postsecondary Education Information Technology Council (R.S. 39:15.6) (Advises Chief Information Officer in office of information technology, division of administration)

Motor Fuels Underground Storage Tank Trust Fund Advisory Board (R.S. 30:2195.8) (Advises the secretary of the Department of Environmental Quality)

Louisiana Birth Defects Surveillance System Advisory Board (R.S. 40:31.46) (Established by Secretary of Department of Health and Hospitals)

Prescription Monitoring Program Advisory Council (R.S. 40:1005) (Established by the La Board of Pharmacy (the board is in the Department of Health and Hospitals))

Health Data Panel (R.S. 40:1300.113) (To be created by the Department of Health and Hospitals and to advise the secretary)

Interagency Task Force on the Future of Family Medicine (R.S. 40:2801 et seq.) (Established by the Secretary of the Department of Health and Hospitals) (Terminates 9/1/2012)

Advisory Committee on Polysomnography (R.S. 37:2864) (Assists La State Board of Medical Examiners (the board is in the Department of Health and Hospitals))

Louisiana State Uniform Construction Code Council (R.S. 40:1730.22)

Statewide Articulation and Transfer Council (R.S. 17:3162) (Established by and reports to commissioner of higher education)

Process Technology Advisory Board (R.S. 17:3398.2) (Established by Board of Supervisors of the Louisiana Community and Technical College System to assist the board in developing and maintaining two-year associate degree programs in process technology)

Louisiana Tuition Trust Authority (R.S. 17:3091 et seq.) (Functions related to the La. Student Tuition Assistance and Revenue Trust Program)

Governing board of the Louisiana Cancer Research Center of L.S.U. Health Sciences Center in New Orleans/Tulane Health Sciences Center (R.S. 40:1922 et seq.)

Louisiana Cancer and Lung Trust Fund Board (R.S. 40:1299.88)

Louisiana Bio-Fuel Panel (R.S. 3:3712) (Facilities and staff provided by secretary of Department of Revenue)

Louisiana Advisory Council on Child Care and Early Education (R.S. 46:1414) (Advised "department" about child care licensing. "Department" means the Department of Health and Hospitals, with respect to facilities and agencies funded under Title XIX of the Social Security Act, and the Department of Children and Family Services for all other facilities and agencies)

Louisiana Board of Professional Geoscientists (R.S. 37:711.1 et seq.)

Intrastate Mutual Aid Subcommittee (R.S. 29:739) (Makes recommendations to Governor's Office of Homeland Security and Emergency Preparedness)

Ethics Adjudicatory Board (R.S. 42:1141)

Worker's Compensation Medical Advisory Council (R.S. 23:1203.1) (appointed by the director of the office of workers' compensation administration of the Louisiana Workforce Commission)

Housing and Transportation Planning and Coordinating Commission (R.S. 40:600.91) (to be created by the Louisiana Housing Corporation)

Emergency/Disaster Medicine Review Panel (R.S. 40:1299.39.3)

Task force to develop and implement an electronic media system for lien recordation and motor vehicle title information (R.S. 32:707.2) (Authorized to be created by the Department of Public Safety and Corrections)

South Louisiana Wetlands Discovery Center Commission (R.S. 25:1312)

Chapter 2 – State Government Functions

Part A. State Government Finance	2A-1
State Revenue Sources	2A-1
Revenues Collected by Department of Revenue	2A-1
Revenues Collected by the Department of Natural Resources	2A-3
Revenues Collected by the Department of the Treasury	2A-3
Revenues Collected by the Department of Insurance	2A-3
Revenues Collected by the Department of Public Safety and Corrections	2A-4
Debt Structure of the State	2A-5
Constitutional Provisions - General	2A-5
State Bond Commission	2A-6
Debt Limits	2A-6
Bond Ratings	2A-8
Table: Louisiana Bond Ratings - Historical Perspective	2A-8
Treasury and Treasury Administration	2A-9
Bond Security and Redemption Fund	2A-9
The State General Fund	2A-11
Dedicated Funds	2A-11
Self-Generated Revenues	2A-11
Agency Ancillary Funds	2A-11
Revenue Sharing	2A-12
Investment of State Funds	2A-13
The Appropriation Process	2A-15
Operating Budget Development	2A-16
Legislative Procedure	2A-19
Avoidance of Budget Deficits in Budget Development	2A-22
Actions Following Enactment of Appropriations	2A-22
Joint Legislative Committee on the Budget	2A-25
Legislative Fiscal Office	2A-26
Legislative Auditor	2A-27
Legislative Actuary	2A-28
Interim Emergency Board	2A-28
The Capital Outlay Process	2A-29

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 – STATE GOVERNMENT FUNCTIONS

Part A. State Government Finance State Revenue Sources

State revenue sources include taxes, licenses, fees, permits, rents and royalties, gaming revenues, interest on investments, proceeds from bond sales, and federal receipts. With the exception of certain self-generated funds, bond proceeds, and federal receipts, these funds are collected by five departments: Revenue, Natural Resources, Treasury, Public Safety and Corrections, and Insurance. The largest sources of state revenues are individual income taxes and state sales and use taxes, followed by severance taxes.

Revenues Collected by Department of Revenue

State revenues are derived from a variety of taxes, fees, and permits. The major taxes are discussed below:

Sales and Use Tax

The state general sales and use tax rate is 3.97% and is applicable to:

- (1) The sale of tangible personal property at retail in this state.
- (2) The use, consumption, distribution, or storage for use or consumption in this state of tangible personal property.
- (3) The lease or rental within this state of each item or article of tangible personal property.
- (4) The sale of certain services in the state.

There is an additional 0.03% tax levied by the Tourism Promotion District, a statewide taxing district, which imposes the tax upon the same base and generally subject to the same exemptions as the state sales and use tax.

Income Taxes

Income taxes are levied on both individuals and corporations on the following bases, and at the accompanying rates:

- (1) Individuals – based on gross income of the individual or family, subject to a combined personal exemption and standard deduction of \$4,500 for a single individual or married individual filing a separate return and \$9,000 for a married couple filing jointly and for a head of a household. The actual tax is affected by certain other exemptions, deductions, and credits. The amount of tax due is calculated from tables printed with the tax returns,

with the individual's entry level to the tables tied to his federal income taxes, with the tables being based on rates as follows:

<u>Single</u>	<u>Married/Joint Returns</u>
2% of first \$12,500 of taxable income	2% of first \$25,000 of taxable income
4% on next \$37,500 of taxable income	4% on next \$75,000 of taxable income
6% on taxable income of over \$50,000	6% on taxable income of over \$100,000

- (2) Corporations – based on Louisiana taxable income subject to certain adjustments. Corporations also are allowed a deduction from gross income for federal income taxes paid and various other deductions and credits. The applicable rates are as follows:

4% of first \$25,000 of taxable income
 5% of next \$25,000 of taxable income
 6% of next \$50,000 of taxable income
 7% of next \$100,000 of taxable income
 8% of taxable income over \$200,000

Severance Taxes

Severance taxes are imposed on the severance or extraction of minerals and other natural resources from the soil or ground. The rates levied are dependent on the mineral or natural resources severed, and include: (a) oil and condensate at 12.5% of value per barrel – full rate; (b) natural gas, at an indexed rate with a minimum of 7¢ per MCF – full rate; (c) sulphur at \$1.03 per long ton; (d) salt at 6¢ per 2,000 pounds; and (e) other severance taxes imposed at varying rates on timber, coal, lignite, ores, sand, shell, marble, stone and gravel, liquefied petroleum gases, and other natural gas liquids. Reduced rates are applicable to oil, casing head gas, and natural gas from wells not capable of producing at certain rates of flow.

Gasoline and Special Fuels Taxes

Gasoline and special fuels taxes are generally imposed at 20¢ per gallon on each gallon of gasoline and diesel fuel sold in or imported into this state. The proceeds from these taxes are distributed to the Transportation Trust Fund, discussed in detail in Part V, Transportation and Development.

Tobacco, Alcoholic Beverage, and Beer Taxes

- (1) Tobacco taxes are levied on cigars, cigarettes, and smoking and smokeless tobacco at the following rates:

Cigars – Manufacturer's invoice price per thousand

- (a) 8% up to \$120 per thousand
 (b) 20% over \$120 per thousand

Cigarettes – 36¢ per package of 20

Smoking Tobacco – 33% of manufacturer's net invoice price

Smokeless Tobacco - 20% of manufacturer's net invoice price

- (2) Alcoholic beverage taxes are levied on beverages of high alcoholic content at the following rates:

Liquor - 66¢ per liter

Sparkling Wines - 42¢ per liter

Still Wines -

Alcoholic content 24% or above - 42¢ per liter

Alcoholic content 14%-24% - 6¢ per liter

Alcoholic content 14% and under - 3¢ per liter

- (3) The state beer tax is levied at the rate of \$10 per barrel (31 gallons).

Corporation Franchise Tax

The corporation franchise tax is an annual tax of \$1.50 for each \$1,000 or major fraction thereof up to \$300,000 of the capital stock, surplus and undivided profits of a corporation and \$3.00 for each \$1,000 or major fraction thereof on the capital in excess of \$300,000 of a corporation organized under Louisiana laws, qualified to do business in the state, continuing a corporate charter within the state, or using capital within the state.

All Other Taxes Collected by the Department of Revenue

Other revenues collected by the department include: the public utilities tax based on gross receipts, hazardous waste tax, natural gas franchise tax levied on pipeline transportation, supervision and inspection fees for common carriers and public utilities and automobile rental excise tax. The inheritance tax and gift tax were repealed for tax year 2008.

Revenues Collected by Department of Natural Resources

Revenues collected by the Department of Natural Resources are basically derived from royalties, bonuses, and rentals collected by the department from the leasing of state-owned land to private companies for the purpose of producing oil, gas, and other minerals and revenues dedicated to special mineral resources funds for specific purposes.

Revenues Collected by Department of the Treasury

Revenues collected from the Department of Treasury include interest earnings, unclaimed property, certain fees and various other agency receipts, revenues turned over to the state by virtue of the operation of the lottery and the land-based casino, and proceeds from the Tobacco Settlement.

Revenues Collected by Department of Insurance

Revenues collected from the Department of Insurance are derived from an annual license tax on each insurer operating in the state based on the gross amount of annual premiums on all risks, except annuity contracts, without deduction for dividends paid or credited to policyholders. In addition, the commissioner of insurance is empowered to collect various fees and licenses in advance from persons and companies engaged in the business.

Revenues Collected by Department of Public Safety and Corrections

Revenues collected by the Department of Public Safety and Corrections are generally related to titling and licensing of motor vehicles, but also include sales and use taxes collected on motor vehicles when titles are granted or transferred. They also include revenues received by the state from riverboat gaming, video draw poker, and slot machine gaming at horse racing tracks.

Sales and Use Tax - Motor Vehicles

The combined statewide sales and use tax rate is four percent. It is applicable to the sale of new and used motor vehicles initially registered in this state, as well as at the initial titling in this state of a motor vehicle previously registered in another state.

Motor Vehicle Licenses

Motor vehicle licenses are required for all motor vehicles that operate on the highways of the state and the rates vary with the type and use of the vehicle. Automobile licenses are \$10 per year for vehicles valued at \$10,000 or less and for vehicles valued at greater than \$10,000 the rate is the base of \$10 plus an additional one dollar for each one thousand dollars of value over \$10,000. The fee for commercial vehicles varies depending on use and weight.

Certificates of Title

All motor vehicles sold in or brought into the state must be titled in the owner's name and fees are charged by Public Safety for issuing certificates of title. The rates vary with the type of motor vehicle that is to be titled.

Riverboat Gaming

Revenues from riverboat gaming include application and investigation fees, permit fees, a license fee of 3.5% of net gaming proceeds, and a franchise fee of 18.0% of net gaming proceeds, except in Orleans Parish the franchise fee rate is 15.0%.

Video Draw Poker

Revenues from video draw poker include license fees and a franchise payment of 22.5% of net device revenue for pari-mutuel wagering facilities, 26.0% of net device revenue from restaurants, bars, and hotels, and 32.5% of net device revenues for truck stops.

Race Track Slot Machines

The state levies an 18.5% tax on taxable net slot machine proceeds.

CHAPTER 2 – STATE GOVERNMENT FUNCTIONS

Part A. State Government Finance Debt Structure of the State

The state of Louisiana, like most state and local governments, incurs debt or issues bonds to fund capital improvement projects. The types of debt instruments that may be incurred or issued include:

- (1) **General Obligation Bonds** – These bonds are secured by the full faith and credit of the state.
- (2) **Revenue or Special Tax Bonds** – These bonds may, but do not usually, carry a pledge of the full faith and credit of the state. The debt service requirements for these bonds are derived from a pledge of project revenues or from the pledge of a specific tax. An example of this type of debt is Transportation Trust Fund bonds which are secured by a pledge of the tax levied by the state on gasoline, motor fuels, and special fuels.
- (3) **Lease Rental/Lease Purchase/Certificates of Participation** – These types of debt are used to fund a wide array of purposes from equipment acquisition to construction of buildings. Such debt is usually issued by a public trust, like the Louisiana Public Facilities Authority, or by an authority or nonprofit corporation which act as lessors with the state as the lessee. The debt is secured by the lessee's rent or lease payments. Typically, ownership reverts to the state when all of the debt has been paid. An example of this type of debt is bonds issued by the Office Facilities Corporation for the construction of state office buildings.

Constitutional Provisions – General

Article VII, Section 6 of the Constitution of Louisiana provides that unless otherwise authorized by the constitution, the state shall have no power, directly or indirectly, through any state board, agency, commission, or otherwise, to incur debt or issue bonds except by law enacted by two-thirds of the elected members of each house of the legislature. Such debt may be incurred or the bonds issued only if the funds are to be used to (i) repel invasion, (ii) suppress insurrection, (iii) provide relief from natural catastrophes, (iv) refund outstanding indebtedness at the same or a lower effective interest rate, or (v) make capital improvements, but only in accordance with a comprehensive capital budget adopted by the legislature, commonly known as the "capital outlay bill". If the purpose is to make capital improvements, the nature, location and, if more than one project, the amount allocated to each and the order of priority shall be stated in the comprehensive capital budget. The full faith and credit of the state shall be pledged to the repayment of all bonds or other evidences of indebtedness issued by the state directly or through any state board, agency, or commission pursuant to the provisions mentioned above. The legislature may also, by law enacted by two-thirds of the elected members of each house, propose a statewide public referendum to authorize incurrence of debt by the state for any purpose.

All state general obligations and certain bonds of state agencies, boards, and commissions which are secured by the full faith and credit of the state are secured by the Bond Security and Redemption Fund (hereafter the BS&R Fund). (Const. Art. VII, §9(B))

Section 9(A) of Article VII of the Constitution of Louisiana requires that all money received by the state or by any state board, agency, or commission shall be deposited immediately upon receipt in the state treasury, with specified exceptions. (See page 2A-9.) Section 9(B) of Article VII of the Constitution of Louisiana gives constitutional status to the BS&R Fund and further provides that, subject to contractual obligations existing on the effective date of the constitution, all state money deposited in the state treasury is to be credited to the BS&R Fund, except money received as the results of grants or donations or other forms of assistance when the terms, conditions, or agreements require otherwise. The constitution further requires in Section 9(B) of Article VII that in each fiscal year an amount be allocated from the BS&R Fund sufficient to pay all obligations that are secured by the full faith and credit of the state that become due and payable within the current fiscal year, including principal, interest, premiums, sinking or reserve funds, or other requirements. Thereafter, except as otherwise provided by law, money remaining in the BS&R Fund is to be credited to the state general fund.

State Bond Commission

In 1968, the legislature created by statute the State Bond Commission (Bond Commission) to centralize and administer the incurring of debt by the state, including indebtedness incurred by its boards, agencies, and commissions. The Bond Commission is comprised of the following members by virtue of their office: the state treasurer, who serves as chairman, the governor, the lieutenant governor, the secretary of state, the attorney general, the commissioner of administration, the president of the Senate, the speaker of the House, the Senate Finance Committee chairman, the House Appropriations Committee chairman, the Senate Revenue and Fiscal Affairs Committee chairman, the House Ways and Means Committee chairman, and two members of the Legislature, one appointed by the president of the Senate and one appointed by the speaker of the House. The constitution grants constitutional status to the Bond Commission and provides that no bonds or other obligations shall be issued or sold by the state directly or through any state board, agency, or commission, or by any political subdivision of the state, unless prior written approval of the Bond Commission is obtained. (Const. Art. VII, §8)

Debt Limits

Statutory Limits on General Obligation Bond Debt

According to national information published by Moody's Investors Service (a bond rating agency), in 1991 Louisiana had the sixth highest debt per capita and third highest debt as a percentage of personal income among the 50 states. In 1993, the legislature took a number of actions to reduce this over-dependence on debt. Specifically, the legislature passed a constitutional amendment and statutory companion limiting the amount of net state tax supported debt which could be issued in any fiscal year. This constitutional amendment was subsequently approved by the electorate and took effect on November 7, 1993. (See below for an expanded explanation.) Also in 1993, the legislature began a self-imposed limit on the amount of general obligation bonds which could be issued for capital construction for any fiscal year.

Limitation on Issuance of Net State Tax Supported Debt

Article VII, Section 6(F) of the constitution requires the legislature to limit the amount of net state tax supported debt (NSTSD) which may be issued in any fiscal year. The constitutional provision provides that once enacted, the definition of NSTSD cannot be changed, nor can the limitation be exceeded, except by specific legislative instrument which receives the favorable

vote of two-thirds of each house of the legislature. The State Bond Commission is prohibited from approving the issuance of any NSTSD if the debt service required by such debt would cause the limit of the provision to be exceeded.

R.S. 39:1367, the statutory companion to Article VII, Section 6(F) of the state constitution, provides that the state cannot issue NSTSD on which the “amount to be expended for servicing” NSTSD exceeds certain allowable percentages of state revenue, as determined by the Revenue Estimating Conference. The allowable percentage for Fiscal Year 2003-2004 and thereafter is 6.0%.

The State Bond Commission is required under R.S. 39:1367 to establish annually the limitation of the issuance of net state tax supported debt (NSTSD) for each fiscal year. According to the statute, NSTSD means all of the following debt obligations issued by the state or any entity in the state for which the state is legally obligated to make debt service payments, either directly or indirectly: (a) general obligation bonds secured by the full faith and credit of the state; (b) debt secured by capital leases of immovable property payable by the state or annual appropriations of the state; (c) debt secured by statewide tax revenues or statewide special assessments; (d) bonds secured by self-supported revenues which in the first instance may not be sufficient to pay debt service and will then draw upon the full faith and credit of the state. NSTSD does not mean: (i) any obligations owned by the state pursuant to the state Employment Security Law, or (ii) cash flow borrowing payable from revenue attributable to one fiscal year.

The attorney general has issued Opinion No. 94-452, dated September 14, 1994, which interprets the original enabling legislation (Act 813 of 1993) as to what to include and exclude as NSTSD; however, the State Bond Commission has adopted a rule which is more restrictive. (This opinion of the attorney general is advisory only).

Self-Imposed Limit on General Obligation Debt

Since it was first imposed in 1993, the legislature has included within the Capital Outlay Act for each fiscal year a limit on the amount of general obligation bonds which can be authorized or issued to fund capital outlay projects for any fiscal year. Initially this limit was set at \$200,000,000 but in recent years has been adjusted for inflation. The limit for new issues in Fiscal Year 2011-2012 is \$340,000,000.

Louisiana’s net state tax supported debt (NSTSD) per capita was \$1,307 as of December 31, 2010. In 2010, Moody's Investors Service ranked Louisiana 17th highest in NSTSD per capita. In 2010, NSTSD as a percent of personal income was 3.3%, giving Louisiana a rank of 19th highest in the nation.

The most recent status report on NSTSD (February 17, 2011) indicated that the state is within the limit on issuance of such debt. The current percentage of debt outstanding in Fiscal Year 2011-2012 is 5.14% versus the legal limit of 6.00%. The report states that Louisiana has the capacity to issue \$300,000,000 of General Obligation Bonds in FY 2011-2012 and succeeding Fiscal Years and to issue \$71,050,000 in LCDA (LCTCS Campus Facilities Corporation) Revenue Bonds in Fiscal Year 2011-2012 and still remain under the 6% limitation. Under the report's projection, the anticipated percentage to be measured against the 6% legal limit goes from 5.14% for Fiscal Year 2011-2012 to 5.4% in Fiscal Year 2016-2017.

Bond Ratings

The table below provides a history of Louisiana's bond ratings since 1972.

Louisiana Bond Ratings - Historical Perspective

	<u>Moody's</u>	<u>S&P</u>	<u>Fitch</u>
1972	A1	AA	
1975	Aa (upgrade)	AA	
1984	Aa	AA- (downgrade)	
1985	A1 (downgrade)	AA-	
1986	A (downgrade)	A (downgrade)	
1987	Baa1 (downgrade)	A- (downgrade)	
1988	Baa1	BBB+ (downgrade)	
1990	Baa1	A (upgrade)	
Feb, 1995	Baa1	A (with a negative creditwatch)	
July, 1995	Baa1	A- (negative outlook) (downgrade)	
1997	A3 (upgrade)	A- (stable outlook)	A
1998	A2 (upgrade)	A- (stable outlook)	A
1999	A2	A- (stable outlook)	A
2000	A2	A (stable outlook) (upgrade)	A
2001	A2	AA	
2002	A2 (positive outlook)	AA	
2003	A1 (upgrade)	A+ (upgrade)	A+ (upgrade)
2004	A1	A+	A+
2005	A2 (downgrade)	A (downgrade)	A- (downgrade)
2008	A1 (upgrade)	A+ (upgrade)	A (upgrade)
2010	Aa2 (upgrade)	AA- (re-calibration)	AA (re-calibration)
2011	Aa2 (affirmed)	AA (upgrade)	AA (affirmed)

Prior to a proposed bond issuance, the state of Louisiana, like all other governmental issuers, has its credit worthiness rated by one or more national rating agencies. These ratings are used by investors in making decisions as to the purchase or sale of the debt obligations of the issuer. The various rating agencies consider many factors in making their rating decisions. These factors include the issuer's debt outstanding, previous financial performance and management, the economy, payment capacity, nature of the anticipated debt issue, and protection of the debt by such things as the Bond Security and Redemption Fund and credit enhancement.

The investment grade rating categories of the rating agencies that currently rate Louisiana are as follows:

<u>Moody's Investors Service</u>	<u>Standard & Poor's</u>	<u>Fitch</u>
AAA	AAA	AAA
Aa1	AA+	AA+
Aa2	AA	AA
Aa3	AA-	AA-
A1	A+	A+
A2	A	A
A3	A-	A-
Baa1	BBB+	BBB+
Baa2	BBB	BBB
Baa3	BBB-	BBB-

Treasury and Treasury Administration

The Department of the Treasury is established by the constitution as one of the 20 authorized departments within the executive branch of state government. The state treasurer, as head of the department, is responsible for the custody, investment, and disbursement of the public funds of the state and is required to report annually, at least one month before each regular session, to the governor and the legislature on the financial condition of the state. Other statutory duties and powers, including in particular the deposit and investment of state funds, are set forth in the statutes. The treasurer does not choose depository banks as is generally believed; instead, the Interim Emergency Board designates as state depositories such national or state banks or trust companies doing business in this state as it deems advisable, after considering the recommendations of the treasurer. The deposit and investment of state funds are considered at length later in this discussion. (Const. Art. IV, §§1, 9) (R.S. 49:301 et seq.)

Bond Security and Redemption Fund

Central to any discussion of the state's financial structure is the Bond Security and Redemption Fund, initially created as a statutory fund by Act 112 of 1960 and later elevated to constitutional status as one of the major changes of the Louisiana Constitution of 1974. All monies deposited into the Bond Security and Redemption Fund are utilized on a first priority basis to satisfy the principal and interest requirements of the state's bonded indebtedness without the necessity of appropriation by the legislature. This constitutional safeguard extended to state bondholders has reportedly had the effect of enhancing the marketability and interest rates of such bonds.

Article VII, Section 9 of the constitution requires that all money received by the state or by any state board, agency, or commission shall be deposited immediately upon receipt in the state treasury, to the credit of the Bond Security and Redemption Fund, except that received:

- (1) As a result of grants or donations or other forms of assistance when the terms and conditions thereof or of agreements pertaining thereto require otherwise.

- (2) By trade or professional associations.
- (3) By the employment security administration fund or its successors.
- (4) By retirement systems.
- (5) By state agencies operating under authority of the constitution preponderantly from fees and charges for the shipment of goods in international maritime trade and commerce.
- (6) By a state board, agency, or commission, but pledged by it in connection with the issuance of revenue bonds as otherwise provided in the constitution, other than any surplus as may be defined in the law authorizing such revenue bonds.

The law (R.S. 49:308) additionally exempts monies received by a "levee district or political subdivision unless the full faith and credit of the state is pledged to the payment of the bonds of the levee district or political subdivision," as well as monies received by certain specific political subdivisions and public entities.

The Transportation Trust Fund, constitutionally established on January 1, 1990, added an additional exemption to the immediate deposit of certain revenues into the Bond Security and Redemption Fund. The constitution requires that all taxes levied on gasoline, motor fuels, and special fuels first be used to pay bond issues that are secured by such revenues prior to any deposit into the Bond Security and Redemption Fund. (Const. Art. VII, §27(13))

Part A. State Government Finance The State General Fund

The state general fund is the principal operating fund of the state treasury. It is referred to in the constitution and is established to provide the accounting mechanism by which the treasurer controls the allocation of money to pay the ordinary expenses of state government, pensions, public schools, public charities, and for capital outlay projects. It is composed of all monies remaining in the state treasury after certain constitutional allocations, satisfaction of debt obligations through the Bond Security and Redemption Fund and other debt obligations, and deposits or allocations to specific dedicated funds.

Dedicated Funds

The legislature, in order to ensure future funding of certain essential or specific programs and coordinate long-term state priorities, has created a number of "special purpose funds" which are interposed between the Bond Security and Redemption Fund and the general fund (these are commonly known as "statutory dedications"). Revenues dedicated to a particular fund must be credited to that fund by the state treasurer, after having first been credited to the Bond Security and Redemption Fund. However, monies available for expenditure from any particular fund may not exceed those appropriated for that year. Many of these funds have been determined to be "borrowable resources", that is, funds which may be used for cash flow purposes during the year to meet the obligations of the state general fund.

Self-Generated Revenues

As the term "self-generated revenues" implies, such monies are the result of:

- (1) Income received by state agencies as a result of direct charges for their services.
- (2) License, permits, and fees imposed under legislative authority for engaging in business, exercising a franchise, or practicing a profession or trade, and charges for inspections, examinations, registrations or certifications.
- (3) Revenues generated by the sale of merchandise and commodities. Merchandise and commodities are anything purchased, grown, raised, produced, manufactured, or developed by an agency.

Appropriations of an agency's self-generated revenues are made through the state general fund, as self-generated monies deposited by each agency are deposited into the general fund. These appropriations are limited by the amount of such self-generated revenues actually collected. If the deposits are less than the amount appropriated, the agency may only draw down the amount of the deposits.

Agency Ancillary Funds

Agency ancillary funds are operating and working capital funds that are used to describe certain accounting system activities which are ancillary to the major purpose of the agency, such as the

cafeteria operation at a large state institution. Such activities are self-sustaining and operate entirely on self-generated revenues.

The Ancillary Appropriation Bill annually provides for the establishment and reestablishment of the funds, known specifically as Auxiliary Funds, Enterprise Funds, or Internal Service Funds, and dictates that the monies in each fund shall be used for working capital in the conduct of business enterprises rendering public and interagency service. The two largest funds are generally the State Employees' Group Benefits Program and the state's property and casualty self-insurance program which is known as the risk management program.

In the conduct of each such business, receipts are deposited in the state treasury and disbursements made by the state treasurer to the extent of the amounts deposited to the credit of each fund and as appropriated for expenditure. All appropriations from the state general fund contained in this bill are secured by working capital, and if the fund is not reestablished the following year, then the appropriation must be returned to the state treasurer by the respective agency by October first.

Revenue Sharing

The annual state revenue sharing plan is a method by which certain state funds are allocated and distributed to local government. The constitution allocates the sum of \$90,000,000 annually to the Revenue Sharing Fund from the state general fund and authorizes the legislature to appropriate additional sums. The distribution priorities are set forth in the constitution (Article VII, §26(C)).

The Revenue Sharing Fund shall be distributed annually as "provided by law solely on the basis of population and number of homesteads" in each parish in proportion to population and the number of homesteads throughout the state. Population statistics of the last federal decennial census are used for this purpose unless otherwise provided by law. After deductions in each parish for the retirement systems and commissions as authorized by law, the remaining funds, to the extent available, are distributed by first priority to the tax recipient bodies within the parish, as defined by law, to offset current loss because of homestead exemptions granted in the constitution. Any balance remaining in a parish distribution is allocated to the municipalities and tax recipient bodies within each parish as provided by law.

The revenue-sharing bill introduced each regular legislative session consists of four major provisions:

- (1) A lump sum allocation to each parish from the total Revenue Sharing Fund based on population and homesteads.
- (2) Two "paper" funds to compute the amounts due the sheriff and retirement systems in each parish.
- (3) Individual parish listings of eligible tax recipient bodies.
- (4) Various formulas for the distribution of excess funds, if any, within each parish.

The total allocation that each parish receives from the Revenue Sharing Fund is weighted 80% on population and 20% on number of homesteads; that allocation is distributed within each parish in accordance with (2) through (4) above. The current statewide formulas in (1) and (2)

providing for the allocation to each parish and distributions to sheriffs and retirement systems were established in 1973 and 1974, respectively. Distributions within each parish for (3) and (4) have been the subject of change by the local legislative delegations.

Investment of State Funds

The constitution requires that all money in the custody of the state treasurer which is available for investment be invested as provided by the legislature. (Const. Art. VII, §13)

Except as previously noted in the discussion of the Bond Security and Redemption Fund, all collections from taxes, licenses, fees, operating receipts, and from all other sources made by state agencies, whether or not the collections are dedicated to the use of the collection agency, are required to be paid into the state treasury. For the purpose of this requirement, the term "state or state board, agency or commission" is statutorily defined by R.S. 49:308(E) as "any state office, department, board, commission, institution, division, officer or other person or functional group authorized to exercise or that does exercise any functions of the government of the state." The term does not include, among others, the legislative and judicial branches of state government; any local government or subdivision of the state; higher education boards and institutions; and any public trust created under R.S. 9:2341 et seq.

The administrator of each state department, board, commission, and agency is directed to invest monies under his control in either bank certificates of deposit, savings and share accounts of savings and loan associations, or credit unions, for up to one year, or in U.S. treasury bills for up to 30 days. The interest rate on certificates of deposit must be the same as that paid on U.S. treasury bills.

The treasurer is authorized and directed to invest monies on deposit in the state treasury in the following:

- (1) U.S. Treasury obligations.
- (2) U.S. government agency obligations, provided that no more than 60% of such instruments have maturities of 30 days or longer.
- (3) Direct security repurchase agreements and reverse direct security repurchase agreements of securities listed in (1) and (2).
- (4) Certificates of Deposit in Louisiana banks, savings and share accounts of savings and loan associations, and credit unions at a rate determined by rules and regulations promulgated by the treasurer, but no less than the interest rate of Treasury obligations with a similar maturity.
- (5) Investment grade commercial paper and investment grade corporate notes and bonds.
- (6) Money market funds consisting solely of securities eligible for investment by the state treasurer.
- (7) Tax exempt or taxable bonds issued in 2006 by the Louisiana Stadium and Exposition District, or any conversion, re-issuance, or other similar refunding or replacement of such bonds. (R.S. 49:327(B)(l)(g))

Banks that wish to participate are required to provide 100% collateral to secure state deposits in excess of the amount of the deposit insured by the federal government. Banks selected as state fiscal agents or depositories must cash state checks at par as part of the consideration for receiving deposits of state funds.

The treasurer is required to submit a quarterly report on investments to the governor and the legislature, to include: the total state funds invested per month and earnings thereon, the rate of investment earnings expressed as a percentage of the investment, and the calculation method for payment of investment fees. (R.S. 49:327(E))

CHAPTER 2 – STATE GOVERNMENT FUNCTIONS

Part A. State Government Finance The Appropriation Process

The process by which the governor proposes and the legislature enacts appropriations for the funding of operations of state government is the most significant single means by which the policy and direction of state government is established. This process encompasses three distinct phases: operating budget development, enactment, and execution.

The executive branch develops the executive budget, and the legislative branch, generally during the regular session, modifies that proposal and enacts a budget through a number of appropriation bills. The main types of appropriation bills are the General Appropriation Bill, which provides for the annual operating budgets of state agencies; the Capital Outlay Bill; the Ancillary Appropriation Bill, which provides for revolving fund appropriations; the Legislative Expense Bill; the Judicial Expense Bill; appropriations to pay certain judgments against the state; and, as necessary and subject to the availability of monies to provide therefor, supplemental appropriations for certain agency expenses in excess of the allotted budget.

The state fiscal year for which appropriations are made begins on July 1 and ends on June 30.

Operating budgets of state retirement systems are not subject to the state budgetary process, but are subject only to budgetary oversight by the legislature.

Appropriations are made within the following constitutional framework:

- No monies shall be withdrawn from the treasury except by specific appropriation, unless provided otherwise by the constitution, and no appropriation shall be made under the heading of contingencies or for longer than one year. (Const. Art. III, §16(A))
- No appropriation shall be made except for a public purpose. (Const. Art. VII, §10(I))
- All bills appropriating money or raising revenues must originate in the House, although the Senate may propose or concur in amendments. (Const. Art. III, §16(B))
- The governor shall submit to the legislature a budget estimate for the next fiscal year setting forth all proposed state expenditures. This recommendation shall not exceed the official forecast of the Revenue Estimating Conference and the expenditure limit for the fiscal year. (Const. Art. VII, §10(E) and 11(A))
- Appropriations by the legislature from the state general fund and dedicated funds for any fiscal year shall not exceed the official forecast in effect at the time the appropriations are made. (Const. Art. VII, §10(E))
- The appropriation of any money designated in the official forecast as nonrecurring shall be made only for the purpose of early retirement of debt, payments on the unfunded accrued liability of public retirement systems, capital outlay, deposit into the Budget Stabilization Fund or the Coastal Protection and Restoration Fund, or new highway construction which draws federal matching monies. (Const. Art. VII, §10(D))

- The General Appropriation Bill shall be itemized and contain only appropriations for the ordinary operating expenses of state government. All other appropriations shall be for a specific purpose and amount. (Const. Art. III, §16(C) and (D))
- The governor may veto any line item in an appropriation bill. Any item vetoed shall be void unless the veto is overridden as prescribed for passage of a bill over a veto. (Const. Art. IV, §5(G)(1))
- The governor shall veto line items or use other means provided in the bill so that total appropriations for the year shall not exceed anticipated revenues for that year. (Const. Art. IV, §5(G)(2))
- In an extraordinary session convened after final adjournment of the regular session in the last year of the term of office of a governor, a bill appropriating money, except for expenses of the legislature, requires a three-fourths favorable vote of the members of each house. (Const. Art. III §16(E))

Operating Budget Development

The budget development phase includes submission of the annual departmental budget requests including operational plans, expected goals and standards for performance, which culminates in the submission of the governor's annual executive budget recommendation.

The following section covers the major components of operating budget development.

Revenue Estimating Conference

A "Revenue Estimating Conference" was created by Act 1096 of the 1990 Regular Session to establish an official revenue estimate for use by the governor and the legislature in preparing and adopting the budget for each fiscal year. At no time shall appropriations or expenditures for any fiscal year exceed the official estimate of anticipated state revenues for that fiscal year. (Const. Art. VII, §10(A) and (B)) (R.S. 39:22-27)

The conference membership is comprised of the governor, the president of the Senate, the speaker of the House of Representatives, and a faculty member with revenue forecasting expertise of a university or college in Louisiana, who serve as principals of the conference. The faculty member is selected by the other principals of the conference from a list of nominees submitted by the Louisiana Higher Education Executive Advisory Committee. The official estimate ("official forecast") of anticipated state revenues must be determined by the principals of the conference based upon the assumption that current law and administrative procedures will remain in effect for the forecast period. The conference must prepare and publish estimates of money to be received by the state general fund and dedicated funds for the current and next fiscal years which are available for appropriation. In each forecast, the conference is to designate the money that is nonrecurring. Any final action establishing the official forecast must be made by a unanimous decision of the conference principals. The most recently adopted forecast of money available for appropriation for any fiscal year is the official forecast for that year.

Changes to the membership beyond the four members and any change in the unanimous vote requirement of the conference must be made by law enacted by two-thirds of the members of each house of the legislature.

Provision is also made for membership on the conference by participants, invited by a principal to develop alternate forecasts, provide data, perform analyses, and provide other information requested by the conference in developing the official forecast. All meetings and sessions of the conference shall be subject to the Open Meetings Law. (R.S. 42:4.1 et seq.)

At any time that at least two principals issue written notification that conditions warrant a possible revision of the official forecast for either the ensuing fiscal year or the current fiscal year, a meeting of the conference shall be held for consideration of a revision.

The official forecast for the current fiscal year shall be reviewed and revised, if necessary, each time the conference meets.

Government Performance and Accountability

The "Louisiana Government Performance and Accountability Act" was created by the Legislature by Act 1465 of 1997 with the intent that performance-based budgeting practices be established throughout state government by relating funding of programs to expected performance, thereby ensuring efficiency and economy in the expenditure of state funds. (R.S. 39:87.1-87.4)

The Act requires the development of performance standards for each executive branch agency program funded by the state and requires quarterly reporting of the progress such agencies make in meeting their performance goals.

Expenditure Limit

The Constitution of Louisiana requires that an expenditure limit on the use of monies from the state general fund and dedicated funds be established for each fiscal year. The limit for each year shall not exceed the expenditure limit for the current fiscal year plus a positive growth factor which is based on the rate of change in personal income in Louisiana over three years. (Const. Art. VII, §10(C), R.S. 39:33.1)

The legislature is required to provide for the method of determination of the each year's expenditure limit, which must be done in the first quarter of the calendar year for the upcoming fiscal year. State law requires that at least 35 days prior to the beginning of each regular session, the commissioner of administration must submit to the Joint Legislative Committee on the Budget the expenditure limit which has been calculated for the upcoming fiscal year. Once established, the expenditure limit for any particular fiscal year may be changed by favorable vote of two-thirds of the elected members of each house.

Executive Budget

The governor is required by Article VII, Section 11(B) of the Louisiana Constitution to:

[C]ause to be submitted a general appropriation bill for proposed ordinary operating expenditures which shall be in conformity with the recommendations for appropriations contained in the budget estimate. The governor may cause to be submitted a bill or bills to raise additional revenues with proposals for the use of these revenues.

The governor is to prepare an executive budget presenting a complete financial and programmatic plan for the ensuing fiscal year based upon the official forecast of the Revenue

Estimating Conference. The executive budget is to clearly present and highlight the programs operated by state government and financial requirements associated with each program. It shall also be a performance-based budget incorporating goals, objectives, and performance measurements for each program. The governor also prepares a document known as the "supporting document," which conforms with the executive budget and which provides in-depth detail for the recommendations and elements presented in the executive document. (R.S. 39:28-38)

Each executive branch department must engage in a process of strategic planning. Such plans shall incorporate components of the state economic development master plan to the extent practicable. For higher education institutions, the master plan for higher education may serve as the strategic plan. Each five-year strategic plan shall include, at a minimum, a mission statement, goals and objectives, and specific performance measures to be achieved for each program within that department. Such plans are to be updated every three years. The operational plan submitted by each agency as part of its budget request must be consistent with the agency's strategic plan.

Each year on a date specified by the commissioner of administration, but no later than November 15th, each budget unit and higher education agency submits its budget request for the upcoming fiscal year to the governor, the Joint Legislative Committee on the Budget, and the Legislative Fiscal Office.

The division of administration, office of planning and budget, analyzes the budget requests and other information in preparing the executive budget and the supporting document. The executive budget and the accompanying supporting document are based upon and incorporate components of each department's strategic plan, operating plan, and annual budget request.

A copy of the executive budget and the supporting document is transmitted to the Joint Legislative Committee on the Budget no later than 45 days prior to each regular session and to each member of the legislature by the first day of each regular session. In the first year of each term, the governor submits his executive budget and the supporting document to the Joint Legislative Committee on the Budget no later than 30 days prior to the regular session. Any proposals by the governor to enhance revenues beyond the official forecast shall be itemized and projected separately from the executive budget.

The executive budget and the supporting document as provided by R.S. 39:36 must contain, at a minimum, the following:

Executive Budget

- (1) A budget message signed by the governor giving a summary description of his proposed financial plan and major programmatic policies for the ensuing fiscal year.
- (2) Summary statements of the financial condition of the state for the last fiscal year concluded, an estimate of the financial condition for the current fiscal year, and a projection of the financial condition for the ensuing fiscal year, all based on the official forecasts for the respective periods.
- (3) Comparative statements for each department, budget unit, and program by the means of financing of the existing operating budget for the current fiscal year and recommended expenditures for the ensuing fiscal year. Such comparative statements shall be itemized for each program or budget unit and shall include information on personnel and discretionary

and non-discretionary spending.

Supporting Document

- (1) Detailed comparative statements for each program, budget unit, and department, itemized by source of funds, expenditure category, and activity. Such statements include: actual expenditures for the last fiscal year concluded; the initial operating budget and existing operating budget for the current fiscal year; and the continuation budget and recommended expenditures for the ensuing fiscal year.
- (2) Reports of the actual and estimated amounts of the total authorized bonded debt of the state, the outstanding indebtedness, and the annual cost of debt service, itemized by principal and interest.
- (3) Reports of the actual and estimated payments on the unfunded accrued liability of the state, itemized by budget unit and the means of financing supporting such payments. A consolidated report of the estimated payments required to provide for the amortization of the unfunded accrued liability of each state and statewide retirement system as of June 30th each year.
- (4) Additional, detailed information relative to personnel tables for each program or budget unit; performance information related to each agency's programmatic structure, including indicators, for the initial and existing operating budget, the continuation budget, and the recommended budget; and reports on monies proposed to be spent in the ensuing fiscal year for professional services, other charges, and acquisitions and major repairs.

Legislative Procedure

As noted above, the governor, through the division of administration, prepares a general appropriation bill to implement the executive budget. This bill is introduced in the House of Representatives. Once introduced, the legislative procedure for handling the general appropriation bill is similar to that for any other bill. All constitutional requirements and other requirements regarding the number of readings, etc., apply. After introduction in the House, the bill is referred to the Appropriations Committee. The committee studies the bill in detail, reviewing funding and personnel levels for each budget unit and receives and adopts amendments to the bill. The procedure for reporting the bill and engrossing and passing to third reading is the same as for other bills, with certain exceptions.

During House floor debate, a special procedural device called the "Committee of the Whole" may be used, by which the entire membership of the House resolves into a special committee for the purpose of debating the appropriation bill (House Rule 6.18 et seq.). When this occurs, the speaker of the House appoints a member to serve as chairman. The bill is debated "seriatim," which means that it is read and debated item by item in bill schedule order with the title being considered last. The Committee of the Whole procedure permits fuller discussion of the bill, including participation by the commissioner of administration or other persons who are not elected members of the House. Following the consideration by the Committee of the Whole, the committee reports to the House, which acts on the committee report. House Floor Amendments may be offered before and after the House resolves into the Committee of the Whole as well as while the House has resolved into the Committee of the Whole.

After the House votes, the bill is reengrossed and sent to the Senate where it is referred to the

Finance Committee, and the same process is repeated, except that the Senate does not use the Committee of the Whole procedure. After Senate action, the bill is returned to the House for concurrence in any amendments. When finally passed by both houses, the bill goes to the governor, who may veto any line item of the bill. The veto and veto override procedure is the same as for any other bill, except items may be considered separately.

Additional Information Required for Appropriation Bills

Any nongovernmental entity (NGO) that is requesting funding through the capital outlay bill or an appropriations bill is required to transmit specific information in order to be considered for funding. Voluntary councils on the aging, public community water systems, and volunteer fire departments are exempt. The requests must be submitted prior to November 1. Late submissions may be approved by the Joint Legislative Committee on the Budget prior to the deadline for the introduction of bills, or a two-thirds vote of the appropriate standing committee or through an amendment in accordance with the rules of the respective house. Completed forms are available to the public via the Internet. (R.S. 39:51.1)

The General Appropriation Bill and the bill appropriating funds for ancillary expenses of state government shall include for each program, department and budget unit, comparative statements of the number of authorized positions and of the existing operating budget for the current fiscal year and the appropriations for the ensuing fiscal year. (R.S. 39:51(B)) The legislative expense bill and the judicial expense bill shall include a comparative statement of the existing operating budget for the current fiscal year and the appropriations for the ensuing fiscal year. (R.S. 39:51(D))

The Five Year Estimated Revenue Loss Chart from the most recent Tax Exemption Budget prepared by the Department of Revenue shall be an appendix to the General Appropriation Bill. (R.S. 39:51(E)).

House rules requires two appendices to the General Appropriation Bill. These requirements may be suspended by a vote of the majority of the elected members:

- The General Appropriation Bill shall include an appendix which clearly shows each proposed number of authorized positions and each proposed appropriation and the corresponding number, if any, of authorized positions and the corresponding appropriation, if any, from the enrolled version of the General Appropriation Bill for the current fiscal year. (HRULE 7.9(C)(1))
- The General Appropriation Bill also shall include an appendix showing the current and proposed salary, vehicle allowance, and housing allowance for several appointed officials including heads of several departments; the superintendent of education, the commissioner of higher education, and the president of each public postsecondary education system; and the commissioner of administration. (HRULE 7.9(C)(2))

Restrictions on "One-Time Money"

House Rule 7.19, the "Geymann Rule," limits the use of one-time money for ordinary recurring expenses. Prior to consideration on third reading and final passage of any appropriation bill, the Legislative Fiscal Officer shall submit a report to the House of Representatives which shall indicate whether the appropriation bill appropriates one-time money for ordinary recurring expenses. For most appropriations bills, no motion, the effect of which is to finally pass an

appropriation bill that appropriates one-time money for ordinary recurring expenses, shall be in order unless immediately prior to such a motion a separate motion to authorize the use of one-time money for ordinary recurring expenses is adopted by a favorable vote of at least two-thirds of the members present and voting.

For the General Appropriation Bill, the two-thirds motion authorizing the use of one-time money for recurring expenditures must be adopted prior to a motion to resolve into the Committee of the Whole; prior to a motion to concur in an amendment to the General Appropriation Bill which appropriates one-time money for ordinary recurring expenses; and prior to a motion to adopt a conference committee report on the General Appropriation Bill which appropriates one-time money for ordinary recurring expenses. The adoption of any Committee of the Whole House Amendment or any floor amendment which proposes to appropriate one-time money for ordinary recurring expenses shall require the favorable vote of at least two-thirds of the members present and voting.

The two-thirds vote requirement does not apply if general operating appropriations contained in the executive budget are less than or equal to the operating budget for the current fiscal year and the amount of one-time money for ordinary recurring expenses does not exceed the growth of the state general fund from the fiscal year for which the appropriation is proposed to the subsequent fiscal year.

Other Appropriation Bills

Although it includes the vast majority of appropriations for the regular operating expenditures of state government, the general appropriation bill is not the only appropriation bill introduced each regular session. The constitution requires that all bills appropriating money, other than the general appropriation bill, shall be for a specific purpose and amount.

- The expenses of the legislature and its service agencies, including House Legislative Services, Senate Research Services, the Legislative Auditor's Office, the Legislative Fiscal Office, the Law Institute, and other support services are appropriated by means of the "legislative expense bill", rather than the general appropriation bill. The Legislative Budgetary Control Council is charged by law with the responsibility of reviewing and controlling the budget and expenses of the legislature and its agencies. The council is composed of 10 voting members: the president of the Senate; the president pro tempore of the Senate; the speaker of the House; the speaker pro tempore of the House; the chairman of the Senate Finance Committee; the chairman of the House Appropriations Committee; the chairman and one member of the Senate and Governmental Affairs Committee; and the chairman and one member of the House and Governmental Affairs Committee. The clerk of the House and the secretary of the Senate serve on the council as non-voting members. (R.S. 24:38)
- Appropriations for the expenses of the judiciary, including the supreme court, courts of appeal, and district courts, are contained in a separate "judicial expense bill". The budget preparation and expenditure control function is vested in the Judicial Budgetary Control Board, which functions similarly to the Legislative Budgetary Control Council. (R.S. 13:81, et seq.)
- The "ancillary appropriation bill" provides for the appropriation of funds as working capital for the financing of business enterprises conducted by state agencies, such as dining halls, dormitories, insurance operations, and refreshment booths. Appropriations are made out of special revolving working capital funds into which revenues from the operation of these

enterprises are deposited and from which allotments are made. (R.S. 39:58)

- The capital outlay bill contains the five-year capital outlay program which provides specifically for implementation of the first year of the program ("the capital outlay budget"). The capital outlay bill provides for the financing of highway and public works construction and buildings and other construction and improvement projects. Projects included in the bill may be funded by cash or by the sale of bonds. A project financed through the issuance of debt is eligible to receive funding through a line of credit issued by the State Bond Commission.
- The legislature also considers other types of appropriation bills such as those providing for the payment of judgments made against the state, payment of tax refund claims, and other special nonrecurring expenses of the state. Unanticipated expenses in excess of the current budget are often provided for in a "supplemental appropriation bill".

Avoidance of Budget Deficits in Budget Development

If the official forecast of recurring money for the next fiscal year is at least one percent less than such forecast for the current fiscal year pursuant to authority granted in the constitution for the purpose of avoiding a budget deficit in the next fiscal year, (Const. Art. VII, §10(F)) the governor and the legislature may employ the following methods and procedures in the development of the state budget for the next fiscal year:

- (1) An amount not to exceed five percent of the total appropriation in the current fiscal year from any fund shall be available for appropriation in the next fiscal year for a purpose other than as specifically authorized for that fund.
- (2) An amount not to exceed five percent of the current fiscal year's total appropriation for any expenditure which is either protected or mandated by law or the constitution shall be available for appropriation in the next fiscal year for a purpose other than as specifically required by law or constitution. However, no more than one percent of the current fiscal year's total appropriation for expenditures required for the minimum foundation program shall be available for other purposes.

Monies made available under these procedures may be transferred to a fund for which revenues have been forecast to be less than the revenues in the current fiscal year. In no event shall the cumulative percentage reduction made under these provisions with respect to any particular fund, appropriation, or allocation exceed five percent in any two consecutive fiscal years.

Actions Following Enactment of Appropriations

Following gubernatorial action on the enrolled general appropriation bill, the commissioner of administration notifies each budget unit as to the nature and amount of its appropriations contained in the various appropriation acts no later than two weeks after the effective date of such act. Additionally, the commissioner may review and approve the initial allocation of expenditures for each appropriation for the fiscal year.

Throughout the course of the year, all questions which may arise as to the meaning of items specified in any appropriation act shall be decided by the governor, but the decision shall be based on the estimates and other information embodied in the executive budget and the supporting document.

State Budget

By October first of each year, the governor is to have prepared a complete state budget for the fiscal year. The document shall include all the details of the financial plan, as presented in the executive budget, revised to conform with the appropriation and revenue acts and other acts and legislative provisions governing the budget. Not later than 60 days after adjournment of any special session, an update of the state budget must be prepared incorporating any revisions necessitated by actions taken during the special session. (R.S. 39:56)

Operating Budget Execution

The budget, as reflected in the state budget document, is administered during the fiscal year by the Division of Administration. Appropriated amounts are made available from the state treasury to the budget units, with some exceptions, in monthly allotments, the allotments being based on work programs and requests of the budget units, which are subject to approval by the commissioner of administration. The total value of warrants submitted each month must represent only the cash requirements of the agency based on the liquidation of obligations and not the incurring of additional obligations. (R.S. 39:71)

The expenditure of money by any budget unit in excess of the amount appropriated, without prior approval by the Interim Emergency Board and two-thirds of the legislature by mail ballot, is cause for removal of the state officer in charge. (These provisions do not apply to emergency expenditures by the Military Department or the Department of Public Safety and Corrections). (R.S. 39:77)

Transfer of Funds

Expenditures of budget units must strictly conform to the programs specified in the appropriation acts, unless subsequently revised in accordance with law. Revisions usually involve the transfer of funds between programs within a budget unit. This action is effected through the use of a "BA-7," which is an administrative form detailing proposed changes from the current approved budget in means of finance and expenditure categories. Provisions governing these transfers include:

- (1) The commissioner may unilaterally approve the transfer of funds between programs within a budget unit which in the aggregate do not exceed one percent of the total appropriation of the budget unit.
- (2) With approval of the Joint Legislative Committee on the Budget, the commissioner may approve the transfer of funds between programs within a budget unit which in the aggregate do not exceed 25% of the total appropriation to the budget unit.
- (3) Transfers authorized under (1) and (2) above may not exceed 25% in the aggregate of the total appropriation of that budget unit for the fiscal year. Such transfers shall include adjustment of any performance standards which may be impacted.

Remission of Balances

All cash balances occurring from appropriations acts or the Interim Emergency Board for which no bona fide liability exists at the end of the fiscal year shall be remitted to the treasurer 15 days after the year's close. (R.S. 39:82) These monies are commonly referred to as "reversions". The

law also provides for some limited rollover of funds from one fiscal year to the next, including federal funds and state matching funds for federal grants. Funds for capital outlay projects or the Interim Emergency Board are not required to be returned to the treasury until completion of the project. Higher education institutions determined by the Board of Regents to have met the short-term targets established in the performance agreement may retain funds. Higher education institutions with a preventative maintenance program approved by the Board of Regents may also retain certain funds (R.S. 17:3386). Finally, vocational-technical institutions which receive funds derived from riverboat boarding fees may retain such unexpended monies at the end of the fiscal year. (R.S. 27:93)

Avoidance of Deficits

- Avoidance of cash flow deficits – If the state treasurer and the commissioner of administration determine that the projected cash balance of monies available to pay appropriations is insufficient to pay anticipated warrants in any month, they must notify the governor and the Joint Legislative Committee on the Budget. To address potential cash flow deficits, the governor may direct the commissioner to reduce or disapprove warrants, and the treasurer shall not honor warrants in excess of the amount approved by the commissioner.
- Avoidance of budget deficits – The division of administration submits a budget status report monthly to the Joint Legislative Committee on the Budget. This report indicates the balance of the budget for the state general fund and dedicated funds by comparing the official forecast for these funds to the total authorized appropriations from each fund. The report also notes any issues which materially affect the budgetary soundness of the state. The committee may make changes to the report as it deems appropriate. The most recently approved budget status report is the official budget status of the state.
- If the budget status report indicates that the total appropriation from any fund will exceed the official forecast for that fund, the Joint Legislative Committee on the Budget shall notify the governor that a projected deficit exists for that fund. Upon receiving notification that a projected deficit exists, the governor shall have interim budget balancing powers to adjust the budget in accordance with the following provisions:
 - (1) The governor may direct the commissioner of administration to reduce appropriations for any program that is appropriated from the fund that is in a deficit posture. Except as provided in (2) below, total adjustments for a budget unit shall not exceed three percent in the aggregate of the total appropriation for that budget unit for a fiscal year.
 - (2) In the event the governor has reduced state general fund appropriations by an aggregate amount equal to at least seven-tenths of one percent of the total of such allocations and appropriations for that fiscal year and a deficit still exists, the governor may make further budget adjustments in order to eliminate the deficit. In accordance with Article VII, Section 10(F) of the constitution, the governor may direct the commissioner of administration to reduce any executive branch appropriation from the state general fund and dedicated funds, by an amount not to exceed five percent in the aggregate of the total amount appropriated from that fund for that fiscal year. However, reductions to appropriations required for the minimum foundation program shall be limited to one percent and are not applicable to instructional activities. All such budget adjustments require the prior approval of the Joint Legislative Committee on the Budget. The state treasurer is required to transfer and credit to any fund in

deficit those monies which become available as a consequence of the budget adjustments.

- (3) The governor may issue executive orders in the form of freeze orders prohibiting the expenditure of monies for specific items.
- (4) The governor may propose the use of an alternative source of revenue of a designated amount to address the deficit situation which shall be incorporated into the budget status report only after having obtained written approval of two-thirds of the members of each house of the legislature in accordance with R.S. 39:87.

If within 30 days of the determination of a projected deficit the necessary adjustments in the appropriations are not made to eliminate the projected deficit, the governor shall call a special session of the legislature for this purpose.

Elimination of Year-End Deficits

If a deficit exists in any fund at the end of the fiscal year, that deficit shall be eliminated not later than the end of the next fiscal year. (Const. Art. VII, §10(G))

Reductions to State Supplemental Pay and the Minimum Foundation Program

The governor may reduce appropriations for the minimum foundation program and for state supplemental pay for local law enforcement and fire protection officers using means contained in the Act making the appropriations, subject to approval of two-thirds of the members of each house. (Const. Art. VII, §10(D)(3) and Art. VII, §13(B))

Annual Financial Statement

Within six months of the close of the fiscal year, the commissioner of administration is to prepare a comprehensive annual financial report (CAFR) presenting the financial position and results of operations of the state. At the same time, the commissioner shall cause to be prepared a brief, objective, and easily understood narrative report explaining the financial condition and the operations of the state which report shall be prepared for wide distribution to the public through printed and electronic means. (R.S. 39:80)

Joint Legislative Committee on the Budget

The Joint Legislative Committee on the Budget serves as the budgetary and fiscal representative of the legislature to assist in the discharge of the legislature's fiscal and budgetary responsibilities, particularly when the legislature is not in session. It provides the legislature with information relative to those responsibilities from a source created by, and responsible solely to, the members of the legislature. The committee is composed of the members of the House Committee on Appropriations, the Senate Finance Committee, and the chairmen of the House Ways and Means Committee and Senate Revenue and Fiscal Affairs Committee, or their designees. (R.S. 24:651 et seq.)

State agency budget requests must be submitted to the committee at the same time as they are submitted to the commissioner of administration. The governor must submit the executive budget recommendations to the committee no later than 45 days prior to each regular session except in the first year of a new legislative term when the recommendations are submitted 30 days prior to session.

The committee is authorized to hold public hearings each year for the purpose of examining and investigating the budget requests of each budget unit and the executive budget, and is required to submit to the legislature a report of findings and recommendations on the executive budget no later than two weeks prior to each regular session.

During the interim between regular sessions, the committee is authorized to approve or disapprove transfers of funds and budget adjustments through the "BA-7" process (as previously noted). It may also approve requests by the facility planning and control section of the division of administration for use of interest earnings for capital construction projects. The committee is often extended broad authority to interpret and oversee implementation of legislative intent in regard to fiscal and budgetary matters.

Legislative Fiscal Office

The Legislative Fiscal Office (LFO) is created to provide service, research, and technical staff assistance concerning fiscal matters to the members of the House of Representatives and the Senate. (R.S. 24:601 et seq.) The office is subject to the general direction and supervision of the Joint Legislative Committee on the Budget. The legislative fiscal officer is elected as chief executive officer of the LFO by majority vote of the elected members of both houses. He may be removed by the same vote. The duties and functions of the LFO include the following:

- Budget analysis – Analyze the annual budgets prepared by the executive branch and make recommendations to the Joint Legislative Committee on the Budget, other committees, and the legislature.
- Revenue forecasting – Make continuous short- and long-range projections on revenues and expenditures.
- Fiscal notes – Evaluate legislation for fiscal effect and provide fiscal notes detailing the effect on revenues and expenditures of such proposed legislation. The fiscal note is a factual, brief, and concise estimate in dollars of the immediate and long-range fiscal effect of a bill. (Joint Rule 4)
- BA-7s – Review on a monthly basis requests for budget adjustments (i.e., BA-7s) and make recommendations to the Budget Committee as to the merits of such request.
- Fiscal and economic impact statements – Review on a monthly basis rules and regulations as submitted by the executive branch and inform the legislature and the public as to the fiscal and economic impact of such proposed rules and regulations. (R.S. 49:953)
- Interim Emergency Board – Evaluate requests submitted to the Interim Emergency Board and make recommendations to the legislature of approval or disapproval of those requests. (R.S. 39:461.3)
- General information – Answer the fiscal information requests of committees and individual legislators to the extent practical.

Legislative Auditor

Article III, Section 11 of the Louisiana Constitution provides that the legislative auditor is to serve as fiscal advisor to the legislature and perform duties and functions provided by law related to auditing fiscal records of the state, its agencies and political subdivisions. The auditor is elected by a majority vote of the elected members of each house and may be removed by a two-thirds vote of the elected members of each house. The basic functions of the office of the legislative auditor encompass the following (R.S. 24:511 et seq.):

- Examination and audit of books and accounts of the state treasury, public boards and commissions, agencies, departments, political subdivisions or public officials or employees, the scope of which may include certification of financial accountability, legal compliance, and evaluations of the economy, efficiency, and effectiveness of the entity being audited.
- Approves the engagement and distributes the reports of CPA firms that audit local government.
- Audit of a municipality or any public, quasi-public, or private agency receiving state funds when requested to do so by the Legislative Audit Advisory Council, the legislature, or a grand jury.
- Study and analysis of state revenues and expenditures on a continuing basis and reports thereon to the legislature.
- Determination of all funds in the state treasury.
- Preparation and submission to the legislature and the governor, not later than the first day of each regular session, of a written statement of the financial condition of the state treasury at the close of the preceding fiscal year, with an itemized estimate of the anticipated revenues for the current and the succeeding fiscal year.
- Examination and audit of the books and accounts of each tax collector at least once a year.
- Preparation of fiscal notes for proposed legislation, which detail the legislation's effect on local government revenues and expenditures.
- Conduct of performance audits, program evaluations, and other studies as needed to enable the legislature and its committees to evaluate the efficiency, effectiveness, and operation of state programs and activities.
- Establish and maintain a comprehensive computerized information system on boards, commissions, and like entities, including financial and personnel information.
- The legislative auditor is to be reimbursed for actual expenses incurred in connection with any local government audit or other audit services performed or any financial and compliance audit or examination of a state agency.
- The legislative auditor fills the role of state auditor, state actuary, and reporter on the financial affairs of the state. In fulfilling these functions, the legislative auditor is aided and advised by the Legislative Audit Advisory Council which is composed of five members of the House appointed by the speaker of the House and five members of the Senate

appointed by the president of the Senate. The council is also responsible for reviewing and approving the annual budget for the office of the legislative auditor prior to its submission for legislative action and for setting his salary. The council has authority to hold hearings and subpoena witnesses. It assists the auditor by receiving reports from district attorneys on action taken in cases in which audits disclose possible fraud or illegalities. It may petition for writs of mandamus to require public bodies to furnish the auditor certain information required by law. (R.S. 24:551 et seq.)

Legislative Actuary

The legislative actuary serves as an advisor to the legislature on issues related to public retirement systems. The basic functions of this office (R.S. 24:521) encompass the following:

- Preparation of actuarial notes, which are estimates of the immediate and long-range financial and actuarial effects of proposed legislation relative to any state, parochial, or municipal retirement system funded partially from public funds.
- Response to requests for actuarial information requests of committees and individual legislators.

Interim Emergency Board

The Interim Emergency Board (IEB), composed of the governor, lieutenant governor, state treasurer, the presiding officer of each house of the legislature, the chairman of the Senate Finance Committee, and the chairman of the House Appropriations Committee, or their designees, may appropriate money between legislative sessions from the state general fund or borrow on the full faith and credit of the state amounts necessary to address an emergency. The total amount of such debt and appropriations must never exceed one-tenth of one percent of total state revenues for the previous fiscal year. Such appropriations or debt issuance can only be made with the written consent of two-thirds of the elected members of each house of the legislature, and then only for emergencies which are defined by the constitution as events not reasonably anticipated by the legislature. An "event not reasonably anticipated" is defined as one not considered and rejected, in the same relative form or content, by the legislature during the preceding session either by specific legislative instrument or amendment. (Const. Art. VII, §7 and R.S. 39:461 et seq.)

CHAPTER 2 – STATE GOVERNMENT FUNCTIONS

Part A. State Government Finance The Capital Outlay Process

The executive budget estimate which is presented to the legislature for consideration each regular session contains a five-year capital outlay program which provides specifically for implementation of the first year of the program ("the capital outlay budget"). This is introduced during the regular session as the Capital Outlay Bill. Projects included in the bill may be funded by cash or by the sale of bonds. A project financed through the issuance of debt is eligible to receive funding through a line of credit issued by the State Bond Commission.

The capital outlay budget provides for financing two types of construction: (1) highway and public works construction; and (2) buildings and other construction and improvement projects.

All requests for capital outlay financing must be submitted to the division of administration by November 1st of each year. Requests by non-state entities must be submitted through the members of the House and Senate in whose district the project will be located. As a practical matter, this requirement is customarily satisfied by a letter submitted to the division of administration evidencing specific endorsement of the project by the legislator. Requests which are filed after November 1st may also be eligible for an appropriation, but only under certain limited circumstances.

Capital outlay expenditures for construction of major state infrastructure projects (roads, bridges, etc.) are made pursuant to priority programs which are established by law. These programs are developed and administered by DOTD, with input from the legislature and the public.

All capital outlay projects must be evaluated through a feasibility study before they may be included in the Capital Outlay Bill. This evaluation is conducted by review of the capital outlay requests by the facility planning and control section of the division of administration, and by the Department of Transportation and Development for projects within a priority program. Projects funded by general obligation bonds are divided into priorities numbered 1 through 5. Historically, priorities 1 through 4 were used to correspond to the quarters of the fiscal year, and priority 5 was used to indicate the funding that would be needed to continue multi-year projects into future years. Today, Priority 1 is generally limited to reauthorization of certain previously authorized projects and commitments. Priority 2 is generally reserved for projects which will be ready to begin in the next fiscal year. Priorities 3 and 4 are currently used to indicate intent for future year funding consideration. Priority 5 is reserved for dollar amounts which may be approved for non-cash lines of credit.

The Capital Outlay Bill is amended by the legislature through modification of projects in the bill, or addition of new (eligible) ones. The Omnibus Bond Authorization Bill provides the authorization for the sale of the bonds necessary to finance projects within the Capital Outlay Bill.

The method of financing included in the Capital Outlay Bill will differ from project to project. Cash appropriations become effective when the bill takes effect and the funds are available for the project at that time. Bond funding is contingent upon the project receiving a line of credit

from the State Bond Commission. The Bond Commission is authorized to grant or withdraw cash and non-cash lines of credit for projects authorized in the Capital Outlay Act. The Act requires that the first order of funding is for cash lines of credit for Priority 1 projects. Thereafter, projects with Priority 2 funding may be considered for a cash line of credit. The granting of Priority 5 non-cash lines of credit is not contingent upon funding of the Priority 1 projects. During the interim between legislative sessions, project priorities and other parameters may be changed through action by the Interim Emergency Board.

Projects which receive cash as well as those which received a line of credit are for the most part administered by the office of facility planning and control. Recipient entities work with that office to access their funding. A few specific agencies, such as higher education institutions, administer their own capital outlay appropriations.

Chapter 2 – State Government Functions

Part B. Public Safety and Corrections	2B-1
Overview	2B-1
Public Safety Services	2B-1
Louisiana State Police	2B-1
Office of Motor Vehicles	2B-3
Corrections Services	2B-4
Louisiana Department of Public Safety and Corrections	2B-4
Parole and Probation	2B-5
Reentry-Rehabilitation	2B-6
Youth Services	2B-7
Office of Juvenile Justice	2B-7

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part B. Public Safety and Corrections

Overview

The Louisiana Department of Public Safety and Corrections was created in 1983 when the Department of Corrections merged with the Department of Public Safety. The department has many statutory duties and functions relating to the security and safety of Louisiana citizens. Those duties can be broken down into three major divisions: Public Safety Services, Corrections Services, and Youth Services.

Public Safety Services

Louisiana State Police (www.lsp.org)

(1) Office of State Police

The office of state police is responsible for: (1) the enforcement of the criminal and traffic laws of the state; (2) maintenance of intelligence and investigative operations; (3) the issuance of concealed handgun permits; (4) gaming enforcement; and (5) maintenance of the Sex Offender Registry.

(2) Criminal Background Information/Expungements

The Bureau of Criminal Identification and Information, within the office of State Police, is responsible for maintaining the Automated Fingerprint and Identification System (AFIS) and the Louisiana Computerized Criminal History System (LACCH). These systems function as a centralized location for criminal history information and incarceration information within the state. The bureau also functions as an interface with the National Crime Information Center.

The criminal history information maintained by the bureau is available to law enforcement agencies and certain statutorily designated agencies. The same information is also used with consent of the applicant for employment screening functions.

The bureau is also responsible for administering court-ordered expungements. "Expungement" means removal of a record from public access but does not mean destruction of the record. An expunged record is confidential, but remains available for use by law enforcement agencies, criminal justice agencies, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the Louisiana State Board of Social Work Examiners, the Emergency Medical Services Certification Commission, the Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, or the Louisiana

Supreme Court Committee on Bar Admissions, or any person or entity requesting a record of all criminal arrests and convictions pursuant to R.S. 15:587.1. (R.S. 44:9(G))

Louisiana law provides for expungement of records of arrest and prosecution in three circumstances: (1) the offender was arrested and not convicted; (2) the offender had his conviction set aside and his prosecution dismissed pursuant to the provisions of Code of Criminal Procedure Articles 893 or 894; or (3) the offender was arrested and convicted of certain misdemeanor offenses and a specified amount of time has elapsed between the date of the expungement request and the completion of any sentence, deferred adjudication, or period of probation or parole.

Recent Legislative Activity: Recent legislative interest in this area has focused on reducing costs of certain expungements and expanding the types of offenses which may be expunged.

(3) Concealed Handgun Permits

R.S. 40:1379.3 provides for the criteria for the issuance of concealed handgun permits and grants the authority of administering this program to the deputy secretary of public safety services of the Department of Public Safety and Corrections (colonel of Louisiana State Police).

Louisiana law requires that Louisiana residents shall be issued a Louisiana concealed handgun permit in order to carry a concealed handgun in this state. The concealed handgun permit has a five-year term and shall contain a permit number, expiration date, photograph, and the name, address, and date of birth of the permittee.

"Handgun" is defined as a type of firearm commonly referred to as a pistol or revolver originally designed to be fired by the use of a single hand and which is designed to fire or is capable of firing fixed cartridge ammunition. The term "handgun" shall not include shotguns or rifles that have been altered by having their stocks or barrels cut or shortened.

Louisiana law provides that a permit issued in another state is valid in Louisiana if the issuing state honors concealed handgun permits issued by Louisiana. Currently, Louisiana has reciprocity agreements with 40 states, with one request pending. The states of Oregon, California, Wisconsin, Illinois, New Jersey, New York, Rhode Island, Maryland, and Massachusetts do not have reciprocity agreements with Louisiana regarding concealed handgun permits.

Recent legislative activity: Recent legislation has focused on the use of out-of-state permits by Louisiana residents to carry concealed handguns in Louisiana, the term of permits and requirements regarding education and training prior to issuance of a concealed handgun permit.

(4) Gaming Enforcement

Louisiana State Police, Gaming Enforcement Division, provides for the regulation and control of statutorily authorized gaming activities. The division works in conjunction with the Louisiana Gaming Control Board (also within the DPS&C). The Gaming Control Board is responsible for the investigation, licensing, and enforcement, and all power incidental or necessary to such regulatory authority, control, and jurisdiction over all aspects

of the operation of video draw poker devices, slot-machine gaming at live horse racing facilities, riverboat gaming activities, and the operation of the land-based casino in Orleans Parish.

(5) Sex Offender Registry

The Bureau of Criminal Identification and Information, within the office of State Police is also responsible for the development and maintenance of the State Sex Offender and Child Predator Registry.

In 1992, the Louisiana legislature enacted provisions requiring sex offenders to register with local law enforcement and to notify certain persons in their communities of their status as convicted sex offenders.

In July of 2006, the federal Adam Walsh Child Protection and Safety Act was signed into law. This law provides a comprehensive set of minimum standards for sex offender registration and notification in the United States. This act, on which Louisiana's sex offender registration and notification requirements are based, defines three "tiers" or categories of sex offenders which have an impact on three areas of the sex offender registration and notification requirements: (1) the duration of the registration and notification requirements; (2) the required frequency of in-person appearances by sex offenders to verify registration information; and (3) the extent of website disclosure for certain sex offenders.

Based upon the federal system of classification, Louisiana provides for a three-tier classification system for sex offenders who are required to register in this state. The first tier, which requires lifetime registration and in-person registration renewals every three months, is comprised of any person convicted of an aggravated offense. The second tier, which requires registration for a period of 25 years and in-person registration renewals every six months, is comprised of any person convicted of a sexual offense against a victim who is a minor. Finally, the third tier, which requires registration for a period of 15 years and annual in-person registration renewals, is comprised of any person convicted of a sex offense who does not fall into tiers 1 or 2 described above. (R.S. 15:541(24))

Office of Motor Vehicles

The Office of Motor Vehicles (OMV) is responsible for vehicle registrations, driver's license matters, compulsory motor vehicle liability security (vehicle insurance), recordation of liens against motor vehicles, and the collection of appropriate fees and sales tax.

The OMV administrative office is located in Baton Rouge. There are eighty-three OMV locations statewide. The OMV website (expresslane.org) provides a complete listing of office locations and services provided at each location.

In the event that a parish is in need of additional funds to operate OMV offices, R.S. 32:429(A) provides that the governing authority of any local governmental subdivision can levy, by resolution, a fee for each service or transaction carried out as an operation of an office of motor vehicles field office that is not fully funded by the state. Currently, forty-seven offices across the state assess this fee.

The fee is not to exceed three dollars per service or transaction. The fee can be collected on

driver's licenses, motor vehicle registrations, suspension and revocation transactions. The fee shall not apply to obtaining or renewing a motor vehicle registration license. This fee can only be used to defray the cost of operations of a local field office, including but not limited to facility rental, utilities, and maintenance thereby allowing local governments to work with OMV to provide greater service for their area.

The office of motor vehicle offers the following services:

Driver's Services

- Driver's license renewal
- Identification card renewal
- Official driving records
- Commercial driving schools
- Third party road testers

Dealer Services

- Temporary tags

Reinstatement Services

- Reinstatement of driving privileges

Vehicle Services

- Louisiana duplicate registration
- Mobile home immobilization status inquiry
- Notice of lease termination
- Notice of vehicle transfer
- Personalized plate inquiry
- Salvage yard auto hulk
- Special plates
- Special plates viewer

Online Services

- The office of motor vehicles offers many of its services and forms, study guides, and applications for download through its website at www.expresslane.org.

Corrections Services

La. Department of Public Safety and Corrections (www.corrections.state.la.us)

The Department of Public Safety and Corrections, corrections services provides public safety and protection to the citizens of Louisiana through three primary mechanisms: (1) secure incarceration of offenders; (2) probation/parole supervision; and (3) rehabilitation and reentry.

(1) Housing of Convicted Offenders

- (a) State Correctional Facilities: Any individual subject to confinement in a state adult penal or correctional institution shall be committed to the Department of Public Safety and Corrections and not to any particular institution within the jurisdiction of the department. The secretary shall assign each newly committed inmate to an appropriate penal or correctional facility. The secretary may transfer an inmate from one such facility to another, insofar as the transfer is consistent with the commitment and in accordance with treatment, training and security needs established by the department. (R.S. 15:824(A)) (See the next page.)

Adult Correctional Institutions

- (1) Allen Correctional Center (ALC), located in Kinder.
- (2) Avoyelles Correctional Center (AVC), located in Cottonport.
- (3) B.B. "Sixty" Rayburn Correctional Center (RCC), located in Angie.
- (4) C. Paul Phelps Correctional Center (CPPCC), located in DeQuincy.
- (5) David Wade Correctional Center (DWCC), located in Homer.
- (6) Dixon Correctional Institute (DCI), located in Jackson.
- (7) Elayn Hunt Correctional Center (EHCC), located in St. Gabriel.
(The Adult Reception and Diagnostic Center, to which all male adult offenders committed to Corrections are sent for processing, is located here).
- (8) Forcht-Wade Correctional Center (FWCC), located in Keithville.
- (9) J. Levy Dabadie Correctional Center (DCC), located in Pineville.
- (10) Louisiana Correctional Institute for Women (LCIW), located in St. Gabriel.
- (11) Louisiana State Penitentiary (LSP), located in Angola.
- (12) Winn Correctional Center (WNC), located in Winnfield.

- (b) Parish Jails: A judge may sentence an offender to a parish jail for confinement if the offender is convicted of a relative felony. Additionally, for reasons including lack of available facilities, the DPS&C may reach an agreement with the sheriff to house inmates assigned to the custody of the department. In cases where inmates assigned to the department are housed in local jails, the department shall pay to each parish sheriff, or to the governing authority of those parishes in which the governing authority operates the parish jail, for keeping and feeding the individual in the parish jail the sum of \$24.39 per day.

Parole and Probation

- (a) Supervision: DPS&C, division of probation and parole is responsible for providing supervision for the following:
- Inmates granted parole by the parole board - Inmates who have been granted parole by the parole board are placed upon supervised parole by the division of probation and parole within the DPS&C for the remainder of their sentence.
 - Inmates who have been released by virtue of diminution of sentence for good behavior - Inmates who have been released from incarceration by virtue of reaching their "good time" release date are placed upon supervised parole by the division of probation and parole within the DPS&C for the remainder of their sentences.
 - Defendants who have been convicted of felony offenses and have had their sentences suspended or deferred and are placed upon probation by the court (mandatory supervision) - Individuals who have been convicted of a felony offense and have had their sentences either suspended or deferred and are placed on probation by the court are supervised by the division of probation and parole within the DPS&C for the period of probation.

- Defendants who have been convicted of a misdemeanor offense and have had their sentences suspended or deferred and are placed upon probation for more than six months (discretionary supervision) - Individuals who have been convicted of a misdemeanor offense and have had their sentences either suspended or deferred and are placed on probation for more than six months by the court and are ordered by the court to be supervised by the division of probation and parole within the DPS&C for the period of probation.

(b) Statistical Information

- The Division of Probation and Parole has 21 offices located throughout the state of Louisiana. The offices vary in size depending upon the area they serve and range from 4 officers to 49 officers.
- There are 526 officers allocated to supervise more than 65,000 probationers and parolees in the community, 99% which are felons. Officers also conducted investigations for the court (pre-sentences), Parole Board (pre-paroles) and Pardon Board (clemencies). The division monitored work release or cooperative endeavor agreement compliance on twelve work release facilities with a capacity of 1,271 inmates.
- Approximately 2,598 of the 65,000 offenders are convicted sex offenders, many of whom require specialized supervision, treatment, and compliance with registration and notification laws.
- Probation and parole officers also arrested 5,934 offenders last year for violation of the conditions of supervision, and approximately 878 violators were returned from out of state.
- The average caseload is 125 offenders per officer. Officers who supervise specialist cases, for example, sex offenders, carry a reduced caseload, which means other officers may carry 150 or more cases.

(c) Technical Violations: To reduce the increasing costs of incarcerating adult offenders while continuing to provide safety for the community, certain non-violent/non-sex offenders who violate the technical conditions of their supervision (i.e. they are not arrested for a new felony) are referred to the Don Francois Alternative Center. This program lasts 90 days and addresses the rehabilitation needs of the offender, including but not limited to substance abuse treatment and anger management. Offenders are returned to supervision once they complete the program.

(d) GPS Monitoring: The Division also launched a global positioning satellite (GPS) electronic monitoring program in 2007. Approximately 100 of the highest risk sex offenders are monitored using the GPS system.

Recent legislative activity: Recent legislation has focused on modifying technical violations criteria to reduce costs of probation and parole, adjusting parole eligibility requirements, reducing the ratio of persons supervised by each probation/parole officer.

Reentry - Rehabilitation

DPS&C is responsible for equipping offenders for reentry and reintegration into society.

Offenders are provided the opportunity to participate in a variety of educational, vocational, faith-based, and therapeutic programming to aid their reentry efforts. The goal of these efforts is to improve public safety, reduce recidivism, decrease victimization, and reduce the financial burden of Louisiana's correctional system.

Every eligible offender releasing from a DPS&C facility or a local reentry center receives a complete reentry curriculum consisting of 100 hours of instruction in various topics. The programs are designed to include key elements which have been proven to reduce recidivism. Those elements include: basic education, job skills training, vocational training, anger management, substance abuse treatment, values development, and community involvement.

DPS&C works in conjunction with community resources and programs to facilitate the greatest possibility that the offender will not return to the criminal justice system.

Youth Services

Office of Juvenile Justice

Youth Services is one of the three major components of the Department of Public Safety and Corrections. But unlike the other two, the Office of Juvenile Justice (OJJ) reports directly to the governor of Louisiana. OJJ is responsible for the care, custody, security, and treatment of children adjudicated delinquent and children of families adjudicated in need of services (FINS) committed to its custody or placed under its supervision.

The mission of OJJ is to protect the public by providing safe and effective individualized services to youth, who will become productive, law-abiding citizens, and to provide a quality system of care which embraces partnerships with families, communities, and stakeholders to assist youth in redirecting their lives toward responsible citizenship.

(1) Shift from Detention in Secure Care Facilities to Community-Based Therapeutic Treatment

During the 1990s a great deal of attention was focused on juvenile justice concerns in Louisiana. These concerns, studied, and validated by the Annie E. Casey Foundation and other organizations, centered on the state's reliance on detention in secure care in large industrial-school types of facilities, the increasing recidivism rates, the increasing number of children in the adult system of corrections, and the fact that Louisiana had the highest juvenile incarceration rate in the country.

Recognizing the need for change, advocates, legislators, and other juvenile justice stakeholders became extremely active in stating their concerns and identifying problems with Louisiana's juvenile justice system. In 2003, lawmakers, judges, and other stakeholders visited the state of Missouri to learn more about their approach to juvenile justice, also known as the "Missouri Model", which was touting low recidivism rates by emphasizing individualized rehabilitation in small group, community-based settings.

In 2003, the Louisiana Legislature passed Act No. 1225, which initiated a statewide reform of Louisiana's juvenile justice system in an attempt to achieve the same successes achieved by the "Missouri Model". In the following years, working with the Annie E. Casey Foundation, the state of Missouri, and the John D. and Catherine T. MacArthur Foundation, OJJ began to make sweeping reforms in the treatment of youth in this state,

transforming the system from a detention and punishment-based model to an individualized, therapeutic model of care. In addition, OJJ began to shift funding to reflect its reduced reliance on large numbers of youth in secure care. Instead, OJJ focused its funding on the creation and development of regional facilities and programming to provide individualized, evidence-based, and therapeutic treatment where the child's family and community are directly involved.

Today, OJJ's policies call for youth to receive services in the least restrictive placement setting. Most youth who come in contact with OJJ can be best served in their own community, while receiving supervision services from probation and parole officers who serve as coordinators of services for these youth and their families, while holding the youth accountable to the court-ordered conditions of probation.

For youth who require more intensive treatment and/or supervision, the courts may recommend placement in a non-secure treatment facility, referred to as Residential Placement, which offers a more structured setting than the child's home environment may offer.

If the youth is considered a threat to public safety or has had limited success in the services provided in his community, only then is the youth required to receive the most intensive treatment in Secure Care Placement. The three secure care facilities for males in Louisiana are Bridge City Center for Youth, Jetson Center for Youth, and Swanson Center for Youth. Female secure care is provided at Ware Youth Center in Coushatta. Youth housed in these facilities, while being closely monitored, have access to various reentry programs, vocational training, and medical, dental, and mental health treatment.

In July of 2011, OJJ announced the construction of a new therapeutic secure care facility in Bunkie, Louisiana. The \$20 million facility will be able to house 72 youth and will provide them with intensive therapy in a secure environment.

(2) Juvenile Offenders vs. Adult Offenders: Recent Developments on the Issue of Juveniles Sentenced to Life Without Parole

Louisiana has long recognized a need for special procedures for juvenile offenders. The Louisiana Constitution and the Louisiana Children's Code both provide for special procedures for juvenile offenders and further provide that jurisdiction over juvenile delinquency proceedings lies exclusively within juvenile court. (La. Const. Art. V, §19; La. Ch.C. Art. 303.)

However, for some of the most violent crimes, Louisiana law provides an certain exception to the exclusive jurisdiction of the juvenile court and allows, and sometimes requires, these juveniles to be tried as adults in criminal court. (Ch.C. Articles 305 and 857.) Furthermore, current Louisiana law allows juveniles offenders who were under the age of 17 at the time of the commission of the offense to be sentenced to life imprisonment without the benefit of parole for certain crimes including first degree murder, second degree murder, aggravated rape, and aggravated kidnapping. Over the past few years, some legislators have attempted, without success, to distinguish juvenile offenders from adult offenders with regard to life sentences by amending the law to allow for parole eligibility for these juveniles offenders.

However, in 2010, the United States Supreme Court ruled in the case *Graham v. Florida*, 982

So.2d 43 (2010), that it was unconstitutional, in violation of the 8th Amendment, for a juvenile to be sentenced to life imprisonment for non-homicide (aggravated rape and aggravated kidnapping) crimes without a meaningful opportunity for release. In response to this Supreme Court ruling, the Louisiana Legislature, in SCR 37, directed the Louisiana State Law Institute to appoint and convene a task force made up of juvenile justice stakeholders to evaluate Louisiana law for compliance with the Supreme Court's ruling, and to report its findings and recommendations to the legislature as to whether it is necessary to amend Louisiana's juvenile sentencing laws to comply with the ruling in the case. The legislature asked that the Law Institute report its findings no later than January 1, 2012.

Chapter 2 – State Government Functions

Part C. Education	2C-1
Elementary and Secondary Education	2C-1
Governance and Organization	2C-1
State Board of Elementary and Secondary Education (BESE)	2C-1
State Superintendent of Education	2C-2
Recovery School District	2C-2
Charter Schools	2C-2
Local School Boards	2C-3
Local Superintendent	2C-5
Programs and Issues	2C-5
Mandates	2C-5
Early Childhood Education	2C-6
School and District Accountability	2C-6
Tenure	2C-7
Teacher Evaluation - "Value Added Assessment Model"	2C-7
Funding	2C-8
Minimum Foundation Program (MFP)	2C-8
The Education Excellence Fund	2C-9
Postsecondary Education	2C-10
Governance and Organization	2C-10
Board of Regents	2C-10
Management Boards - LSU, Southern, and University of La. Systems	2C-12
Management Board - Community and Technical College System	2C-12
Review of Governance, Organization, Management, and Operation of Public Postsecondary Education Institutions: 2008-2012 Term	2C-13
Programs and Issues	2C-14
La. Granting Resources and Autonomy for Diplomas Act – "GRAD Act"	2C-14
Student Financial Assistance	2C-14

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part C. Education Elementary and Secondary Education

Louisiana's constitution places the responsibility for providing for the education of the people of the state and for establishing and maintaining a system of public education with the legislative branch of state government. The goal of the public education system, as also set forth by the constitution, is "...to provide learning environments and experiences, at all stages of human development, that are humane, just, and designed to promote excellence in order that every individual may be afforded an equal opportunity to develop to his full potential." (Const. Art. VIII, Preamble and §1)

While the constitution places overall responsibility for education in Louisiana with the legislature, a number of state executive branch agencies and boards, as well as 69 local school boards, also have constitutional status, policymaking authority, and specified responsibilities involving education.

Governance and Organization

State Board of Elementary and Secondary Education (BESE)

The State Board of Elementary and Secondary Education (BESE) is created by the constitution to: (1) supervise and control public elementary and secondary schools and special schools under its jurisdiction and (2) have budgetary responsibility for all funds appropriated or allocated by the state for these schools, all as provided by law. BESE plays a key role in setting policy for public elementary and secondary schools.

BESE membership consists of eleven persons, one elected from each of the state's eight BESE districts and three appointed by the governor with the consent of the Senate. Members serve four-year terms concurrent with the term of the governor. Although board members must serve without pay, they do receive per diem and travel expenses while conducting board business. The legislature is required by the constitution to appropriate funds for the operating and administrative expenses of the board.

Other constitutional duties of BESE include: (1) approving certain nonpublic elementary and secondary schools; (2) prescribing school books and other materials of instruction for the elementary and secondary levels; (3) developing and adopting annually a formula determining the cost of a minimum foundation program (MFP) of education in all public elementary and secondary schools and equitably allocating funds appropriated by the legislature to city, parish, and other local public school systems; and (4) administering the Louisiana Quality Education Trust Fund Program. BESE must also fix the qualifications and prescribe the duties of the local

superintendents of schools, but the board is constitutionally prohibited from controlling the business affairs of a city, parish, or other local public school board or the selection or removal of its officers and employees.

In addition to its constitutional duties, BESE also has numerous responsibilities as prescribed by law. These generally can be categorized under the following headings: school approval and regulation; budgetary responsibilities; curriculum; assessment and accountability programs; and teacher and administrator qualifications, certification, and education.

State Superintendent of Education

The superintendent of education for public elementary and secondary education is the administrative head of the state Department of Education. The office is created by the state constitution. The superintendent is appointed by BESE to implement its policies and the laws affecting schools under BESE jurisdiction. The qualifications of the superintendent are provided by law.

The state superintendent, like BESE, has numerous functions and responsibilities which are designated by statute and which can be generally categorized under the same headings as those of BESE.

Recovery School District

The Recovery School District (RSD) was created by law for the purpose of taking over failing schools as determined by the Louisiana School and District Accountability System. The RSD is administered by the state Department of Education, subject to BESE policy. Schools placed in the RSD remain there for an initial period of five years. At the end of the five-year period, BESE decides if the school remains in the RSD, is returned to the transferring district, or is closed.

The RSD receives both the state and local portions of the MFP funding and any federal funding that would follow the children who attend the schools in the district. In addition, grant funding and national foundation monies are also available sources of funding for the district.

The RSD is authorized to contract with a postsecondary education institution to run the school or turn it into a Type 5 charter school run by a nonprofit organization. While the majority of the schools that have been placed in the RSD are in Orleans Parish, the district also includes schools located in other parishes.

Charter Schools

A charter school is a public school that operates somewhat independently of the local school board but pursuant to a charter agreement. The Louisiana Charter School Demonstration Programs Law defines five types of charter schools as follows:

"Type 1" is a new school operated pursuant to a charter between a nonprofit corporation and a local school board.

"Type 2" is a new school or a preexisting school converted and operated pursuant to a charter between a nonprofit corporation and BESE.

"Type 3" is a preexisting public school converted and operated pursuant to a charter between a nonprofit corporation and a local school board.

"Type 4" is a preexisting public school converted and operated or a new school operated pursuant to a charter between a local school board and BESE.

"Type 5" is a preexisting public school transferred to the RSD and operated pursuant to a charter between a nonprofit corporation and BESE, or between a nonprofit corporation and a local school board or other public entity in certain cases.

The charter school law specifies that the best interest of at-risk pupils shall be the overriding consideration in its implementation. Local school boards and, in specific situations, BESE serve as chartering authorities. BESE is responsible for determining policy and providing direction to the state Department of Education for the operation of charter schools authorized by BESE.

Charter schools are established by a variety of groups, including businesses, non-profit entities, parents, educators, and others. Each charter school is governed by a board of directors. All charters are initially granted for a period of five years, subject to a three-year review. A charter is prohibited from being supported by or affiliated with any religion or religious group and cannot result from the conversion of a nonpublic school or home study program. Charter schools do not charge tuition or fees.

Charter schools are exempt from a number of state laws and regulations governing public schools, but they must participate in state-mandated student testing programs and are held accountable for student achievement and other specific results pursuant to their respective chartering agreements. In exchange for greater flexibility and autonomy, charter schools are regularly monitored and must meet certain standards to have their charters renewed. A charter school may establish admission requirements that are consistent with its role, scope, and mission, but a school's admission policy cannot exclude pupils based on race, religion, gender, ethnicity, national origin, need for special education services, or intelligence level.

Charter schools are funded almost entirely through the MFP based on the per pupil amounts allocated to their respective local school systems. However, a small number of Type 2 charter schools established prior to 2008 annually receive funding from a state general fund appropriation. In addition, a charter school is entitled to other state and federal funds for which the school or its pupils qualify, including special education funds.

Local School Boards

Elementary and secondary education on the local level is governed by parish school boards in each of the 64 parishes, by three city school boards which oversee the separate city school systems in Baker, Bogalusa, and Monroe, and by school boards for the Zachary community school system and the Central community school system. These local boards levy authorized sales and property taxes, select local superintendents, adopt and execute budgets, select teachers, administrators, and other school personnel and fix their salaries, provide for dismissal of teachers and other school employees, determine the number and location of schools, and generally implement state law and BESE regulations pertaining to public elementary and secondary education.

State law prohibits a member of a local school board from acting in an individual capacity

without the authorization of the school board to use the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any personnel decision, including the hiring, promotion, discipline, demotion, transfer, discharge, or assignment of work to any school employee. A board member also is prohibited from using the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any school employee to make any decision concerning benefits, work assignment, or membership in any organization. (R.S. 17:81(P))

As noted earlier, the constitution requires the legislature to create parish school boards and to provide for the election of their members. The constitution also subjects the current 69 local systems to the control and supervision of BESE and the power of the legislature to enact laws affecting them. At the same time, the constitution specifically prohibits the legislature from passing a local or special law regulating the management of parish or city public schools, the building or repairing of parish or city schoolhouses, or the raising of money for such purposes. The consolidation of two or more school systems is permitted when approved by a majority of the electors voting in each system affected. (Const. Art. VIII, §§9, 10, & 12)

The legislature in 1980 provided for four-year concurrent terms for school board members beginning in 1986 with election at the time of the congressional election. Prior to this, school board members were elected for overlapping six-year terms, with approximately one-third of the membership being elected every two years at the congressional election. State law provides that school board members shall be elected from police jury wards in the same number as police jurors, or in accordance with the then current reapportionment plan as authorized by law, or in accordance with any special law applicable to the board. Provisions for reapportionment of local school boards authorize apportionment plans based on population which may provide for school board election districts which are not necessarily conterminous with election districts of the parish governing authority. Districts may be single or multimember. Plans are subject to pre-clearance by the U.S. Department of Justice under the Voting Rights Act. (R.S. 17:52 and 71.1 et seq.)

There are special statutory provisions for the school boards in the parishes of Caddo, East Baton Rouge, Jefferson, Orleans, St. Charles, and St. Tammany and for the City of Baker, Zachary community, and Central community school boards and for school boards meeting certain specified criteria.

School board members are authorized to receive compensation not to exceed \$50 per day for every meeting of the school board. School board members cannot be paid for more than 12 meetings per month. However, by a majority vote of its elected members, a school board may elect to receive, in lieu of per diem, compensation in the form of an expense allowance of no more than \$800 per month for members and \$900 per month for the board president. Additionally, members may receive the same mileage allowance as provided to state elected officials for going to and from board meetings as well as reimbursement for travel and related expenses outside the school board's jurisdiction while on school board business. Reimbursements for such travel and related expenses cannot exceed those permitted by state travel regulations for state executive branch employees. A two-thirds majority vote of the board is required for any increase in compensation. (R.S. 17:56)

Local Superintendent

Each local school board is required by the constitution and statutes to elect a superintendent of schools. The superintendent need not be a resident of the parish in which he is employed.

While BESE determines the local superintendent's qualifications and duties, a superintendent basically serves as the chief administrative officer of the local board. In effect, he is the manager of the school system.

Programs and Issues

Mandates

There are many requirements in law and in administrative regulations, both state and federal, that affect the level of spending by the state and by local school systems for public elementary and secondary education. Generally, these are referred to as mandates. How to fund these mandates or whether they should be removed or modified are questions that have been raised concerning school finance.

The following considerations are pertinent to any discussion of mandates as it relates to school boards:

- As noted earlier in this Overview, the responsibilities of providing for the education of the people of the state and establishing and maintaining a public educational system are placed by the constitution at the state level with the legislature, not at the local level with local school boards. For this reason, the relationship between the legislature and local school boards is somewhat different from that of local governmental subdivisions such as parishes, municipalities, or special districts.
- City and parish school boards in existence at the time the constitution became effective (January 1, 1974) are recognized subject to the control and supervision of BESE and the power of the legislature to enact laws affecting them.
- The constitution specifies that the MFP formula shall provide for a contribution by every city and parish school system.
- The current MFP includes a calculation for the local contribution amount (on a statewide average, it is 35% of total funding), but there is no requirement that a local school system actually generate any specific amount in local funds in order to receive state funds. Some school systems generate more than their targeted local contribution amount, some generate less. Also, as noted earlier in this Overview, there currently is no penalty for those not hitting the target.
- Whether or not any particular mandate is viewed as necessary and appropriate frequently depends on the policy objective. The methods for uniformly holding schools and school systems accountable for improved student learning, conducting the state's student testing program, and having a reliable system for the collection and processing of data for comparative purposes are examples of activities thought by some to lend themselves to detailed mandates and a "top down" approach for making decisions. Conversely, activities in which "outcomes" are seen as more important than "process" and that seek to encourage

flexibility and innovation may lend themselves better to a "bottom up" approach.

In 2006, the legislature addressed the issue of mandates by passing a constitutional amendment setting forth certain procedures, requirements, limitations, and exceptions relative to the passage of laws requiring increased expenditures within a local school system for any purpose. Voters approved the amendment and it became effective October 31, 2006. The specifics are similar but not identical to existing constitutional language relative to increasing the financial burden of political subdivisions other than school boards. (Const. Art. VI, §14(B))

Early Childhood Education

The state Department of Education administers the following federally-funded early childhood education programs for children in Louisiana:

- The Cecil J. Picard LA 4 Early Childhood Program (funding source is a combination of federal funds and state general funds)
- Title I Preschool
- Even Start
- Special Education Preschool

BESE administers one early childhood program which is funded with monies from the Louisiana Education Quality Trust Fund ("8(g)"). Additionally, Head Start, administered by the Louisiana Head Start Association and funded by the U.S. Department of Health and Human Services, operates educational programs for three- and four-year-olds throughout the state.

In addition to these public programs, there is also a nonpublic prekindergarten program that is administered through the governor's office. This program provides for the coordination of high quality early childhood education for four-year-olds from low-income families in nonpublic schools in many parishes.

School and District Accountability

The Louisiana School and District Accountability System was created by law in 1997. BESE determines the policy for and provides for the implementation of the system. As part of the accountability system, each school annually receives a School Performance Score (SPS) which indicates how well its students are performing. The SPS is based on results from student scores on specified standardized tests and student attendance and dropout data.

Based on their SPS, schools are given performance labels which determine how much academic growth, if any, the schools need to make in order to reach the goals set by the state. Schools meeting their growth targets and showing certain growth in student performance receive recognition and rewards and schools in need of improvement are required to receive technical and other support and assistance from the state. Schools also receive letter grades, ranging from A to F, indicative of the school's performance score.

A major component of the accountability system is high-stakes testing of students. State law requires BESE to determine the level of proficiency required of fourth and eighth grade public

school students in order for them to proceed to the next grade without intervention. The state testing policy, as adopted by BESE, requires all public school fourth and eighth grade students to score at a certain level on specified portions of the tests in order to be promoted to the next grade. Students who fail to meet these requirements have an opportunity to attend summer school and to retake the tests. BESE's testing policy provides waivers for certain students with disabilities, students with Limited English Proficiency, and students who cannot take or complete the tests due to certain extenuating circumstances. It also provides for an appeals process for students meeting certain criteria as well as alternate assessments for certain special education students.

The state's testing program includes the Louisiana Educational Assessment Program (LEAP), the integrated LEAP (iLEAP), the graduation exit exam (GEE), and End-of-Course (EOC) tests. Beginning with the freshmen class of 2010-2011, EOC tests will replace the Graduation Exit Examination (GEE) for graduation purposes. EOC tests are designed to evaluate whether Louisiana's high school students have mastered the knowledge, skills, and abilities at the end of certain courses in English, math, science, and social studies.

Tenure

Louisiana law requires each teacher to serve a three-year probationary term upon being hired in a public school system. Local school boards are authorized to dismiss any teacher who is found to be unsatisfactory during the probationary term. If the teacher successfully serves the three-year term, the law provides that the teacher automatically becomes a regular and permanent teacher in that school system. A tenured teacher who transfers to a different public school system must serve another three-year probationary period in order to become tenured in that system.

Historically, teacher tenure in Louisiana has been considered a property right serving as a measure of protection against personal or political retribution. A common misconception about teacher tenure is that it guarantees lifetime employment. Technically, tenure requires that due process be followed before a teacher can be dismissed. State law provides that "... a permanent teacher shall not be removed from office except upon written and signed charges of willful neglect of duty, or incompetency, dishonesty, or immorality, or of being a member of or contributing to any group, organization, movement, or corporation that is by law or injunction prohibited from operating in the state ... and then only if found guilty after a hearing by the school board of the parish or city ... ". The law further spells out the procedure for the hearing and allows the teacher the right to challenge dismissal in a court of law.

Teacher Evaluation - "Value Added Assessment Model"

Legislation was enacted in 2010 to require annual formal evaluations by local school boards for all teachers and administrators. It provides for evaluations to be conducted for teachers who teach tested grades and subjects and requires that 50% of such evaluations be based on evidence of growth in student achievement using a value-added assessment model determined by BESE. The method chosen by BESE assesses the change in the achievement levels of students from the end of one school year to the next and was designed to take into account starting points and other variables that might influence actual performance outcomes.

Teachers are issued a teaching certificate by BESE if a teacher's evaluation demonstrates that the teacher has met the standard for effectiveness, using value-added data, for three years during

the initial certification process.

BESE is required to report annually to the House and Senate education committees on the implementation, results, and effectiveness of the assessment model.

Funding

Minimum Foundation Program (MFP)

The minimum foundation program (MFP) is the primary means for state funding of public elementary and secondary education in Louisiana. There are both constitutional and statutory provisions affecting its content and administration.

- Background

Prior to amendment in 1987, the state constitution required the legislature to appropriate funds sufficient to ensure a minimum foundation program of education in all public elementary and secondary schools. It also provided for the appropriated funds to be equitably allocated according to formulas adopted by BESE and approved by the legislature. Also prior to the 1987 amendment, the primacy of legislative authority over MFP funding amounts and reductions thereto had been judicially upheld in a 1986 case in state court. Methods to require full funding of the MFP and protect k-12 public education from budget cuts were significant issues considered by the 1987 legislature.

In November of 1987, voters approved a constitutional amendment requiring BESE to annually develop and adopt a formula to determine the cost of a minimum foundation program of education in all public elementary and secondary schools and to equitably allocate appropriated funds to the local school systems. The formula must provide for a contribution by every local public school system. Prior to approval of the formula by the legislature, the legislature can return the formula to BESE and recommend an amended formula for BESE consideration and resubmission. However, the legislature cannot amend the formula BESE submits. The legislature is required to fully fund, on a current basis, the costs to the state of the MFP as determined by applying the formula it has approved. Any reduction in the appropriation by either the legislature or the governor is prohibited, except by the governor in accordance with the Appropriation Act and with the written consent of two-thirds of the elected members of each house. If the legislature fails to approve the formula most recently adopted by BESE, the last formula adopted by BESE and approved by the legislature is to be used for determining the cost and allocating the funds. (Const. Art VIII, §13(B))

- Current Formula

The current MFP formula (HCR No. 130 of the 2011 R.S.) generally continues, with certain technical and substantive refinements, the multilevel student-based formula concepts first adopted and approved in 1992. Level 1 is designed to provide each student with an equitably determined specific funding amount for a minimum education based on local needs. Level 2 is designed to provide an incentive for local school systems to exceed the expected levels of their contributions to Level 1 funding needs. The current formula also continues to recognize special costs (through weighted calculations) for programs serving students in the following categories: at-risk students (includes a student whose family

income is at or below income eligibility guidelines or other guidelines as provided by BESE and students identified as English Language Learners (not otherwise included on income guidelines), special education students (including gifted and talented students), vocational education course units, and economies of scale.

Relative to the use of MFP money, the current formula provides that state dollars shall be expended only for educational purposes related to the operational and instructional activities of a district, including instructional programs, pupil support programs, instructional staff programs, school administration, general administration, business services, operations and maintenance of plant services, student transportation services, food service operations, enterprise operations, community service operations, facility acquisition and construction services, and debt service (as defined by the Louisiana Accounting and Uniform Governmental Handbook, Bulletin 1929 of the state Department of Education). Also, the formula specifies that a local school board must ensure that 70% of its general fund expenditures (which includes state MFP dollars) are spent in the areas of instruction and school administration at the school building level. The terms "instruction" and "school administration" are defined for this purpose.

MFP implementation costs for FY 2011-2012 are \$3.4 billion. While the state general fund is the source for the majority of state dollars appropriated for the MFP, the state constitution specifies (with one limited exception for services related to compulsive and problem gaming) that Lottery Proceeds Funds be appropriated only for the purpose of the MFP.

The Education Excellence Fund

The Education Excellence Fund (EEF), a special fund constitutionally established within the Millennium Trust, receives a specified share of the state's proceeds from the "tobacco settlement" agreement and certain trust-related investment earnings. Fund earnings are available for legislative appropriation annually. Local school boards share in the bulk of such monies in accordance with specific allocation guidelines and amounts.

Fund monies are restricted to expenditures for instructional enhancement for prekindergarten through twelfth grade students, including early childhood education programs focused on enhancing the preparation of at-risk children for school, remedial instruction, assistance to children who fail tests passage of which is required pursuant for advancement to the succeeding grade, or other educational program approved by the legislature. Expenditures for maintenance or renovation of buildings, capital improvements, and increases in employee salaries are prohibited.

EEF monies are also appropriated each year for children attending state-approved nonpublic elementary and secondary schools that are otherwise eligible to receive state funds and to the Louisiana School for the Deaf, the Louisiana School for the Visually Impaired, the Louisiana School for Math, Science, and the Arts, the New Orleans Center for Creative Arts, and, when operational, the Louis Armstrong High School for the Arts. Additionally, under specified circumstances, appropriations may be made for charter schools and for alternative schools and programs.

EEF expenditure plans submitted by schools and school systems are reviewed by the state Department of Education and require annual approval by the department and the legislature.

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part C. Education Postsecondary Education

Governance and Organization

The governance of postsecondary education in Louisiana is a responsibility shared by five constitutional boards. These are the Board of Regents, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Supervisors of Southern University and Agricultural and Mechanical College, the Board of Supervisors for the University of Louisiana System, and the Board of Supervisors of Community and Technical Colleges.

Board of Regents

The Board of Regents plans, coordinates, and exercises budgetary responsibility for all public postsecondary education. Relative to public institutions of postsecondary education, the Board of Regents has the following powers, duties, and responsibilities:

- Revise or eliminate existing degree programs, departments of instruction, divisions, or similar subdivisions.
- Approve, disapprove, or modify proposed degree programs, departments of instruction, divisions, or similar subdivisions.
- Study the need for and feasibility of establishing any new institution of postsecondary education, which includes establishing a branch of such an institution or converting any non-degree granting institution to an institution which grants degrees or converting any college or university that is limited to offering degrees of a lower rank than baccalaureate to a college or university that offers baccalaureate degrees or merging any institution of postsecondary education into any other institution of postsecondary education, establishing a new management board and transferring a college or university from one board to another.

If the creation of a new institution, the merger of any institutions, the addition of another management board, or the transfer of an existing institution of higher education from one board to another is proposed, the board must report its written findings and recommendations to the legislature within one year. Only after the report has been filed, or after one year from the receipt of a request for a report from the legislature if no report is filed, may the legislature take affirmative action on such a proposal and then only by law enacted by two-thirds of the elected members of each house.

- Formulate and revise a master plan for postsecondary education, including a formula for equitable distribution of funds to postsecondary institutions.

- Require that each postsecondary education board submit its proposed budget to the Board of Regents for operational and capital needs for each institution under the control of each board. The board is required to submit its budget recommendations for all postsecondary institutions. Additionally, the board must recommend priorities for capital construction and improvements.

In addition to the powers and duties listed above, the constitution also requires the Board of Regents to meet with BESE at least twice a year to coordinate programs of public elementary, secondary, vocational-technical, career, and higher education. The constitution further permits the legislature to give the Board of Regents additional powers, duties, and responsibilities by law.

All powers of management over public institutions of postsecondary education which are not given by the state constitution to the Board of Regents are reserved to the four management boards for the institutions under each board.

The constitution specifies that the Board of Regents shall be comprised of two members from each congressional district and one from the state at large. Members are appointed by the governor with Senate consent and serve overlapping six-year terms.

The constitution also permits and the legislature has provided for a student member on the Board of Regents. The student member is elected to the board by and from the student body presidents of the colleges and universities under the board's jurisdiction and serves for a term of one year. No student member is eligible to succeed himself. The student member has all of the privileges and rights of other board members.

A person serving on the Board of Regents, one of the four postsecondary education management boards, BESE, or a local city or parish school board is constitutionally prohibited from serving simultaneously on any of the others. Also, all members of these education boards must serve without pay. Per diem and expenses are constitutionally permitted and are provided by law. (Const. Art. VIII, §§ 5 and 8)

In general, private postsecondary education institutions are not governed by the Board of Regents or any of the management boards. Some decisions by the Board of Regents may have an effect on such institutions, however, as the result of their voluntary cooperation with the board or their participation in programs funded or administered by the board, or both.

State law (R.S. 17:1808) requires all public and private postsecondary, academic degree-granting institutions offering instruction in Louisiana to register with the Board of Regents. Certain private institutions are exempt from these requirements, as are schools providing religious training or theological education (including sacred music) and institutions having a specified federal tax exempt status.

The Board of Regents also administers state law (R.S. 17:3141.1 - 3141.19) regulating proprietary schools. With certain exceptions, a proprietary school is a for profit or nonprofit business that sells instruction providing a vocational, occupational, or technical education. Subject to approval by the board, a proprietary school may award certificates, occupational degrees, and associate degrees in the arts and sciences.

Management Boards – LSU, Southern, and University of Louisiana Systems

Relative to the LSU and Southern boards, the constitution provides that each, subject to the constitutional powers of the Board of Regents, shall supervise and manage the institutions, statewide agricultural programs, and other programs administered respectively by each system. Relative to the University of Louisiana System board, the constitution provides that the board, subject to the constitutional powers of the Board of Regents, shall have supervision and management of state colleges and universities not managed by a higher education board created by or under Article VIII of the Constitution of Louisiana.

The constitution specifies that each of these management boards is to be composed of two members from each congressional district and one member from the state at large, all appointed by the governor with consent of the Senate. Members serve overlapping terms of six years. As with the Board of Regents, the constitution permits and the legislature has provided for a student member on each of these management boards. A student member is selected by and from the student body presidents of the institutions governed by the respective boards, serves for a term of one year, and is ineligible to succeed himself. A student member has all the privileges and rights of other board members. (Const. Art. VIII, §§6, 7, and 8(B))

Institutions comprising the LSU system are LSU-Baton Rouge, LSU-Eunice, LSU-Alexandria, LSU-Shreveport, the LSU Center for Agricultural Sciences and Rural Development (located in Baton Rouge), the LSU Law Center (Baton Rouge), and the LSU Health Sciences Center (New Orleans and Shreveport). (LSU-Eunice is a two-year institution.)

Institutions comprising the Southern University System are Southern University-Baton Rouge, Southern University-New Orleans, and Southern University-Shreveport. (Southern University-Shreveport is a two-year institution.)

Institutions comprising the University of Louisiana System are Grambling State University (Grambling), Louisiana Tech University (Ruston), McNeese State University (Lake Charles), Nicholls State University (Thibodaux), the University of Louisiana at Monroe, Northwestern State University (Natchitoches), Southeastern Louisiana University (Hammond), the University of Louisiana at Lafayette, and the University of New Orleans.

Management Board – Community and Technical College System

In 1998, voters approved a constitutional amendment which created the Board of Supervisors of Community and Technical Colleges to supervise and manage (subject to the constitutional powers of the Board of Regents) the Louisiana Community and Technical College System. The system includes all programs of public postsecondary vocational-technical training, and, as provided by law, institutions of higher education which offer associate degrees but not baccalaureate degrees. The Louisiana Community and Technical College System is comprised of two divisions – the vocational-technical division, which includes all public postsecondary vocational-technical schools, and the community college division, which includes the community colleges in the system.

The constitution specifies that all public institutions which exclusively or predominantly provide programs of postsecondary vocational-technical education are under the jurisdiction of the board and such institutions may not be transferred from the Louisiana Community and Technical College System. The constitution further specifies that the provision of any program

subject to the supervision and management of the board and offered at any institution under the jurisdiction of the board which is not a degree program shall require no approval beyond that of the Board of Supervisors of Community and Technical Colleges.

As provided in the constitution, the board is composed of 15 members appointed by the governor, as provided by law and subject to Senate confirmation. Of these members, two are from each congressional district with the remaining member or members from the state at large. The members serve six-year terms. In addition, the board has two student members, as provided by law. The board should be representative of the state's population by race and gender to ensure diversity. (Const. Art. VIII, §7.1)

The institutions managed by the system are Baton Rouge Community College, Bossier Parish Community College, Delgado Community College, Louisiana Delta Community College, L. E. Fletcher Technical Community College, Elaine P. Nunez Community College, Northshore Technical Community College, River Parishes Community College, South Louisiana Community College, and Sowela Technical Community College and all campuses of the Louisiana Technical College.

Review of Governance, Organization, Management, and Operation of Public Postsecondary Education Institutions: 2008-2012 Term of Office

Pursuant to the state's "Sunset" law, the legislature in 2010 re-created, through June 30, 2013, each of the boards, offices, agencies, and other entities that are statutorily organized into the executive branch Department of Education (including but not limited to the State Board of Elementary and Secondary Education, the state Department of Education, the Board of Regents, each public postsecondary education management board and its institutions, and the boards and offices that administer state student financial assistance programs). If not re-created, all statutory authority for operating ceases July 1, 2013. (R.S. 49:191(4)(f))

In 2009, the legislature statutorily created the Postsecondary Education Review Commission (PERC) to do a comprehensive review of governance, facilities, all programs, funding, and any other issue that impacts postsecondary institutions. PERC also was charged with identifying rules or regulations that are barriers to achieving efficiencies. PERC was directed to report to the Board of Regents. The board was charged with reviewing the report and submitting it and board comments to the legislature. The report was submitted prior to the 2010 Regular Session.

At the 2010 and 2011 Regular Sessions a number of proposed constitutional amendments and statutes were introduced and heard in legislative committees relative to the governance, organization, and management of public postsecondary education institutions. Except for legislation enacted in 2011 transferring management of the University of New Orleans to the University of Louisiana System (from the LSU System), none made it all the way through the legislative process.

Also at the 2011 Regular Session, the following Resolutions were adopted:

- HCR 30 requests the Board of Regents to study the provision of public postsecondary educational opportunities throughout the state, to establish the appropriate role, scope, and mission of each public postsecondary education institution, and to formulate a plan that will make optimal use of all available academic, fiscal, and physical resources, recognizing the unique nature of each institution, and allow each institution's students to successfully and

efficiently pursue their chosen academic path. The board is to report not later than 60 days prior to the 2012 Regular Session.

In August 2011, the Board of Regents, pursuant to its constitutional duties, adopted a new Master Plan for Public Postsecondary Education in Louisiana: 2011. The Master Plan, in part, provides for the role, scope, and mission of each public college and university. It also sets a vision for improvement for the state's colleges and universities and outlines 18 objectives, 71 activities, and 65 performance measures to achieve the goals.

- HCR 184 requests the Board of Regents to create a commission to study, in accordance with specified guidelines, the governance, management, and supervision of public postsecondary education. The Governance Commission (which includes four legislators) is to report not later than 60 days prior to the 2012 Regular Session.
- HR 161 requests the Board of Regents to report in writing to the House education committee by November 1, 2011, on board actions to implement certain PERC recommendations relative to providing equitable and sufficient funding for the state's Historically Black College and Universities.

Programs and Issues

Louisiana Granting Resources and Autonomy for Diplomas Act – "GRAD Act"

The "Grad Act" was enacted by the legislature to allow public postsecondary education institutions more autonomy and flexibility if they meet established performance targets. The purpose of the legislation is to support the institutions in remaining competitive and increasing their overall effectiveness and efficiency by providing that the institutions achieve specific performance measures aimed at improving college completion and graduation rates and at meeting the state's workforce and economic development needs.

Participating institutions enter into six-year performance agreements with the Board of Regents in order to be granted certain autonomies relative to tuition, contracting, purchasing, construction projects, and budgeting requirements. The tuition authority granted by the GRAD Act allows an institution to increase tuition and fees on a phased-in basis, which beginning in the 2012-2013 Fiscal Year is an amount of up to 10%, until its tuition and fees reach the Southern Regional Education Board (SREB) average tuition rate of the institution's peers.

The Board of Regents is required annually to report to the legislature and the governor on each participating institution's progress in meeting the performance objectives. Institutions are required to report annually to the legislature, the Board of Regents, the legislative auditor, and the division of administration on specified organizational data, including cost and budget data and all expenditures of the institution.

Student Financial Assistance

Many of the state funded grant, loan, scholarship, and tuition assistance programs available to Louisiana residents pursuing a postsecondary education in the state are administered by the Louisiana Student Financial Assistance Commission (LSFAC) through the Louisiana Office of Student Financial Assistance (LOSFA). These include but are not limited to the Taylor Opportunity Program for Students (TOPS) and the Go Grant.

TOPS is a merit-based aid program enacted by the legislature in 1997 and first implemented for the 1998-1999 academic year.

A TOPS Opportunity, Performance, or Honors award pays for tuition and certain fees at any Louisiana public college or university for eight semesters for an eligible student to pursue a baccalaureate degree. If the student attends a nonpublic postsecondary institution that is a member of the Louisiana Association of Independent Colleges and Universities (LAICU), the award is the weighted average tuition/fee amount at public institutions granting baccalaureate degrees. Students eligible for a TOPS Performance or Honors award also receive an annual monetary stipend—currently \$400 for a Performance Award and \$800 for an Honors Award.

A TOPS Tech award pays for tuition and certain fees for four semesters of skill or occupational training at any school in the Louisiana Community and Technical College System, at a Louisiana approved proprietary school or cosmetology school, or at a Louisiana public college that does not offer a baccalaureate degree. If the student pursues skill or occupational training at a nonpublic postsecondary institution that is a member of LAICU or a public college or university that offers a baccalaureate degree, the award amount is the average award paid to students attending public institutions that do not offer a baccalaureate degree.

The TOPS Tech Early Start award provides up to \$600 per academic year for any eligible 11th or 12th grade student attending a Louisiana public high school who wishes to concurrently enroll for up to six credit hours per semester at a public college in a vocational course of study leading to an industry-based certification in a top demand occupation.

The Louisiana Early Start Program also provides tuition assistance to eligible 11th and 12th grade students from public high schools that enroll in eligible college courses for dual credit at an eligible public or nonpublic college or university.

To be determined initially eligible for and to remain eligible for any TOPS award or for the Louisiana Early Start Program, a student must meet certain academic standards and other criteria that vary depending on the award. Detailed eligibility information for these awards and for other state assistance programs can be found at the website for the Louisiana Office of Student Financial Assistance (<http://www.osfa.state.la.us>).

The Go Grant is a need-based financial assistance program that was developed by the Board of Regents pursuant to legislation enacted in 2004 and implemented beginning with the 2007-2008 academic year. The purpose is to support nontraditional and low to moderate-income students who need additional aid to afford the cost of attending an eligible Louisiana college. Award amounts to eligible students are based on the Go Grant appropriation and can vary with each academic year. For the 2011-2012 award year, the maximum award is \$1,000.

The TOPS Fund, a special fund constitutionally established within the Millennium Trust, receives a specified share of the state's proceeds from the "tobacco settlement" agreement and certain related interest earnings. Fund appropriations are restricted to support of state programs for financial assistance for students attending Louisiana institutions of postsecondary education. (Const. Art. VII, Section 10.8)

The Louisiana Tuition Trust Authority, the majority of whose members are also members of LSFAC, administers the Student Tuition Assistance and Revenue Trust Program (START), a

savings plan to encourage families to save now to pay for the expenses of their children's future postsecondary education. In addition to offering participants the flexibility of saving at their own pace, START accounts earn interest which is not taxed by the state. As an incentive to save, state assistance grants are credited to qualifying accounts annually based on the amount saved and the income of the account holder. These state funded assistance grants also accrue interest. Deposits by the account holder, along with accrued interest, may be used to pay the qualifying educational expenses of the beneficiary at any accredited college or university (in or out of state), at a Louisiana technical college, or at an eligible proprietary school. Assistance grant monies, however, may be used only at in-state institutions and only for tuition.

Several tuition waiver programs also have been established by the legislature, including for members of the National Guard, students over age 55, certain disabled veterans as well as the wives, widows, and children of certain disabled or deceased veterans and POWS/MIAs, and the children of firefighters, police officers, deputy sheriffs, correctional officers, local school board employees, and sanitation workers killed or disabled in the line of duty. Certain of the waiver programs are dependent upon legislative appropriations.

Additionally, under a program enacted by the legislature in 1993 and developed by the Board of Regents, full-time certified classroom teachers employed by a local school board or by a BESE-approved nonpublic school and Louisiana technical college instructors may enroll for college credit at a Louisiana public college or university on a tuition-free basis where space is available.

Financial assistance for postsecondary students is available from a number of public and private sources other than the state. Persons interested in assistance from these sources are urged to contact the financial aid office of the school they seek to attend.

Chapter 2 – State Government Functions

Part D. Health and Social Services	2D-1
Department of Health and Hospitals	2D-1
Medicaid	2D-2
Medicaid Eligibility	2D-2
Medicaid Covered Services	2D-3
Medicaid Waiver Programs	2D-4
State Medicaid Reform: Coordinated Care Networks	2D-6
Federal Health Reform: Medicaid Implications	2D-6
Louisiana Children's Health Insurance Program (LaCHIP)	2D-7
Public Health	2D-7
Behavioral Health	2D-8
Citizens with Developmental Disabilities	2D-9
Aging and Adult Services	2D-9
Human Service Districts	2D-10
State-Owned Medical Centers (Charity Hospitals)	2D-11
Transition of Facilities: New Orleans	2D-11
Transition of Facilities: Baton Rouge	2D-12
Department of Children and Family Services	2D-13
Administration	2D-13
Licensing	2D-13
Child Daycare Center Licensing	2D-14
Residential Care and Special Population Licensing	2D-14
Economic Stability (Formerly - Office of Family Support)	2D-14
Temporary Assistance for Needy Families	2D-15
Family Independence Temporary Assistance Program	2D-15
Strategies to Empower People (STEP)	2D-15
Supplemental Nutrition Assistance Program (Formerly - Food Stamps Program)	2D-16
Louisiana Combined Application Project	2D-16
Kinship Care Subsidy Program	2D-17
Electronic Benefits Transfer	2D-17
Disability Determinations Services	2D-17
Child Support	2D-17
Child Support Laws	2D-17
Child Support Enforcement	2D-19
Access and Visitation Program	2D-20
Grandparent Visitation	2D-20
Child Relocation	2D-21
Adoption	2D-21
Child Protection Investigations	2D-21
Foster Care	2D-22
Safe Haven Law	2D-22
Child Care Assistance Program	2D-22
Quality Start Child Care Ratings System	2D-23
Family Violence Prevention Program	2D-23
Helping our Homeless	2D-23
Coordinated System of Care	2D-24

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part D. Health and Social Services Department of Health and Hospitals

The state's health programs are administered by the Department of Health and Hospitals (DHH). This agency was created in 1988 when health programs were split from the larger Department of Health and Human Resources (DHHR, which had been established in the 1970s) and placed under the newly-formed DHH.

The organization, purpose, and functions of DHH are provided in Chapter 6 of Title 36 (Organization of Executive Branch of State Government) of the Louisiana Revised Statutes of 1950 (R.S. 36:251 through 259).

In addition to administering the services and programs described in this section, DHH is responsible for licensing of the state's health-related professionals; health facilities such as hospitals and nursing homes; institutions for persons with developmental

Boards and Commissions in DHH

- Addictive Disorder Regulatory Authority
- Child Death Review Panel
- Chiropractic Examiners, Louisiana Board of
- Deaf, Louisiana Commission for the
- Dentistry, Louisiana State Board of
- Developmental Disabilities Council, Louisiana
- Diabetes Advisory Council, Louisiana
- Dietetics and Nutrition, Louisiana State Board of Examiners in
- Embalmers and Funeral Directors, Louisiana State Board of
- Emergency Medical Services Certification Commission, Louisiana
- Emergency Medical Services for Children Advisory Council
- Fluoridation Advisory Board
- Health Education Authority of Louisiana (HEAL)
- Hearing Aid Dealers, Louisiana Board for
- Licensed Professional Counselors Board of Examiners, Louisiana
- Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, Louisiana
- Massage Therapy, Louisiana Board of
- Medicaid Pharmaceutical and Therapeutics Committee
- Medical Examiners, Louisiana State Board of
- Nursing Facility Administrators, Board of Examiners for
- Nursing, Louisiana State Board of
- Obesity Prevention and Management, Louisiana Council on
- Optometry Examiners, Louisiana State Board of
- Perinatal Care and Prevention of Infant Mortality, Commission on
- Pharmacy, Louisiana Board of
- Physical Fitness and Sports, Governor's Council on
- Physical Therapy Board, Louisiana
- Practical Nurse Examiners, Louisiana State Board of
- Psychologists, Louisiana State Board of Examiners of
- Radiologic Technology Board of Examiners
- Sanitarians, Louisiana State Board of Examiners for
- Social Work Examiners, Louisiana State Board of
- Speech-Language Pathology and Audiology, Louisiana Board of Examiners for
- Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board
- Veterinary Medicine, Louisiana Board of
- Water Supply and Sewerage Systems Certification Committee
- Wholesale Drug Distributors, Louisiana Board of

disabilities; systems of distribution for controlled dangerous substances; and child care institutions funded under Title XIX of the Social Security Act.

Medicaid

DHH is responsible for state-level administration of the Medical Assistance Program provided for in Title XIX of the Social Security Act, which is commonly known as "Medicaid." The Bureau of Health Services Financing is the DHH division which administers the Medicaid program.

Title XIX of the Social Security Act was enacted by Congress in 1965 to provide funding to states for medical assistance to needy individuals and families. Medicaid was established for three main purposes:

- (1) To finance health care for selected groups of persons who could not otherwise afford adequate care.
- (2) To shift the delivery of much of this care from public hospitals to health facilities and services in the private sector.
- (3) To extend publicly-funded medical assistance to include in the future all individuals who could be identified as medically indigent.

In contrast to "Medicare" (established in Title XVIII of the Social Security Act), which is a federal insurance program serving primarily those over age 65, Medicaid is a federal and state program for low-income people of every age. By federal policy, each state has a measure of discretion in determining eligibility standards; the type, amount, duration, and scope of services; and the rate of payment for services.

Eligible persons enrolled in the Medicaid program receive a card to present to participating health care providers indicating that the cost of covered services to the individual will be paid directly to the provider by DHH with Medicaid funds. There is no charge to the patient for covered services.

The overall cost of each state's Medicaid program is shared by the federal government and the respective state governments in ratios that are set for each state based on the relationship between the state's per capita income and the national per capita income. The formula (called the Federal Medical Assistance Percentage or "FMAP") moves, with a lag, to reflect the changing economic conditions of states. In Federal Fiscal Year 2011, state FMAP rates ranged from 50.00% (numerous states) to 74.73% (Mississippi). Louisiana's FMAP was 63.61% in Federal Fiscal Year 2011, ranking as the 22nd-highest rate in the nation.

As of August, 2011, there were over 1.2 million Medicaid recipients in Louisiana, with approximately 56.9% of the total enrollment figure consisting of children.

In State Fiscal Year 2012, the Medicaid program accounted for \$6.7 billion - or 25.5% - of Louisiana's overall \$26.3 billion operating budget.

Medicaid Eligibility

Federal law sets the minimum eligibility guidelines for states' Medicaid programs. Mandatory

Medicaid eligibility groups include the following:

- Limited-income families with children, as described in Section 1931 of the Social Security Act, who meet certain eligibility requirements in the state's Aid to Families with Dependent Children (AFDC) plan in effect on July 16, 1996.
- Supplemental Security Income (SSI) recipients; or in States using more restrictive criteria, aged, blind, and disabled individuals who meet criteria which are more restrictive than those of the SSI program and which were in place in the State's approved Medicaid plan as of January 1, 1972.
- Infants born to Medicaid-eligible pregnant women. Medicaid eligibility must continue throughout the first year of life so long as the infant remains in the mother's household and she remains eligible, or would be eligible if she were still pregnant.
- Children under age 6 and pregnant women whose family income is at or below 133% of the Federal poverty level. Once eligibility is established, pregnant women remain eligible for Medicaid through the end of the calendar month in which the 60th day after the end of the pregnancy falls, regardless of any change in family income.
- Recipients of adoption assistance and foster care under Title IV-E of the Social Security Act.
- Certain people with Medicare.
- Special protected groups who may keep Medicaid for a period of time, such as people who lose SSI payments due to earnings from work or increased Social Security benefits; and families who are provided 6 to 12 months of Medicaid coverage following loss of eligibility under Section 1931 due to earnings, or 4 months of Medicaid coverage following loss of eligibility under Section 1931 due to an increase in child or spousal support.

Medicaid Covered Services

Federal law requires generally that services provided by state Medicaid programs include inpatient and outpatient physician services, laboratory and X-ray services, nursing home care, home health care, and family planning. States may also provide for numerous optional services to be covered.

Services covered by Louisiana's Medicaid program include:

- Hospital services: inpatient, outpatient, and emergency room visits.
- Physician services: visits in response to symptoms or diagnosed medical conditions indicating illness, injury, or trauma.
- Immunization services for recipients under age 21.
- Laboratory and X-ray services.
- Long-term care services: residential care in a nursing facility.

- Home and community-based services: alternative services to institutional care, provided to limited numbers of recipients through waiver programs.
- Home health services: part-time skilled nursing services, home health aide services, physical therapy, occupational therapy, and speech therapy provided in the recipient's home.
- Prescription medications: most prescribed drugs are covered. Cosmetic drugs, cough and cold preparations, diet aids, and fertility drugs are not covered.
- Emergency and non-emergency medical transportation.
- Dental services: a full range of dental services are covered for recipients under age 21 in accordance with an approved treatment plan. Services for recipients over age 21 are limited to dentures, denture relines, and denture repairs; and certain dental services for pregnant women.
- Optical services: a full range of optical services are covered for recipients under age 21. Recipients over age 21 are covered for examinations and treatment of eye conditions such as infections or cataracts, but not for routine eye examinations for vision correction or eyeglasses.
- Prenatal care: services offered to Medicaid recipients of child-bearing age, including office visits, laboratory and radiology services, prenatal and postnatal care and delivery.
- Podiatry services: services include office visits, radiology and laboratory services, and diagnostic procedures. Some physician prior authorization requirements, exclusions, and restrictions apply.
- Hospice services: services allowable under Medicare are covered for Medicaid recipients.
- Durable medical equipment: equipment and appliances such as wheelchairs, hospital beds, bathroom safety devices, leg braces, etc., and certain supplies are covered but must be prescribed by a physician and prior-authorized.

Medicaid Waiver Programs

Federal law requires each state administering a Medicaid program to follow specified guidelines regarding services offered, eligibility criteria, and access to care. However, the law also provides that certain requirements may be waived in order to improve the overall quality of care in a state.

"Waiver" programs are special initiatives within a state Medicaid program in which the state establishes a scope of services and criteria for eligibility. The services and eligibility criteria in waiver programs may be different from those of the state's main Medicaid program. Waivers are subject to federal review and approval. The number of available slots for participants in any given waiver program is limited, either by federal mandate or by state funding limitations, and waiting lists are common in these programs.

Louisiana's current waiver programs include the following:

- CommunityCARE 2.0. In effect in certain parishes since 1992 and statewide since 2002,

CommunityCARE 2.0 is a primary care case management (PCCM) program. Through CommunityCARE, primary care physicians receive a per-member per-month payment to manage the care of an enrollee through providing education, preventive care, acute care, and referrals to specialists. CommunityCARE became "CommunityCARE 2.0" in December, 2010, when DHH added pay-for-performance incentives to the program through emergency rulemaking.

- **New Opportunities Waiver.** Administered by the Office for Citizens with Developmental Disabilities, this program provides specific activity-focused services in lieu of continuous custodial care for developmentally disabled individuals.
- **Adult Day Health Care Waiver.** Administered by the Office of Aging and Adult Services, this program is a non-residential alternative to nursing home care for people who do not need care 24 hours per day seven days a week. The program provides supervised care to adults in a supportive and safe setting during part of a day, with clients' needs met through medical and nursing services, medication supervision and administration, social services, personal care, and dietary services.
- **Family Planning Waiver.** Administered by the Bureau of Health Services Financing, this program is called "Take Charge" in Louisiana. The program extends Medicaid eligibility for family planning services to uninsured women, ages 19 through 44, with family income at or below 200 percent of the federal poverty level, who are not otherwise eligible for Medicaid, Medicare, or any other creditable health insurance coverage. The program provides medically necessary services and supplies related to birth control, pregnancy prevention, and preventive services including voluntary sterilization.
- **Supports Waiver.** Administered by the Office for Citizens with Developmental Disabilities, this program provides vocational and habilitation services for developmentally disabled persons. The program also provides services to individuals on the waiting list of the Request for Services Registry who meet disability criteria but have not yet been provided services.
- **Residential Options Waiver.** Administered by the Office for Citizens with Developmental Disabilities, this program provides community living supports, prevocational, respite care out of home, shared living services, support coordination, supported employment, assistive technology, specialized medical equipment and supplies, nursing, and one-time transitional services for individuals with mental retardation, developmental disability, or autism.
- **Community Choices Waiver (known as the Elderly and Disabled Adult Waiver until September, 2011).** Administered by the Office of Aging and Adult Services, this program provides adult day health care, caregiver temporary support, support coordination, assistive devices and medical supplies, environmental accessibility adaptation, home delivered meals, non-medical transportation, nursing, personal assistance services, skilled maintenance therapy, and transition services for physically disabled persons who are aged 21 to 64, and individuals age 65 and older.
- **Children's Choice Waiver.** Administered by the Office for Citizens with Developmental Disabilities, this program provides supplemental support to children with developmental disabilities who live at home with their families, or who will leave an institution to return home.

State Medicaid Reform: Coordinated Care Networks

Under a new initiative called "Coordinated Care Networks" (CCNs), DHH plans to shift more than 800,000 Medicaid recipients - most of whom are children - into privately managed networks for the stated purpose of cost savings and promoting better health outcomes. Medicaid recipients not covered in the CCN program include nursing home residents, home and community-based waiver recipients, Medicare dual eligibles, and recipients enrolled for certain special Medicaid services. Additionally, certain Medicaid covered services such as dental care, behavioral health treatment, and pharmacy will not be managed through CCNs. This move toward managed care for the medically needy represents a shift away from the fee-for-service model under which Louisiana's Medicaid program has operated exclusively to date.

The establishment of CCNs was initially attempted through emergency rulemaking by DHH after final adjournment of the 2010 Regular Session. Subsequent to legislative oversight hearings called by the committees on health and welfare, the department re-promulgated as Notices of Intent the rules establishing CCNs, giving the program a longer implementation timeline and greater opportunities for public input.

The CCN program encompasses health care networks of physicians and hospitals which will form to provide care to patients under a prepaid or shared savings model. Under the prepaid model (CCN-P), a network will receive a monthly fee for each enrollee covered to provide core benefits and services, with prior authorizations and claims payment handled directly through the network. The entities operating prepaid model networks will be responsible for establishing a provider network of primary care physicians, specialists, hospitals and other health care services.

Under the shared savings model (CCN-S), a network manages fee-for-service care delivery and is responsible for coordinating the care of its members. The entity operating the shared savings network retains the savings generated by improved health outcomes and reduced costs. In this model, providers will continue to be paid on a fee-for-service basis by the state Medicaid program.

Pursuant to a request for proposals (RFP) process begun in April, 2011, DHH recommended five companies to contract with the department to administer CCNs in July, 2011. Each contractor will administer a CCN in at least one of three defined geographic service areas in the state. As of this writing, DHH has scheduled the first CCN to begin operating in the New Orleans / Northshore area on January 1, 2012.

Senate Bill 207 of the 2011 Regular Session proposed to add legislative oversight requirements to the CCN program. The bill was finally passed by both houses of the legislature and vetoed by the governor.

Federal Health Reform: Medicaid Implications

Federal health reform legislation enacted in March, 2010 expands Medicaid to cover people with incomes up to 133% of federal poverty guidelines.

In May of 2010, DHH released an estimate indicating that implementation of the law could cost Louisiana taxpayers in excess of \$6 billion over the ten-year period 2014 through 2023. The vast majority of costs to the state will result from an expected increase of over 500,000 newly-

eligible Louisianans joining the state's Medicaid rolls.

For more information on federal health reform, See "Implementation of the Federal Health Insurance Reform of 2010" beginning on page 2H-5.

Louisiana Children's Health Insurance Program (LaCHIP)

The federal Balanced Budget Act of 1997 amended the Social Security Act to create a program providing medical coverage for low-income, uninsured children under the age of 19 called the State Children's Health Insurance Program (SCHIP). This state's version of SCHIP is called the Louisiana Children's Health Insurance Program (LaCHIP). States are authorized to implement the program by providing expanded Medicaid coverage, private health insurance, or a combination of the two. To date, Louisiana has implemented LaCHIP through expanded Medicaid coverage.

As with states' general Medicaid programs, the federal government pays a share of the cost of SCHIP programs. This federal share is called the Enhanced Federal Medical Assistance Percentage or "eFMAP," and is based on states' FMAP percentages. In Federal Fiscal Year 2011, Louisiana's eFMAP for LaCHIP was 74.53%.

Act No. 128 of the 1998 First Extraordinary Session provided that, subject to appropriation, LaCHIP cover children in families with income at or below 133% of the federal poverty level. Act No. 1197 of the 1999 Regular Session authorized an increase in the income eligibility threshold to 200% of the federal poverty level. LaCHIP began covering children from families in this income range in State Fiscal Year 2002. Coverage again expanded in State Fiscal Year 2003 to include coverage of pregnant women with incomes at or below 200% of the federal poverty level through their date of delivery. Act 407 of the 2007 Regular Session authorized the "LaCHIP Affordable Plan," which provides coverage to children in families with incomes up to 250% of the federal poverty level at a cost of \$50 per family per month.

Since the inception of LaCHIP, 461,518 children and pregnant women have been enrolled in the program. LaCHIP's current enrollment (as of September, 2011) is 123,813. According to a 2009 study by LSU researchers entitled "Louisiana's Uninsured Population," the percentage of uninsured children in Louisiana declined from 11.1% to 5.0% from 2003 to 2009, with the decline attributable in large part to the effectiveness of LaCHIP.

Public Health

The statutory purpose of the Office of Public Health (OPH) is provided in R.S. 36:258.

Major OPH divisions and programs include the following:

Administration

- Parish Health Units
- Primary Care and Rural Health
- Emergency Medical Services
- Health Improvement Support

Center for Preventive and Community Health

- Nursing Services
- Infectious Disease Epidemiology
- Maternal and Child Health
- HIV / AIDS / STD Programs
- Immunization
- Nutrition Services

Center for Records and Statistics

- Vital Records
- State Center for Health Statistics

Center for Environmental Health

- Drinking Water Revolving Loan Program
- Engineering Services
- Environmental Epidemiology
- Environmental Health and Emergency Preparedness
- Permit Unit
- Sanitarian Services

Center for Community Preparedness

- Public Health Emergency Preparedness and Response
- Emergency Operations Center
- Medical Social Services

Behavioral Health

The Office of Behavioral Health (OBH) was created by Act No. 384 of the 2009 Regular Session. This legislation formed OBH through a merger of the Office of Mental Health and the Office for Addictive Disorders. The statutory purpose of OBH is provided as follows in R.S. 36:258.

Major OBH divisions and programs include the following:

Addictive Disorders Services

- Prevention Services
- Detox Services (Medical and Social)
- Inpatient and Outpatient Care
- Community-Based Services (e.g. halfway houses, recovery homes, therapeutic community services, three-quarter-way houses)
- Residential Treatment Services
- Services for Women with Dependent Children
- Opiate Treatment Programs
- Compulsive Gambling Treatment

Mental Health Services

- Crisis Management (e.g. telephone counseling and referrals, face-to-face screening and assessment, community housing for stabilization, and crisis respite)
- Day and Psychosocial Rehabilitation
- Family Support Services
- Mental Health Clinics
- Specialized Inpatient Facilities
- Acute Care Units

Citizens with Developmental Disabilities

The statutory purpose of the Office for Citizens with Developmental Disabilities (OCDD) is provided in R.S. 36:258.

Major OCDD divisions and programs include the following:

Home- and Community-Based Services

- Medicaid Waiver Services
 - Children's Choice Waiver
 - New Opportunities Waiver
 - Supports Waiver
 - Residential Options Waiver
- Cash Subsidy (monthly stipends to families of eligible children with severe or profound developmental disabilities from birth to age 18 to help their families meet extraordinary costs, subject to funds availability)
- Individual and Family Support
- Community Support Services
- Resource Centers

Residential Services

- Intermediate Care Facilities for the Developmentally Disabled (ICF/DD)

Aging and Adult Services

The statutory purpose of the Office of Aging and Adult Services (OAAS) is provided in R.S. 36:258.

Major OAAS divisions and programs include the following:

Adult Protective Services (APS)

APS serves adults with disabilities ages 18 to 59 and emancipated minors who live in unlicensed and non-regulated settings, and manages the protective services programs in facilities administered by DHH. APS serves those who have a mental or physical disability that substantially limits their ability to provide for their own care or protection and who live in the community either independently in their own home or with the help of others or in any other place that is not licensed by a governmental regulatory agency. APS is responsible for

investigating and arranging for services to protect adults with disabilities at risk of abuse, neglect, exploitation or extortion. Clients may include people who have mental retardation, mental illness, or substance abuse problems, as well as those with medical problems or physical disabilities.

Home- and Community-Based Services

- Medicaid Waiver Services
 - Community Choices Waiver (known as Elderly and Disabled Adult - or (EDA - Waiver until September 2011)
 - Adult Day Health Care (ADHC) Waiver

Facility-Based Programs

OAAS operates the following nursing facilities which provide 24-hour rehabilitative, restorative, and ongoing skilled-nursing care to patients and residents in need of assistance with activities of daily living:

- John J. Hainkel, Jr. Home and Rehabilitation Center (New Orleans)
- Villa Feliciana Medical Complex (Jackson)

Other Services

- Traumatic Head and Spinal Cord Injury Trust Fund Program

Human Service Districts

Several human service districts have been created throughout the state to provide services addressing mental health, developmental disabilities, and addictive disorders in specific geographic regions. The purpose of these districts is provided for and their service areas are defined in R.S. 36:258.

The state's human services districts and their respective service areas are as follows:

- Jefferson Parish Human Services Authority serves Jefferson Parish.
- Capital Area Human Services District serves the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge, and West Feliciana.
- Florida Parishes Human Services Authority serves the parishes of Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington.
- South Central Louisiana Human Services District serves the parishes of Assumption, Lafourche, St. Charles, St. James, St. John the Baptist, St. Mary, and Terrebonne.
- Metropolitan Human Services District serves the parishes of Orleans, St. Bernard, and Plaquemines.
- Northeast Delta Human Services Authority serves the parishes of Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.

State-Owned Medical Centers (Charity Hospitals)

State-owned medical centers - also known as "charity hospitals" - provide acute general medical, surgical, and psychiatric care to the medically indigent, uninsured, Medicare- or Medicaid-covered patients, and self-paying patients. The hospitals also provide training for physicians, nurses, and allied health professionals in affiliation with Louisiana State University medical schools and other health care educational institutions.

The LSU Health Sciences Center at New Orleans currently manages the following facilities:

- Medical Center of Louisiana / University Medical Center (also known as "Charity Hospital") in New Orleans (**NOTE: See "Transition of Facilities: New Orleans" below)
- Earl K. Long Medical Center in Baton Rouge (**NOTE: See "Transition of Facilities: Baton Rouge" below)
- University Medical Center in Lafayette
- Leonard J. Chabert Medical Center in Houma
- W.O. Moss Regional Medical Center in Lake Charles
- Bogalusa Medical Center in Bogalusa
- Lallie Kemp Regional Medical Center in Independence

The LSU Health Sciences Center at Shreveport currently manages the following facilities:

- LSU Medical Center (also known as "University Hospital") in Shreveport
- E.A. Conway Medical Center in Monroe
- Huey P. Long Medical Center in Pineville

Transition of Facilities: New Orleans

The University Medical Center (UMC) board of directors issued a business plan to the Joint Legislative Committee on the Budget (JLCB) in September, 2011 for a proposed 424-bed, \$1.1 billion medical complex in midtown New Orleans to replace the Charity Hospital facility which was heavily damaged during Hurricane Katrina in 2005.

The UMC business plan estimates FEMA funds available for construction of the facility to be \$630.7 million, and projects capital outlay needed from the state for construction to be \$300.6 million. The business plan includes the following assumptions regarding the remainder of construction costs:

- Construction costs of \$99.6 million for the facility's ambulatory care building would be financed by "an LSU-affiliated entity."
- Construction costs of \$32.2 million for parking garages would be financed by LSU or by developers.

- Approximately \$25 million of medical equipment would be lease-purchased.

The business plan estimates that from 2014 through 2020, the amount of State General Fund dollars needed to operate the facility will average \$52.5 million annually, which is roughly equivalent to the average annual level needed to operate the Interim LSU Hospital (Charity Hospital's immediate successor).

JLCB approved the UMC business plan in a September, 2011 meeting, and to date construction of the hospital facility is set to proceed.

Transition of Facilities: Baton Rouge

Under a cooperative endeavor agreement approved by the Joint Legislative Committee on the Budget in March, 2010, LSU will close the Earl K. Long Medical Center and shift its medical education and inpatient hospital care to Our Lady of the Lake Regional Medical Center ("OLOL"), a private hospital in Baton Rouge. The Earl K. Long facility is scheduled to close by 2013.

Current plans are for OLOL to add at least 60 new hospital beds and for LSU to build an urgent care center in north Baton Rouge near the Earl K. Long site. The move is projected to incur a cost of \$38 million to the state, and is intended to keep the state from having to replace the outdated Earl K. Long hospital at an estimated cost of \$480 million.

Part D. Health and Social Services

Department of Children and Family Services

On July 1, 2010, the Department of Social Services was reorganized and renamed the Department of Children and Family Services (See Act No. 877 of the 2010 Regular Session). The Department of Children and Family Services (DCFS), through its office and officers, is responsible for the development and provision of social services and the improvement of social conditions for the citizens of Louisiana.

Administration

- **Executive Division:** The Executive Division supervises, manages, and supports the Division of Management and Finance, Division of Operations and Division of Programs within the Department of Children and Family Services. The Executive Division exercises supervision and control over all functions, staff, and services within DCFS and directly supervises Emergency Preparedness, Communications and Governmental Affairs, Bureau of Audit and Compliance Services and the Executive Counsel.
- **Division of Management and Finance:** Directed by the undersecretary, the division of management and finance is the management support system for DCFS and is responsible for the accounting and budget control, procurement and contract management, information technology services, management and program analysis, human resources services, grants management, facility construction and consulting services, and policy planning and evaluation for the department and all of its offices. (R.S. 36:475.1)

Licensing

DCFS is responsible for two types of licensing classifications: child day care center licensing and residential care and special population licensing.

All child care facilities and child-placing agencies, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency, are required to be licensed. Licenses are of two types: Class A and Class B. (R.S. 46:1404)

Class A licenses are issued upon the establishment of the fact that minimum requirements for a license as established by the department are met and that the facility or agency is in compliance with all other state and local laws and regulations. (R.S. 46:1408) The regulations are promulgated by the department pursuant to the Administrative Procedure Act (APA) after submission to the Louisiana Advisory Council on Child Care and Early Education for input and guidance. (R.S. 46:1409)

Class B licenses are issued upon receipt of an application and the establishment of the fact that minimum requirements for a license as established by the department are met and that the facility or agency is in compliance with all other state and local laws and regulations. (R.S. 46:1412) The department shall promulgate the rules and regulations in accordance with the

APA, with input and guidance from the Louisiana Advisory Council on Child Care and Early Education. Additionally, facilities that hold Class B licenses shall comply with specific rules and regulations, including fire and safety standards promulgated by the office of state fire protection and the state fire marshal, health and sanitation standards promulgated by the office of public health, local zoning ordinances and building standards, and laws against child abuse. (R.S. 46:1413)

Child Daycare Center Licensing

A child day care center is defined as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of 7 or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least 12 1/2 hours in a continuous 7-day week.

Residential Care and Special Population Licensing

Residential care and special population licenses include: child residential facilities, adoption agencies, child foster care agencies, maternity homes, and transitional placing programs. A child residential facility is any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (24 hour residential care) for 4 or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody. An adoption agency is a child-placing agency that places children in a family household of one or more persons that has been approved by the agency to accept a child for adoption. A child foster care agency is a child placing agency that places children into an approved family foster home for a planned period of substitute care when their own families cannot or will not care for them. Substitute Family Care Programs are no longer licensed by the DCFS. A maternity home is any place in which any person, society, agency, corporation, or facility receives, treats or cares for within a period of six months, more than one illegitimately pregnant woman, either before, during or within two weeks after childbirth. This does not include any place or facility which receives and provides services for women who receive maternity care in the home of a relative within the sixth degree of kindred, computed according to civil law, or general or special hospitals in which maternity treatment and care is part of the medical services performed and the care of children only brief and incidental. A transitional placing program is a program that places youth, at least 16 years of age, in an independent living situation supervised by a provider with the goal of preparing the youth for living independently without supervision.

Economic Stability (Formerly the Office of Family Support)

Economic stability programs include public assistance programs to provide aid to dependent children and to adults, who, due to age, disability, or infirmity, are unable to adequately meet their basic needs and perform functions of the state related to the licensing of day care centers. Other economic stability programs include SNAP, child support, establishment of paternity, disaster relief grants program for individuals and families, and disability and certain other eligibility determinations. The Office of Children and Family Services may contract with other state agencies for eligibility determinations. (R.S. 36:477)

Temporary Assistance for Needy Families

The Temporary Assistance for Needy Families (TANF) program replaced the welfare program known as Aid to Families with Dependent Children. In 1996, as part of welfare reform, the federal government created TANF to help low-income families exit welfare and become self-sufficient. The federal government created TANF as a block grant that provides states with federal funds each year to help needy families achieve self-sufficiency. The federal office of family assistance assigned the following four goals for states receiving block grant money:

- (1) Assisting needy families so that children can be cared for in their own homes.
- (2) Reducing the dependency of needy parents by promoting job preparation, work, and marriage.
- (3) Preventing out-of-wedlock pregnancies.
- (4) Encouraging the formation and maintenance of two-parent families.

Louisiana spends the majority of its TANF money in the form of cash assistance to needy families. The remainder is directed to special programs and sources for families which meet at least one of the four TANF goals.

Family Independence Temporary Assistance Program

The Family Independence Temporary Assistance Program (FITAP) is the state's cash assistance program for families with children when the financial resources of the family are insufficient to meet subsistence needs. (R.S. 46:231.2) It succeeded the Aid to Families with Dependent Children program, with changes required under the state Welfare Reform Act of 1995 and the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). FITAP is authorized by the Social Security Act as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Effective January 1997, the Family Independence Temporary Assistance Program is funded by the Temporary Assistance to Needy Families Block Grant. The Department of Health and Human Services is the federal agency responsible for its administration. The program is administered at the state level by the Department of Children and Family Services, Economic Stability Office.

The overall goal of FITAP is to decrease long-term dependency on the public welfare system and encourage job preparation, work, and self-sufficiency. State law establishes a twenty-four month limit on benefits in a five-year period, while federal law provides a limitation of sixty months of benefits in a recipient's lifetime. Public assistance is no longer a lifetime benefit but an opportunity to become independent after a financial crisis. (R.S. 46:231.6)

To qualify for FITAP, an applicant must meet certain conditions related to: residence, citizenship, need, enumeration, age, relationship, home, support enforcement services, STEP, and income.

Strategies to Empower People (STEP)

The Strategies to Empower People (STEP) program was created in 2003 to provide opportunities for FITAP recipients to obtain employment and become self-sufficient by receiving job training, employment, and supportive services. The STEP program is the

successor to the FIND Work program, which in turn was preceded by Project Independence. Project Independence was part of the federal mandate of the Family Support Act of 1988 that all states implement a Jobs Opportunity and Basic Skills (JOBS) training program by October 1, 1992.

All work-eligible recipients of FITAP must participate in the STEP program. Work-eligible recipients are defined as FITAP adults under the age of 60 and FITAP teen heads-of-household, excluding those FITAP adults or teen heads-of-household who are disabled or incapacitated or caring for a member of their family who is disabled or incapacitated. (R.S. 46:231, 231.7, and 231.8)

Participants in the STEP program are provided supportive services to enable them to engage in various work activities and to progress toward self sufficiency. (R.S. 46:231.10) Services may include: child care, transportation, eyeglasses, hearing aids, medical exams and drug tests for employment or training, uniforms, safety equipment, and tools. When a FITAP recipient who is required to participate in the STEP Program fails to participate without good cause, the agency as a last resort, will sanction a family. The sanction results in a loss of FITAP benefits and could affect SNAP (food stamps) and Medicaid benefits.

Supplemental Nutrition Assistance Program (Formerly the Food Stamps Program)

The Supplemental Nutrition Assistance Program (SNAP), formerly the Food Stamp Program, provides monthly benefits that help eligible low-income households purchase the food they need for good health. The program is administered at the federal level by the United States Department of Agriculture-Food and Nutrition Service. On a state level, the Department of Children and Family Services, economic stability office is responsible for the statewide administration of certification, issuance, and employment and training provisions of the law. SNAP eligibility is based on the following requirements: residency, citizenship, enumeration, and work registration. To receive benefits through SNAP, households must meet certain tests, including resource and income tests.

The Thrifty Food Plan, a current estimate of the actual costs for providing a household with nutritious but inexpensive meals is the basis for SNAP allotments. Thrifty Food Plan amounts are established by the USDA-Food and Nutrition Service. SNAP benefits depend on both the number of persons in the household and the net monthly income amount remaining after all allowable deductions have been subtracted. Income deductions allowed in the regular SNAP budget are subtracted from both earned and unearned income.

Louisiana Combined Application Project

The Louisiana Combined Application Project (LaCAP) is a food assistance program for Louisiana residents who are at least 60 years of age and receive Supplemental Security Income (SSI). It is a simplified version of SNAP for a designated segment of Louisiana's elderly population. Any person who is eligible for LaCAP, will receive a Louisiana Purchase Card (a debit card) and SNAP benefits will be automatically deposited on a monthly basis. There are four standard allotment amounts in LaCAP. Depending on housing costs, LaCAP participants will receive \$55, \$65, \$98 or \$137. LaCAP cases are certified for 36 months. To receive benefits through LaCAP, applicants must receive Supplemental Security Income (SSI) and meet certain other conditions, such as age, citizenship, criminal record check, and home occupancy.

Kinship Care Subsidy Program

The Kinship Care Subsidy Program (KCSP) is Louisiana's public assistance program which provides cash assistance for eligible children who reside with qualified relatives other than their parents. The program is funded by Louisiana's Temporary Assistance for Needy Families Block Grant. The program furnishes cash assistance of \$280 per month per eligible child who resides with a qualified relative other than a parent, including a grandparent, aunt, uncle, brother, sister, first cousin, niece, nephew, stepbrother, or stepsister. A child may meet the eligibility requirements for both the Family Independence Temporary Assistance Program (FITAP) and Kinship Care Subsidy Program (KCSP) but may only receive assistance in one program. Additionally, the child and family must meet certain requirements, such as income, age, residency, citizenship, immunization record, criminal record check, and custody. (R.S. 46:237)

Electronic Benefits Transfer

Prior to the implementation of the electronic benefits transfer (EBT) program, monthly checks were sent to FITAP recipients, and SNAP stamp recipients received books of coupons which were redeemed to purchase eligible food items. Under the electronic benefits system, FITAP, food stamp, and Kinship Care Subsidy Program recipients are given the equivalent of debit cards (called a Louisiana Purchase card) and select personal identification numbers (PINs). As purchases or cash withdrawals are made at grocery store checkout lanes and ATMs, recipient accounts are debited electronically, and the recipient is provided a receipt of the transaction which includes the remaining balance in the account(s). After the initial six-month pilot in Natchitoches Parish, the Louisiana Legislature authorized statewide expansion of EBT to begin in July 1997. The final phase of EBT roll out was implemented in December 1997. EBT has reduced administrative workloads and costs and further provides an electronic audit trail to aid in fraud investigations. DCFS has plans to include additional benefits to EBT in the future. (R.S. 46:450.1) Note: FITAP and KCSP benefits can be converted to cash while SNAP benefits cannot.

Disability Determinations Services

The disability determination services program within the economic stability office makes disability decisions under Titles II (Disability Insurance Benefits) and XVI (Supplementary Security Income) of the Social Security Act. The Social Security Act defines disability as the inability to perform any substantial gainful activity by reason of any medically determinable physical or mental impairment which is expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. It secures information relative to work history sources, arranges for consultative examination and vocational testing, and prepares the disability determination. Consideration is also given to whether the applicant is potentially suitable for rehabilitation services. All disability benefits and administrative costs of operating the program are 100% federally funded.

Child Support

Child Support Laws

Louisiana Civil Code Article 227 provides that fathers and mothers, by the very act of marrying, contract together the obligation of supporting, maintaining, and educating their children. Louisiana jurisprudence provides that this parental duty is a fact of paternity or maternity and does not arise out of marriage. However, these provisions provided little guidance to the court

in determining the amount of the child support obligation.

In 1988, Congress enacted The Family Support Act, which required states to establish child support guidelines to operate as rebuttable presumptions that the amount of the award resulting from the application of the guidelines would be the proper amount of child support. The Louisiana Legislature responded and adopted child support guidelines based on the income shares model with adjustments because the state was considered a low income state. The schedule incorporates a self-sufficiency reserve so that low income obligors may maintain a minimum standard of living and subsistence. The use of the guidelines is mandatory in any initial award and modification of child support (R.S. 9:315.1).

The legislature has modified the guidelines since the initial enactment. Part of the schedule, from a combined adjusted monthly gross income of \$7,800 to \$10,000, was adjusted to balance the extension of the table to include adjusted gross income levels up to \$20,000 per month. The court retained authority to deviate above or below the guidelines in certain circumstances, but regardless of income, the support order shall not be less than \$100. The calculation of support also includes expenses of tuition, registration, books and supply fees required for attending a special or private school as other extraordinary expenses, but benefits received by the child from public assistance programs is not considered income of the child.

Legislation enacted in 2001, for the first time, provided definitions of the various types of custody and as a result, it updated the prior worksheet and provided a new worksheet designed to follow the statutes depending upon which type of custody is ordered. Certain key terms were also defined and concepts were explained, such as "second jobs" and "overtime income" used when an obligor takes a second job or works overtime to provide for a subsequent family, and "multiple families" used to provide for one or more families where none of the children live with the noncustodial or nondomiciliary parent.

The following is a listing of the various types of information:

- Joint custody is an arrangement created by joint custody orders which are not shared custody. In a joint custody arrangement, if visitation by the nondomiciliary parent exceeds 73 days, the court, in its discretion, may award the nondomiciliary parent a credit toward his support obligation. (Worksheet A is used in determining child support for a joint custody order.)
- Shared custody is an arrangement created by a joint custody order in which each parent has physical custody of the child for an approximately equal amount of time. In calculating child support for a shared custodial arrangement, the basic support obligation is first multiplied by one and one-half (to account for the duplication and continuation of certain costs associated with this arrangement) and then divided between the parents in proportion to their respective adjusted gross incomes. Next, each parent's share of the basic obligation is multiplied by fifty percent (or the approximately equal percentage of time spent with each parent) to determine the theoretical support obligation owed to the other parent and child care costs and extraordinary adjustments are added. However, if the court ordered direct payments for child care costs, health insurance premiums, extraordinary medical or other expenses, each party's percentage share of the expense owed to a third party will be deducted. Finally, the parent owing the greater amount of support shall owe to the other parent the difference between the two amounts. (Worksheet B is used in determining child support in shared custody orders.)
- Split custody is an arrangement in which each parent is the sole custodial or domiciliary

parent of at least one child. For split custody, each parent fills out Worksheet A for the child in the other parent's care and then the parent owing the greater amount of support pays the difference to the other parent as support.

- Sole Custody is an arrangement in which one parent is awarded custody of the child. However, sole custody may not be ordered unless it is shown by clear and convincing evidence to serve the best interest of the child. (Although this type of custody was not addressed in the 2001 revision, it is referenced because it remains one of the four types of custody orders available to the courts.)

Every four years following the 2001 revision, the child support guidelines have been reviewed by the Dept. of Social Services (predecessor to the Dept. of Children and Family Services), the District Attorneys Association, and the child support review committee. In 2004 and again in 2008, the committee made numerous recommendations to the legislature for changes to the guidelines based upon the data collected at public meetings and through surveys.

In 2004, it was recommended that the child support schedule be updated and amended to reflect recent economic evidence on child-rearing costs. However, the newly recommended schedule based on more recent economic data would have lowered many child support payments and the legislature failed to pass it due to the long standing policy that children should not be forced to live in poverty because of family disruption.

In 2008, the committee again recommended and the legislature enacted legislation to incorporate the current income tax withholding tables for the federal government, the most recent economic estimates of child-rearing expenditures, and an adjustment for the differences between the income distribution in Louisiana and the United States from \$2,250 to \$30,000 on the child support schedule. The schedule was also extended from \$20,000 to \$30,000 per month.

Additionally, in 2008 the legislature enacted laws regarding a dissolution factor, which is a built-in reduction recognizing the obligor's additional expenditures for maintaining his household when the children are in his physical custody, and provided that special expenses intended to enhance the health, athletic, or social development of the child may be added to the basic child support obligation as extraordinary expenses.

The next review and public comment period regarding the child support guidelines will be completed in the fall of 2011, and the compiled data and recommendations will be presented to the legislature in 2012.

Child Support Enforcement

Louisiana law provides for the suspension of any license, certification, or similar documentation for a profession, occupation, business, industry, the operation of a motor vehicle, or participation in any sporting activity, including hunting and fishing, for the nonpayment of child support. State law also provides that the registration of the licenses of personal water craft, motorboats, sailboats, all-purpose terrain vehicles, or trailers may be suspended due to nonpayment of child support. As of 2006, federal law mandates that an individual be ineligible to receive a U.S. passport if the individual owes child support payments in excess of \$2,500. Additionally, any person receiving FITAP, Kinship Care Subsidy Program benefits, or Medicaid automatically receives child support enforcement services and assigns support rights to the state. If a person does not receive FITAP, Kinship Care Subsidy Program benefits, or Medicaid, he

may apply for support enforcement services and pay an application fee of \$25.00.

The Child Support Enforcement staff is located in 12 Regional Offices. These offices serve all 64 parishes in the state. Child support enforcement offers 5 basic types of services: parent locator, paternity establishment, determination of child support, enforcing orders, and collection and distribution. The agency also has cooperative agreements with 40 district attorneys in the state. The scope of services provided by district attorneys varies, depending on the services that a particular district attorney is contracted to provide. Support enforcement works with all 50 states as well as some foreign countries to provide child support services.

Access and Visitation Program

The Access and Visitation Program is designed to assist non-custodial parents with access to visit their children. The overall goal of the program is to increase the involvement of fathers and mothers in the emotional development of their children and to provide healthier connections with their fathers and mothers to reduce the risk of early parenting, poor academic achievement, substance abuse, and juvenile delinquency. The objective of the Department of Children and Family Services, Child Support Enforcement, under the Access and Visitation Program, is the promotion of emotional, mental and physical well-being of children in the state and to facilitate and encourage the duty, obligation and responsibility of each parent to share and participate in the upbringing of their child. Through this program, an Access and Visitation attorney will mediate, attempt to reach a voluntary agreement, or if necessary, ask the court for reasonable visitation.

Grandparent Visitation

The legislature has been interested in the issue of grandparent visitation in recent years. In determining whether grandparent visitation can be granted, the courts have balanced the custody and visitation provisions in state law with the protected constitutional rights of the parent.

In Louisiana, we have two provisions of law which relate to grandparent visitation. The first is a broad general statement of law found in Civil Code Article 136 entitled "Award of visitation rights". This law provides that in extraordinary circumstances, certain relatives of the child may be granted reasonable visitation rights if it is in the best interest of the child.

The second provision is R.S. 9:344, which provides visitation for grandparents and siblings in very limited situations such as the death, interdiction, or incarceration of a parent. This statute also provides that any visitation will only be granted if the court finds that it is in the best interest of the child.

The United States Supreme Court, in *Troxel v. Granville*, 99-138, (530 U.S. 57), reasoned that the Fourteenth Amendment of the United States Constitution provides heightened protection against government interference with fundamental rights and liberties, including a parent's fundamental right to make decisions concerning the care, custody, and control of their children.

After the *Troxel* decision, the First Circuit Court of Appeal in *Wood v. Wood*, 2002-0860 (La.App. 1 Cir. 9/27/02), 835 So. 2d 568, decided that the burden of proof that grandparent visitation is in the best interest of the child falls upon the grandparent. The court also applied the *Troxel* presumption that the mother acted in the best interest of the child and found that special weight

must be given to the mother's determination of the best interest.

Finally, in *Babin v. Babin*, 2002-0396 (La. App. 1. Cir. 7/30/03), 854 So.2d 403, the court emphasized the *Troxel* balance between the custody and visitation provisions in state law and the protected constitutional rights of the parent. Here, the court observed that visitation which unduly burdens parental rights would be unconstitutional.

Child Relocation

Louisiana law requires the domiciliary parent who wishes to relocate (move the child more than 150 miles) to give notice to the other parent (R.S. 9:355.3). The other parent may give written consent to the relocation or the court may authorize it. If that parent objects to the relocation, he shall file an objection within 30 days of receiving the notice (R.S. 9:355.4). At the hearing, the domiciliary parent wishing to relocate bears the burden of proving that the relocation is being made in good faith and that it is in the best interest of the child (R.S. 9:355.13). The court is required to address 12 factors before granting or denying relocation (R.S. 9:355.12).

Adoption

Adoption is the method provided by law to establish the legal and social relationship of parents and children between persons who are not related by birth with the mutual rights and obligations that exist between children and their birth parents. The child welfare office provides adoption services for placement of children in DCFS custody who are available for adoption. This involves such components as the study of applicant families and approval of adoptive homes, matching children and families, locating homes, providing counseling to children and adoptive parents (before, during and after placement), and in some cases, subsidy payments to the adoptive parents.

The office also performs adoptive petition services. This includes staff investigation of independent adoptions by certain family members (stepparent, grandparent, etc.) to determine the availability of the child and suitability of the adoptive home. Reports are made to the courts on these investigations. The staff also secures necessary reports for the courts on adoptive placements by public and private licensed adoption agencies.

The Louisiana Adoption Registry is a registry established through the office to facilitate voluntary contact between adult adoptees, their birth parents, and/or siblings. It is available if a person is over the age of 18 and the adoption was legally finalized in the state of Louisiana.

Child Protection Investigations

The program provides investigation of child abuse and neglect, as well as the provision of short-term, concrete services to children and families. These services are legally mandated, specialized investigations and social services for children who are alleged to be neglected, abused, exploited or without proper custody or guardianship. In conjunction with local offices, the child welfare division determines if a report of child abuse, neglect, exploitation, or lack of proper custody or guardianship is valid. Action is taken in validated cases, such as emergency services, removal of the child or the perpetrator from the home, filing a petition for court-ordered services, or referring the family for family services. As of 2004, state law requires child abuse reports involving a felony-grade crime against a child to be promptly communicated to the appropriate law enforcement authorities.

An incident of suspected child abuse may be reported by calling 855-4LA-KIDS (855-452-5437) toll free 24 hours a day, 365 days a year.

Foster Care

The foster care program provides protective services to children in custody of DCFS who are unable to live with their parents or relatives and who require maintenance outside of their normal home environment as a result of abuse, neglect, or some other circumstances. It provides substitute, temporary care (e.g. foster family home, group home, residential care facility, etc.) for a planned period of time when a child must be separated from his own parents or relatives. Foster care is viewed as an interim process to provide care for a child until he is reunited with his family or is provided with another type of permanent living situation. The program also includes social services to the child, his biological family, and the foster care provider.

The Foster Parents' Bill of Rights, established in 2006, ensures that foster parents are treated with dignity and respect and receive pertinent information, training, and support relative to children in their care. (R.S. 46:286.13)

Safe Haven Law

Louisiana's safe haven law allows a parent to anonymously leave an infant child at a designated emergency care facility (a hospital, medical clinic, fire station, police station, pregnancy crisis center, or child advocacy center) with the intent of placing the child for adoption. The child must be left in the care of an individual at the designated emergency care facility. If the child is left unattended, the safe haven requirement is not met, and the parent could be prosecuted. (CHC 1151)

Child Care Assistance Program

The Child Care Assistance Program helps low-income families pay for child care while working or attending school or training. Under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, several federal grants to provide support for child care for welfare recipients training or becoming part of the workforce were consolidated into the Child Care Development Block Grant, which must be matched with state dollars. States must use at least 70% of the funds to provide child care assistance to welfare recipients, to those in work programs and attempting to leave welfare, and those at-risk of going on welfare. In Louisiana, this is done by providing child day care grants directly to the caregivers for eligible children, including Class A child day care centers, school-based before and after school programs, registered family child day care homes, and in-home providers. The average payment is \$216 per month. The amount paid is based upon the number of hours the adults work, engage in a job search, or attend an educational or job training program, as well as household size, household income, and the number of hours the child is in care. Parents can select any Class A child care center, school-based before and after school program, licensed child care center determined by the Department of Defense, registered Family Child Day Care Home, or In-Home provider active in the CCAP provider directory. Eligibility is based on the applicant's need for child care, household income, enrollment in school and training programs. Specifically, an applicant's household monthly gross earned income and unearned income is required to be less than the amount listed in the table below for the household size.

2 persons - \$2,450	4 persons - \$3,559	6 persons - \$4,698	8 persons - \$4,911
3 persons - \$2,989	5 persons - \$4,128	7 persons - \$4,804	9 persons - \$5,018

Quality Start Child Care Ratings System

Quality Start is a voluntary program for licensed child care centers designed to increase the quality of child care and early learning for all children throughout Louisiana. Both Class A and Class B centers have the option of participating and earning up to five stars. Quality Start rates child care centers on a scale of 1 to 5 stars based on performance standards.

1 Star	This means that the center has met the higher standards of the Louisiana Department of Children and Family Services Child Care Licensing and Regulatory Section.
2 Stars	A two-star rating is given when the center has received additional specialized training.
3 - 5 Stars	The three- to five-star rating indicates the center provides quality child care based on staff qualifications and the Environment Rating Scales (ERS).

In 2007, the Louisiana Legislature passed Act 394, which enacted R.S. 47:6101-6109 to provide a package of tax credits known as the School Readiness Tax Credits. These credits allow tax breaks to families, child care providers, child care directors and staff, and businesses that support child care in an effort to encourage child care facilities to voluntarily participate in the quality rating program administered by DCFS under the name of the Quality Start Child Care Rating System. The Quality Start web site also includes a search feature that can be used to determine the quality rating for child care centers located in parishes throughout the state.

Family Violence Prevention Program

The Family Violence Prevention and Intervention Program funds, advocates, and partners to end domestic violence in Louisiana and to ensure that survivors and their loved ones lead safe, independent, quality lives. The Family Violence and Prevention Program was created in 1979 by Act No. 746 and is funded from federal, state, and private and local resources. The program provides direct support to 20 community-based shelters in Louisiana, which provide emergency shelter, crisis intervention, advocacy, counseling, support, resources and direct services to women and children who are victims of family violence. These shelters serve approximately 18,000 family violence survivors each year.

The domestic violence statewide hotline, 1-888-411-1333, offers confidential, 24-hour assistance for individuals who want to talk or need more information.

Helping Our Homeless

Louisiana's emergency shelter system was created to assist the homeless with temporary housing. An emergency shelter is defined as any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or for specific populations of the homeless. Eligibility for services vary with each shelter. However, a homeless individual

is defined by federal rules as: (1) An individual who lacks a fixed, regular, and adequate nighttime residence or (2) An individual who has a primary nighttime residence that is: a publicly or privately owned temporary shelter, an institution that provides temporary shelter, or a public or private place not designed for regular sleeping accommodations.

Louisiana Emergency Shelter Grants Program (ESGP) uses federal funds to assist shelter facilities serving homeless persons. Most of the State's 104 shelters have received some measure of funding support through this program since its establishment in 1987 under the Stewart B. McKinney Homeless Assistance Act. A shelter which is assisted through the state ESGP must agree to provide assistance to homeless individuals and families in obtaining appropriate supportive services essential for achieving independent living, and help in obtaining other federal, state, local, and private assistance available for such individuals.

Coordinated System of Care

The State of Louisiana is developing a Coordinated System of Care (CSoC) for Louisiana's at-risk children and youth with significant behavioral health challenges or co-occurring disorders that pose an imminent risk of out of home placement. The current system does not allow for the coordination of multiple state agencies that may all be providing different or even similar services. Creating a coordinated approach to care will result in the delivery of the most effective and necessary behavioral health services. This too often results in Louisiana's children with the highest needs being detained in out of home settings. The CSoC is an initiative of Governor Bobby Jindal and is being directed by executives of the Department of Children & Family Services (DCFS), the Department of Education, the Office of Juvenile Justice and the Department of Health and Hospitals (DHH). Implementation workgroups, led by agency staff and inclusive of parents and other stakeholders (advocates, providers and community leaders), were formed to conduct the detailed implementation planning and CSoC start-up activities. As a result of these efforts the Louisiana Behavioral Health Partnership (LBHP), a comprehensive system for behavioral health services for individuals of all ages, was designed. The LBHP includes the CSoC as one of its targeted service populations. The CSoC will offer an array of Medicaid State Plan and Home- and Community-Based Waiver services to: (1) All eligible children and youth in need of mental health and substance abuse services and (2) At-risk children and youth with significant behavioral health challenges or co-occurring disorders in, or at imminent risk of, institutionalization.

Chapter 2 – State Government Functions

Part E. Transportation and Infrastructure	2E-1
Department of Transportation and Development - Overview	2E-1
Priority Programs	2E-2
The Highway Priority Program	2E-2
Statewide Flood Control Program	2E-3
The Port Construction and Development Priority Program	2E-3
Airport Construction and Development Priority Program	2E-4
Public Transportation and Marine and Rail Transportation	2E-4
Funding	2E-5
Transportation Trust Fund	2E-5
Transportation Infrastructure Model for Economic Development (TIMED)	2E-5
Table: Status of the TIMED Program Project List	2E-6
Parish Roads	2E-7
Future Funding Outlook of the La. Dept. of Transportation and Development ...	2E-7
Expropriation	see 3A-9

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part E. Transportation and Infrastructure

Department of Transportation and Development – Overview

The Louisiana Department of Transportation and Development ("department") is responsible for developing and implementing programs to assure adequate, safe, and efficient transportation and other public works facilities and services in the state.

Legislators can work with their constituents, local governing authorities, metropolitan planning organizations and the department to ensure important projects are constructed pursuant to the programs outlined below and countless others.

The Louisiana Transportation network consists of the following facilities and operations:

Roadway

16,675 miles of state highways
893 miles of Interstate highway

Airports

7 commercial service airports
64 general aviation airports

Public Transit

11 urban transit systems
31 rural transit systems

Public Works

24 levee districts
27 locks / 470 dams
143,000 water wells

Bridges

12,953 bridges (113 moveable)
7,694 state-owned / 5,259 local

Ports

6 deep-draft ports
20 shallow-draft ports
13 emerging ports
Louisiana Offshore Oil Port (LOOP)

Freight Railroads

6 major (Class 1) railroads
9 short-line railroads
2 public switching railroads

Operations

3.6 million acres mowed
71,000 cu yd litter collected annually
16 rest areas
8 ferry service locations
3000+ highway-rail crossings
3000+ traffic signals
1,000,000+ traffic signs
Over 745 buildings

Priority Programs

The Louisiana Legislature has established four major programs to prioritize transportation, public works, and flood protection construction priority projects to be administered by the department. The Highway Priority Program, Port Construction and Development Priority Program and Airport Construction and Development Priority Program are administered by the office of multimodal and planning within the department. The Statewide Flood Control Program is administered by the office of engineering within the department.

A brief summary of each program is as follows:

The Highway Priority Program - (R.S. 48:228-233)

The department is required to classify the 16,675 miles within the state-maintained highway system and to establish standards for those classifications. Louisiana is made up of 9 highway districts as listed below:

DOTD HIGHWAY DISTRICTS	
District 2:	Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, Terrebonne (located in Bridge City)
District 3:	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion (located in Lafayette)
District 4:	Bossier, Bienville, Caddo, Claiborne, DeSoto, Red River, Webster (located in Bossier City)
District 5:	East Carroll, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Union, West Carroll (located in Monroe)
District 7:	Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis (located in Lake Charles)
District 8:	Avoyelles, Grant, Natchitoches, Rapides, Sabine, Vernon, Winn (located in Alexandria)
District 58:	Caldwell, Catahoula, Concordia, Franklin, LaSalle, Tensas (located in Chase)
District 61:	Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Pointe Pointe Coupee, St. James, West Baton Rouge, West Feliciana (located in Baton Rouge)
District 62:	Livingston, St. Helena, St. John the Baptist, St. Tammany, Tangipahoa, Washington (located in Hammond)

Each year the department develops a program of construction projects to be commenced in the ensuing fiscal year, based upon anticipated revenues and listed in order of priority of projects in each classification. The following factors among others are considered when compiling this program: (1) alignment of existing roads, (2) width or elevation of the existing roadway and

shoulder surfaces, (3) width of the rights-of-way, (4) cost of construction, (5) type and volume of traffic, (6) condition of structures and drainage, (7) accident rate, (8) geographical distribution of the roadways to be constructed or reconstructed, (9) population growth in each parish and the existing state highway transportation infrastructure to support the increase in population, (10) economic development potential, and (11) the safe evacuation of population when necessitated by catastrophic events such as hurricanes or flooding. In fixing priorities, the department primarily considers factors such as the condition of the roads and structures making up the state highway system and the urgency of the improvements in their order of general needs, traffic volume, accident records, technical difficulties in the preparation of plans and the procurement of rights-of-way. Additionally, the department must consider and include capacity improvements in geographic areas where population has grown or traffic volume has increased and capacity improvements are necessary.

The department then submits the program to the Joint Highway Priority Construction Committee, which holds joint public hearings in each of the nine highway districts in order to provide for public review and input. The hearings are also known as "Road Show." A report is compiled based upon the testimony received at these hearings and after such hearings the department prepares the final construction program, which is then submitted to the legislature for funding. The legislature may remove any project which it determines is not in the proper order of priority; however, the legislature cannot add any projects to the final construction program nor can the legislature make any substitutions for deleted projects.

Statewide Flood Control Program (R.S. 38:90.1-92)

The Statewide Flood-Control Program provides for the method in which the department evaluates applications for flood control projects. Applications may be submitted by any duly authorized municipal, parish, or other governing authority to the department by October first of each year. The applicant must describe the magnitude of the flooding or drainage problem and demonstrate the immediate need for the project, provide the preliminary project design and cost estimate, a description of the project area including the geographical area affected, land ownership information, soils and vegetation, relationship of the affected area to geologic floodplains and flood-prone area, and flooding history, regulatory permits, project area classification of either rural or urban, benefit-cost information, nonstructural techniques for reducing flood damages, the impact of the project on agricultural lands and the feasibility of including agricultural irrigation development in the project and the state of sponsorship. Projects are evaluated by a flood control project evaluation committee based upon such factors as reducing the threat to human lives, benefit-to-cost information, technical feasibility, flooding history, and local support for the project. The flood control project evaluation committee submits a recommended list of projects to the House and Senate Committees on Transportation, Highways and Public Works, which hold public hearings and ultimately approve the proposed list of projects. After adoption of the committees' recommendations by the legislature, the approved list of projects is forwarded to the department for implementation. The department cannot delete, add, or substitute any projects for those approved by the legislature; however, the secretary may authorize projects to be undertaken and financed due to an emergency out of the secretary's emergency fund.

The Port Construction and Development Priority Program (R.S. 34:3451-3463)

The Port Construction and Development Priority Program provides for the method in which port authorities apply for funding assistance with port construction or development projects. Applications are submitted by port authorities to the department no later than the first of

March, June, September, and December of each calendar for funding or funding obligation authority in the ensuing fiscal year. Each quarter the department furnishes the House and Senate Committees on Transportation, Highways and Public Works a prioritized list of projects based on the applications received during that quarter. Within thirty days of receiving each quarterly recommended list of prioritized projects for inclusion in the ensuing fiscal year program, the House and Senate Committees on Transportation, Highways and Public Works must hold public hearings to receive public testimony regarding the list. Each quarter, the department reprioritizes the list of projects to reflect the cumulative list of projects recommended by the department. Prior to the convening of each regular session, the House and Senate Committees on Transportation, Highways and Public Works holds a hearing for the purpose of reviewing and approving the final program for the ensuing fiscal year. When the final construction program is presented to the legislature for funding, the legislature cannot add any projects to the final construction program. Any project recommended by the department and approved by the House and Senate Committees on Transportation, Highways and Public Works but for which funds are unavailable in the fiscal year for which it was approved remains on the prioritized list of projects and is carried forward to the next fiscal year. These retained projects keep their place on the prioritized list of projects and will receive a higher priority over newly recommended projects in the next fiscal year.

Airport Construction and Development Priority Program (R.S. 2:801-814)

The Airport Construction and Development Priority Program provides for airport authorities to submit applications for funding of airport construction or development projects to the department by November first of each year. The program also certifies all public and privately owned airports and heliports within the state. Applicants must provide a description of the project and the project area and demonstrate the immediate need for the project, as well as a preliminary project design and cost estimate. After the project applications are evaluated, the department must prepare a priority listing and submit it to the House and Senate Committees on Transportation, Highways and Public Works prior to the convening of each regular session. The House and Senate Committees on Transportation, Highways and Public Works must then hold public hearings for the purpose of reviewing the priority list of projects for each fiscal year. Subsequent to the House and Senate Committees on Transportation, Highways and Public Works' public hearings and prior to the convening of each regular session, the department is required to prepare the final construction program for the coming fiscal year for submission to the House and Senate Committees on Transportation, Highways and Public Works.

After approval by the House and Senate Committees on Transportation, Highways and Public Works, the legislature is prohibited from adding projects to the list unless ninety percent of the funding for an airport, or for an airport project, is received from federal sources or from sources other than state funds. Projects are funded through appropriations from the Transportation Trust Fund in the Capital Outlay Act. Any funds not expended for the projects for which the funds were appropriated shall be returned to the trust fund.

Public Transportation and Marine and Rail Transportation

In addition to administering priority programs, the department operates a Public Transportation Program and Marine and Rail Program.

The mission of the Public Transportation Program is to improve public transportation in all areas of the state so that Louisiana's citizens may enjoy an adequate level of personal mobility regardless of geographical location, physical limitation or economic status. The Public

Transportation Program administers statewide transit programs funded by the Federal Transit Administration (FTA) that include the Rural Public Transportation Program, Rural Training and Technical Assistance Program, Elderly and Disabled Capital Program, Planning and Research Grants, Discretionary Capital Program, Job Access and Reverse Commute Program and the Fixed Guideway Program.

The mission of the Marine and Rail Program is to continuously improve the marine and rail infrastructure for passenger and freight movement, to nurture economic development, enhance the quality of life through the development of an efficient, safe, and seamless intermodal transportation system. The Marine and Rail Program operations are currently funded under the Multimodal Program of the department's budget. Project specific funding is through Capital Outlay, averaging \$20 million per year.

Funding

Transportation Trust Fund

Revenues received from the taxes on gasoline, motor fuels, and special fuels are deposited into the constitutionally based Transportation Trust Fund (Const. Art. VII, §27). Monies in the fund are used to repay specific debt in existence prior to the creation of the Transportation Trust Fund or to repay debt issued in connection with the Trust Fund. Thereafter, the monies in the Transportation Trust Fund are appropriated exclusively for the construction and maintenance of roads and bridges of the state and federal highway systems, the Statewide Flood Control Program, ports, airports, transit, state police for traffic control purposes, and the Parish Transportation Fund. The monies allocated to ports, airports, flood control, parish transportation, and state highway construction must be appropriated pursuant to the priority programs established by law.

In addition, all monies appropriated to the state by the Federal Highway Administration and the Federal Aviation Administration are deposited in and credited to the trust fund. Funds appropriated to ports, the Statewide Flood Control Program, the Parish Transportation Fund, and state police cannot exceed twenty percent of the total state tax-generated revenues in any one year. The amount appropriated each year to the Parish Transportation Fund cannot be less than the avails of one cent of the tax on gasoline and special fuels.

Transportation Infrastructure Model For Economic Development (TIMED)

The constitutionally mandated Transportation Infrastructure Model For Economic Development (TIMED) provides a listing of transportation infrastructure projects which are funded through the proceeds of the special four-cent per gallon tax on gasoline and special fuels. Proceeds of the tax are deposited in a sub-account in the Transportation Trust Fund.

The tax was originally levied for a period of time not to exceed fifteen years (from January, 1990 to January, 2005) or until all outstanding debt is paid, whichever comes first. But in 1998, the legislature took action to extend the duration of the tax until the TIMED projects are completed and the bonds are paid in full. However, bonds for the TIMED projects may not be issued after December 31, 2012. As a result, approximately one-half cent of the sixteen cents of the state excise tax on gasoline and special fuels goes to retire debt for the TIMED program. This will grow to approximately two cents of the sixteen cents in 2045 when the debt is paid off. From 2000 to 2010 the department sold approximately \$2.85 billion in bonds to accelerate the completion of the nine projects which are currently under construction. The department's goal

is to complete the funded projects by 2014, which is sixteen years earlier than the original completion date of 2030.

As a result of the hurricanes of 2005 and world market conditions at the time, construction costs escalated greatly causing the department to revise the estimated costs of completing the projects to be approximately \$5.24 billion. The bonding program will only support a program cost of approximately \$4.65 billion. The result is that the Florida Avenue Bridge over the Industrial Canal project in New Orleans and the I-12 to Bush (Previously referred to as La. 3241) project in St. Tammany Parish will not be done using TIMED funds. The two projects were delayed due to environmental and legal issues. These two projects will be funded with state bonds or will be incorporated into the state's highway priority program.

The chart below shows the status of each of the 16 TIMED transportation projects including the length of miles, total cost of the project, percentage of completion and estimated date of completion of each project on the list of projects.

Status of the TIMED Program PROJECT LIST July 2011				
Project	Length (miles)	Total Cost	% Complete	Est. Date of Completion
Tchoupitoulas	4.00	\$52 M	100%	--
Westbank Expressway	1.00	\$33 M	100%	--
Port of New Orleans		\$100 M	100%	--
New Orleans Airport		\$75 M	100%	--
US 90	24.90	\$256 M	100%	--
West Napoleon	5.00	\$69 M	100%	--
US 171	121.30	\$620 M	100%	--
US 61	19.60	\$98 M	100%	--
LA 15	28.40	\$89 M	100%	--
Audubon Bridge	14.60	\$410 M	100%	--
Earhart Boulevard	2.80	\$20 M	97%	2011
Huey P. Long Bridge	3.20	\$1,165 M	88%	2013
US 165	172.90	\$936 M	97%	2014
US 167	112.20	\$699 M	98%	2014
LA 3241	20.70	\$149 M	6%	***
Florida Avenue Bridge	5.00	\$464 M	4%	***
*** Projects currently being re-scoped based on environmental study and other impacts.				
Source: Louisiana Department of Transportation and Development				

Parish Roads

Parish roads are under the jurisdiction of parish governing authorities and are not constructed or maintained by the state. The state may take a parish road or municipal street into the state system if it is necessary to complete a segment of state highway. Occasionally a parish road is taken into the state system and a state highway is “traded” out.

As a general rule, the department is prohibited from performing any work, either construction or maintenance, on the parish road system or any other roads or streets not in the state highway system. However, the legislature did provide for the creation of the Parish Transportation Fund to financially assist the parishes with the construction and maintenance of roads.

Revised Statute 48:753 provides for the uses of the monies in the Parish Transportation Fund. For example, the monies are to be used for the construction and repairing of roads, bridges, dykes, dams, and levees when the work will further the best interest of the parish. The monies may also be used to purchase equipment for road work and to assist in providing public transit. In return, all parishes are required to adopt a system of road administration which requires the approval of the parish governing body for any expenditure made out of this fund. This system must include a capital improvement program on a selective basis, centralized purchasing of equipment and supplies, centralized accounting, and selective maintenance and construction based upon engineering plans and inspection.

Monies in the Parish Transportation Fund are distributed to the governing authority of each parish on a per capita basis in population categories. For example, parishes with a population up to 16,000 would get \$13.32 per capita and parishes with a population between 16,001 and 45,000 would get \$10.82 per capita.

Future Funding Outlook of the Louisiana Department of Transportation and Development

The department has made progress in reducing unmet construction needs due in large part to three state surpluses and federal stimulus dollars. However, costs of constructing and maintaining transportation facilities continue to exceed available funds.

House Concurrent Resolution No. 153 of the 2009 Regular Session requested the House Committee on Transportation, Highways and Public Works, Senate Committee on Transportation, Highways and Public Works, House Committee on Ways and Means, and Senate Committee on Revenue and Fiscal Affairs to function as a joint committee to study and make recommendations on alternative funding sources for transportation construction projects within the state of Louisiana.

In an effort to further delve into the funding issues facing our transportation system, the following subcommittees were formed: Transportation Funding, Non-Federal Matching, Ports, Airports and Freight, Current Gas Tax and Public Transit and Local Government. Each subcommittee was charged with thoroughly studying and making suggestions on alternative funding sources as it relates to the different facets of the transportation system by receiving input from state departments and entities, stakeholders, and the general public.

The joint committee on Transportation, Highways and Public Works, Senate Committee on Transportation, Highways and Public Works, House Committee on Ways and Means, and

Senate Committee on Revenue and Fiscal Affairs, put forth a myriad of possible actions to consider in addressing transportation funding issues. The findings of these committees were put forth in House Concurrent Resolution 115 of the 2010 Regular Session.

Expropriation

See page 3A-9 for a discussion on expropriation.

Chapter 2 – State Government Functions

Part F. Natural Resources and the Environment	2F-1
Department of Natural Resources	2F-1
Office of the Secretary	2F-1
Office of Conservation/Commissioner of Conservation	2F-2
Office of Mineral Resources/State Mineral and Energy Board	2F-2
Office of Coastal Management	2F-2
Coastal Protection and Restoration Authority; Office	2F-3
Coastal Protection and Restoration Authority	2F-3
Office of Coastal Protection and Restoration	2F-3
Wildlife and Fisheries	2F-3
Louisiana Wildlife and Fisheries Commission	2F-3
Department of Wildlife and Fisheries	2F-4
State Land Office	2F-6
Records Section	2F-6
Titles and Survey Section	2F-6
Land and Waterbottom Management Section	2F-6
Department of Environmental Quality	2F-6
Office of Environmental Services	2F-7
Office of Environmental Compliance	2F-7
Natural Resources Issues Facing the State	2F-8
Hydraulic Fracturing (Fraking)	2F-8
BP Oil Spill	2F-8
Coastal Preservation and Restoration	2F-9
Competition from Imported Foreign Seafood	2F-11
Invasive Species Control and Management	2F-11
Public/Private Access to Water Bodies	2F-12

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part F. Natural Resources and the Environment

The natural resources of Louisiana include land, minerals, water, fish and wildlife, and the environment of the state. The Department of Natural Resources, the Department of Environmental Quality, the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission, the Coastal Protection and Restoration Authority and the Office of Coastal Protection and Restoration, and the Department of Agriculture and Forestry share responsibility for protecting, conserving, and managing these resources.

Department of Natural Resources (<http://dnr.louisiana.gov/>)

The Department of Natural Resources (DNR) is responsible for the conservation, management, and development of water, minerals, and other natural resources of the state. The department is headed by a secretary, appointed by the governor and confirmed by the Senate. The major components of the department are the office of the secretary, the office of management and finance, the office of conservation including the Commissioner of Conservation, the office of mineral resources and the State Mineral and Energy Board, and the office of coastal management.

Office of the Secretary

The secretary is appointed by the governor and is the chief administrative officer of the department. Additionally, the secretary is an ex officio member of the State Mineral and Energy Board.

The office of the secretary of the Department of Natural Resources includes a number of programs and agencies:

- Technology and Energy Research and Development Division

The technology section maintains the Strategic Online Natural Resources Information System (SONRIS) which includes online oil and gas records and coastal documents, maps, and other data accessible via the internet. GIS information for over 200,000 wells located in Louisiana can be found at the SONRIS website, <http://sonris.com/>.

- Legal, Public Information, and Energy Sections

The energy section administers the Home Energy Loan Program and assisted in creating the state's Commercial Building Code. Information about the Home Energy Loan Program and residential, commercial, institutional, and transportation energy savings programs and renewable energy programs can be found in the Energy Section.

(<http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=35&ngid=2>)

Office of Conservation / Commissioner of Conservation

The office of conservation is headed by the commissioner of conservation who is appointed by the governor. The office is responsible for the regulation and conservation of the natural resources of the state not specifically within the jurisdiction of other offices. Its functions include the following:

- Conservation of oil and gas resources of the state.
- Promotion and encouragement of exploration, production, and refining efforts for oil and intrastate gas.
- Regulation of the construction and operation of intrastate pipeline systems, including pipeline safety.
- Implementation of emergency gas shortage allocation plans.
- Regulation of the minimum sales price of intrastate natural gas.
- Regulation of underground injection wells for hazardous and nonhazardous waste.
- Clean up of abandoned oil field waste sites. Over 200 orphaned oil field sites in the state are cleaned up each year under the Oil Field Site Restoration Program.
- Management of ground water resources.
- Removal of underwater structures.

Office of Mineral Resources / State Mineral and Energy Board

The State Mineral and Energy Board is an independent agency within the office. It has the responsibility to lease state land for the development and production of minerals, oil, and gas. The eleven-member board is composed of the governor, the secretary of the Department of Natural Resources, and nine members appointed by the governor for six-year terms.

The office of mineral resources functions as the staff for the State Mineral and Energy Board and is responsible for leasing state lands and water bottoms for the development and production of minerals, oil, and gas. The office exercises the option of the state to receive in kind the portion due to the state as mineral royalties produced from leased premises, and receives, administers, and controls royalties due in kind to the state

Office of Coastal Management

- Coastal Zone Management Program

The office of coastal management regulates activities in the coastal zone through issuing coastal use permits, conducting coastal management research, monitoring uses of the coastal areas, and administering the Coastal Zone Management Program. The office may issue a programmatic general permit (PGP) which consolidates the permitting processes of federal and state agencies.

- Atchafalaya Basin Program

The Atchafalaya Basin Program is also housed in the Office of Coastal Management. This program is responsible for the management and development of the Basin as a major natural resource of the state. The efforts of the program are directed through a Basin Master Plan that was developed through meetings of many stakeholders groups and public hearings and adopted by the Legislature. In addition, the legislature is presented each year with an annual plan for the Basin which indicates the intentions for that fiscal year. The master plan and the annual plans include water management projects and projects to increase accessibility to the Basin by a variety of user groups.

Coastal Protection and Restoration Authority / Office of Coastal Protection and Restoration (<http://coastal.louisiana.gov/>)

Coastal Protection and Restoration Authority

The Coastal Protection and Restoration Authority (CPRA) is a 19-member policy-making board which oversees the state's coastal protection and restoration efforts. Ten members of the authority represent state agencies; two members represent the Legislature; and the governor appoints the remaining seven members.

The CPRA establishes coastal protection and restoration priorities; allocates coastal protection and restoration funds; adopts policies for activities to preserve, restore, and protect the state's coastal areas; and reviews and approves activities conducted in the coastal areas by other state agencies.

Office of Coastal Protection and Restoration

The office of coastal protection and restoration (OCPR), administratively located within the Office of the Governor, serves as the lead state agency for administration and implementation of coastal matters. Functioning as staff for the Coastal Protection and Restoration Authority, the OCPR develops and implements the state's Coastal Protection and Restoration Master Plan and the annual plan for implementation of the master plan. In addition, the OCPR works with the local levee districts and local governing authorities to ensure a consolidated and coordinated program for coastal protection and restoration. The OCPR also works with federal agencies, other state agencies, and non-governmental stakeholders in ensuring a coordinated program for preservation and protection of the state's coastal area.

Wildlife and Fisheries (<http://www.wlf.louisiana.gov/>)

The authority over wildlife and aquatic life in the state is shared by the Louisiana Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries.

Louisiana Wildlife and Fisheries Commission

Constitutional Article XI, Section 7 vests "... control and supervision of wildlife of the state, including all aquatic life..." with the Wildlife and Fisheries Commission. The commission is composed of seven members appointed by the governor. Six members serve overlapping six-year terms and one member serves a term concurrent with the governor. No person may serve longer than six years. Three members are required to be electors in the coastal parishes and representatives of commercial fishing and fur industries. The remaining four members are

required to be electors from the state at large and representative other than commercial fishing and fur industries.

The commission meets on the first Thursday of each month. Hunting and fishing seasons, times, places, size limits, creel limits, and quotas are generally set by the commission.

Department of Wildlife and Fisheries

The Department of Wildlife and Fisheries (WLF) functions as staff for the Wildlife and Fisheries Commission. However, the department also has functions and responsibilities separate and apart from its role as staff for the commission. The department is statutorily vested with control and supervision over all the wildlife of the state, including fish and other aquatic life, and is given the authority to administer and enforce laws relating to the management, protection, conservation, and replenishment of wildlife, fish, and aquatic life. In addition, the department is responsible for the conservation and management of all renewable resources on properties owned and managed by the department. The department is divided into four separate offices: the executive office, the office of management and finance, the office of fisheries, and the office of wildlife.

- Executive Office

The secretary serves as the chief administrative officer of the department. Included in the executive office are the legal staff, a planning staff, the education and information division, and the enforcement division. The Litter and Environmental Education program is also housed in the Secretary's office.

- Office of Management and Finance

The office of management and finance provides the accounting, budgeting, procurement, personnel management, data processing, and general administrative services for the Department of Wildlife and Fisheries. In addition, the office of management and finance contains the licensing section of the department.

- Office of Fisheries

The office of fisheries is responsible for the administration and operation of programs relating to state water bottoms and saltwater and freshwater fisheries, including the regulation of sport and commercial fishing, the oyster, shrimp, and marine fishing industries, the licensing of vessels engaged in the industry, and the collection of the severance tax on shrimp, oysters, sand, gravel, and fill materials severed from state water bottoms. The office fulfills its responsibilities through the marine fisheries division and the inland fisheries division.

Marine Fisheries Division

The management of the state's marine fisheries throughout coastal Louisiana is the marine fisheries division's primary responsibility. This is accomplished through multiple fisheries management program including programs for management of shrimp, crabs, finfish, and oysters, and also includes the Artificial Reef Program. The Marine Fisheries Divisions is also responsible for the oyster leasing program.

Inland Fisheries Division

The Inland Fisheries Division is responsible for freshwater fish management and research including management of public water bodies, fish stocking, and control of invasive aquatic species.

Seafood Promotion and Marketing Board

The Seafood Promotion and Marketing Board is also housed in the Office of Fisheries. The board is tasked with issues related to competition from imported seafood and other seafood sales and marketing issues. They are actively working to defend the reputation of Louisiana seafood in the aftermath of the BP oil spill and to mitigate the fear of tainted seafood from the Gulf of Mexico.

- Office of Wildlife

The office of wildlife is responsible for management of the animal populations of the state and their habitat. The office includes programs such as the deer management program, the waterfowl management program, the wild turkey program, the alligator management program, the reptile and amphibian program, the furbearer management program, including the Coastwide Nutria Control Program. The office also oversees mineral activity and coastal use permits on its properties.

The office of wildlife is responsible for the natural heritage program and the Louisiana Natural and Scenic Rivers System. Both of these programs are focused on retaining and preserving the unique natural areas of the state in an effort to preserve our history and culture.

- Department-Managed Lands

The office of wildlife manages over 1.4 million acres of land for wildlife and compatible public uses. These lands encompass most habitat types found in Louisiana. The vast majority of the lands managed by the department are open to public hunting as well as various forms of fishing, birdwatching, and nature study. Deeds of donation prohibit hunting on the wildlife refuges. The absence of hunting is the major distinction between management areas and refuges.

Wildlife Management Areas

Hunting regulations for wildlife management areas are generally more restrictive than the statewide regulations because of the intensity of use and the desire by the department to attempt to serve many different user groups in the state. However, as a rule, resident small game and migratory birds have season length and bag limits the same as outside. Differences are largely limited to shooting hours and the period of time allowed for hunting squirrels and rabbits with beagles. Deer seasons are considerably shorter inside the wildlife management areas than seasons outside the areas.

State Land Office (<http://www.doa.louisiana.gov/slo/default.htm>)

The State Land Office (SLO) in the division of administration is responsible for the identification, administration, and management of state public lands and water bottoms. It works with a broad range of clientele having varying degrees of interest in public lands, navigable water bottoms, and minerals. The primary goal of the office is to ensure the highest economic return and the maximum public utilization of our state public lands and water bottoms.

Emphasis is placed by the office on increasing revenue production through multiple utilization while ensuring continued public utilization of state public lands and water bottoms. Multiple utilization includes land and timber sales; surface and sub-surface leasing; the issuance of rights-of-way and surface and subsurface agreements; and water bottoms permitting.

The State Land Office is instrumental in the possible resolution of land and water access, i.e., whether or not such land or water is public or private. The State Land Office attempts to identify all lands which are considered to be state lands (and therefore, accessible to the public). Information about which lands and water bottoms are public can be seen at their website: <http://www.doa.louisiana.gov/SLO/Database.htm>.

Records Section

This section of the office can trace its history to the original creation of the State Land Office in 1844, whose function was to sell state-owned lands and maintain the records, documents, and plats of said sales. The records and maps kept by the section provide the evidence of state ownership which is used to develop revenues from surface leasing and permitting for the State Land Office, and mineral leasing for the Department of Natural Resources.

Titles and Survey Section

Pursuant to the statutory responsibility of the commissioner of administration to make title determinations and boundary settlements, this section serves as technical consultant to do all necessary surveying and title work. This technical assistance is important in the evaluation of the state's title during the review of state mineral lease applications on behalf of the Department of Natural Resources, office of mineral resources. The evaluation not only assists the Department of Natural Resources in the preparation of the proper title description to be used in the lease contract, but also ensures the correctness of the description submitted in its bidding process. The section also acts as title consultant to the Office of the Attorney General, the State Mineral Board, the Department of Wildlife and Fisheries, and other agencies directly or indirectly involved with state public lands.

Land and Waterbottom Management Section

This section is responsible for the proprietary aspects of land management, excluding minerals. Its programs include land sales, right-of-way and surface leases, water bottom permits and leases, and timber management.

Department of Environmental Quality <http://www.deq.louisiana.gov>

The Department of Environmental Quality (DEQ) is the primary state agency responsible for regulating those activities of man which may adversely impact our environment. The authority

of the department derives from the power of the state to protect the health and welfare of her citizens. The constitutional public trust doctrine provides that "the natural resources of the state, including air and water, and the healthful, scenic, historic, and aesthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people; and that the legislature shall enact laws to implement this policy." (Const. Art. IX, §1) This policy "does not establish environmental protection as an exclusive goal, but requires a balancing process in which environmental costs and benefits must be given full and careful consideration along with economic, social, and other factors." (*Save Ourselves v. La. Environ. Cont. Com'n*, 452 So.2d 1152 (La. 1984)).

DEQ exercises this authority through evaluation, constraint, and mitigation of environmental pollutants, and its operations include licensing, investigation and penalty, and clean-up activities. When violations of environmental laws and regulations are discovered, the department may: suspend or revoke permits, issue compliance and cease and desist orders, and impose substantial civil sanctions. Additionally, the courts may impose significant criminal penalties in many cases.

The Department of Environmental Quality oversees many environmental concerns including industrial pollution, hazardous wastes, radiation, solid wastes, landfills, and recycling. It shares administration of sewerage and medical waste issues with the Department of Health and Hospitals. In addition, it works with the Department of Public Safety and Corrections to ensure safety in the transportation of hazardous chemicals on highways and in the development and implementation of chemical accident action plans.

The sphere of environmental protection is dominated by federal law including The Clean Air Act, The Clean Water Act, and other major pieces of legislation that have been passed by Congress over the past 40 years or so. In most instances, federal law is administered by state agencies. In Louisiana, this means that the Department of Environmental Quality functions as kind of a branch office of the Environmental Protection Agency (EPA) issuing licenses, performing inspections, and citing violators all in the enforcement of federal law. One consequence of this is that the Legislature's authority over the activities of the department is often more limited than its authority over other state agencies.

Structurally, the department consists of the office of the secretary, responsible for legal services, criminal investigations, technical expertise, audits, communication and media relations, and special projects; an office of management and finance as is typical of Louisiana's executive branch departments; and two programmatic offices.

Office of Environmental Services

The office of environmental services contains two divisions, the permit division and the environmental assistance division. These divisions are responsible for all permits, licenses, and certifications; small business and customer assistance; outreach; a complaints hotline, and community and industry relations.

Office of Environmental Compliance

The surveillance division and the enforcement division are located in the office of environmental compliance. The duties of this office include ensuring compliance with the environmental laws and regulations of Louisiana by surveillance, inspection, responding to emergency situations, and resolving complaints. It is also responsible for taking action to ensure compliance.

Additionally, the secretary also delegates to the other offices the develop and implementation of environmental regulations, construct strategic plans, inventory and monitor emissions, and oversee the remediation of contamination.

Natural Resources Issues Facing the State

Hydraulic Fracturing (Fraking)

Fraking is a method of drilling for minerals, usually natural gas, by means of pumping under high pressure fluids, consisting mainly of water, deep into rock formations that break up the rock and release the desired minerals. The Haynesville shale is a major natural gas find in northwest Louisiana where hydraulic fracturing has been used extensively. Several issues surround the Haynesville shale find and any future such find. Mineral rights issues, including ownership of mineral rights, unitization, and the financing of unit wells, as well as safety and environmental concerns of the process have been direct issues spawned from fraking. Along with the economic benefit to an area, there are too concerns of drinking water contamination and disposal of the hydraulic waste. An indirect issue raised has been the state's ownership of surface water that is used in the process.

BP Oil Spill

On April 20, 2010, the Deepwater Horizon drilling platform in the Gulf of Mexico exploded, killing eleven workers and releasing crude oil and gas into the Gulf of Mexico waters. For nearly five months, BP tried many different techniques to stop the flow, nearly all of them unsuccessful until the well was finally capped and a relief well permanently "killed" the well. By then, an estimated 4.9 billion barrels of crude had been released into the gulf.

A plethora of issues stem from the disaster and the response to the disaster. Affecting the state's economy, the federal government's moratorium on deep water drilling permits in the gulf put thousands of direct and indirect jobs in jeopardy as drilling companies sought jobs in foreign waters. The seafood industry was hit on several fronts starting with a perceived taint in the world market of gulf seafood. Oyster beds suffered additional injury from reduced salinity levels by the opening of freshwater diversions on the Mississippi River in an attempt to keep the oncoming oil spill off shore. Finally, it is uncertain the long term effects of the disaster on species needed to maintain a viable fishery. Along with the taint on the seafood, Louisiana's tourism also suffered from the stigma of being coated with oil.

BP has made an \$18 million commitment to fund safety sampling of water, soils, and animals in an effort to help re-establish seafood markets and to re-establish Louisiana seafood as a preferred brand. Little of that money has actually been transferred to the Louisiana Seafood Promotion and Marketing Board so those efforts are slow to begin. However, in October 2011, the departments of Wildlife and Fisheries, Agriculture and Forestry, Health and Hospitals, and Environmental Quality launched a website funded from those monies that will make public all of the seafood, water, and sediment safety testing information conducted since the 2010 BP Oil Spill under the Louisiana Seafood Safety Plan. The site, which allows users to scroll through all available samples or conduct specific searches by area, date or sample type, utilizes information from the four state departments listed above. The site is located at www.GulfSource.org.

In addition to the animals killed by direct contact with oil, the environmental impacts of the oil spill and the dispersant used in response on the gulf's ecology continue to be assessed. The

federal government is conducting the Natural Resource Damage Assessment (NRDA) to identify the extent of resource injuries, the best methods for restoring those resources, and the type and amount of restoration required. Complete information on the true impacts of the BP oil disaster will likely be many years in the making.

After a short time period of handling private claims directly, BP in an agreement with the White House set up a \$20 billion fund to pay such claims and contracted with the Gulf Coast Claims Facility (GCCF) to evaluate and pay private claims. Many constituent issues arise concerning the efficiency and fairness of GCCF's claims process.

Coastal Preservation and Restoration

The state of Louisiana loses approximately twenty-five square miles of land each year in its coastal region. This loss of land is attributable to many different factors, such as erosion; canal, channel, and levee construction; subsidence; hurricanes; and development. Recent natural disasters such as Hurricanes Katrina and Rita and Gustav and Ivan in combination with man-made disasters such as the BP oil disaster have demonstrated just how important coastal preservation and restoration is for our state.

- Impact of Coastal Erosion

The impact of this loss of land in Louisiana is broad-based and enormous. Loss of land will be felt by coastal communities not only because yards, roads, and fields will be disappearing, but also because the land and marsh offer storm protection and provide fish and wildlife habitat for the hunters and fishers of the state, both commercial and recreational. In addition, individuals and businesses will soon find the purchase of insurance to be nearly impossible. The fisheries industry in Louisiana has a direct value of approximately \$1 billion a year. There is indirect value which can be added to that figure. Fish are obviously impacted by land and marsh loss. Wildlife also is dependent on the marshes and coastal areas of Louisiana for food and habitat. The coast provides wintering grounds for hundreds of thousands of waterfowl and is the location of the hunting that accompanies the presence of those waterfowl. In addition, Louisiana has a fairly large alligator industry which is dependent on the coastal marshes.

- Impact on Oil and Gas Industry

The loss of land along our coast also has a tremendous impact on the oil and gas industry which is so important to our state. Since the industry developed at a time when there was much more land along our coastal regions than there is now, the oil and gas industry infrastructure was built to exist on land with no anticipation that the infrastructure would one day be floating on water. The loss of land exposes pipelines and platforms to wave action, to storm surge, and even to the possibility of being hit by marine traffic. And, the ports which service the oil and gas industry and the roads necessary to reach those ports are obviously at risk due to land loss. It will be difficult to continue to service the Gulf of Mexico oil and gas industry when there is no land on which to maintain port facilities and roads.

When the hurricanes hit in 2005, the oil and gas industry in the Gulf of Mexico was shut in (not producing) for several months. The impact was felt nationwide.

Another industry which will feel the impact of coastal loss in Louisiana is the shipping

industry. More than 400 million tons of commerce move through Louisiana waters each year. Barge traffic which traverses canals throughout the coast will definitely feel the impact of land loss. The oil and gas industry also uses those same canals to service its facilities and move its products. Two other areas where the loss will be felt are infrastructure (roads and highways) and recreation. The coastal region of Louisiana is of enormous importance to the state and to the industries which provide the state with its economic backbone.

- Agencies Working Together

There are many different agencies, both state and federal, working together to develop and implement a coordinated plan to preserve and restore as much of our state's coastline as possible. The Office of Coastal Protection and Restoration was created to coordinate coastal activities among the various federal, state, and local agencies. The state Department of Wildlife and Fisheries, local levee districts in the coastal area, many researchers at LSU, UNO, ULL, Tulane, and Nicholls, the Department of Transportation and Development, the Department of Environmental Quality, and the Department of Agriculture and Forestry all play a role in coastal protection and restoration activities. In addition to the state agencies, several federal agencies are involved, including the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the U.S. Geological Survey and its Wetlands Research Center in Lafayette, the National Oceanographic and Atmospheric Administration, the U.S. Department of Agriculture, and the U.S. Environmental Protection Agency.

- Coastal Wetlands Planning, Protection and Restoration Act

In 1989, the U.S. Congress enacted the Coastal Wetlands Planning, Protection and Restoration Act which included funding for a ten-year period of time. The act is commonly called either CWPPRA or the "Breaux Act." The funds are derived from a user fee on certain recreational outdoor equipment, and on small engines and fuel used in those small engines. There are two task forces which review and approve plans for expenditure of the funds. One is a state/federal task force and one is a task force composed entirely of state agency representatives. The state task force was originally called the Coastal Wetlands Planning and Restoration Authority (*R.S. 49:213.1 et seq.*). After the hurricanes, the responsibility of the authority was broadened to include coastal protection (such as, levees and broad-based regional flood control projects) and the name was changed to the Coastal Protection and Restoration Authority (CPRA). In 2008, programs from the Department of Natural Resources and the Department of Transportation and Development were combined into the staff for the CPRA in the Office of Coastal Protection and Restoration (OCPR).

- Future Efforts

Prior to 2005, the state's coastal efforts were largely a series of small, individual projects located along the coast. Current and future efforts were beginning to be more along the lines of a coordinated effort to enter into complex projects with many different phases which have greater impact over a larger area of the coast. The impact of Hurricanes Katrina and Rita made it obvious to all involved how important coordination was and how essential it would be for us to look in a much broader manner.

The Department of Natural Resources spent several years in the development of a coordinated plan for the coastal areas of the state. State, federal, and local public agencies and many private organizations and individuals were involved in the process of

development for this plan. It is called "Coast 2050: Toward a Sustainable Coastal Louisiana." This plan became the foundation for the development of the coordinated plans for coastal protection and restoration that are currently being pursued.

Objectives in the Coast 2050 Plan include:

- Barrier Island/shoreline protection.
- River diversions.
- Sediment introduction.
- Chenier plain restoration.
- Land bridge maintenance.
- Atchafalaya flow optimization.
- Hydrology and drainage improvements.

In addition to Coast 2050, using the talents and knowledge of the federal and state agencies and universities an effort was made prior to the 2005 to develop the Louisiana Coastwide Assessment which was presented to Congress in 2004. The LCA is a plan for conservation and restoration of Louisiana's coastal wetlands. The objectives outlined in the Coast 2050 plan are a major component of the blueprint for coastal stabilization and restoration in the next century. Funding for the LCA was included in the Water Resources Development Act (WRDA) which was recently passed by congress.

Also provided in that WRDA bill (the first passed by congress in nearly six years) is funding for a coordinated and comprehensive plan for coastal protection and restoration. The Coastal Protection and Restoration Authority developed the Comprehensive Master Plan for Coastal Protection and Restoration which was adopted by the Legislature during the 2007 Regular Session. In addition to the plans offered by the state, the U.S. Army Corps of Engineers is under instructions from congress to present their comprehensive and coordinated plan to prevent recurrences of the disasters that hit south Louisiana during hurricane season 2005. The state's coastal protection and restoration efforts have been focused each year by the Annual Plan presented to the legislature for their approval. In addition, the OCPR is currently revising the Master Plan which should be completed in the Spring of 2012 for presentation to the legislature.

Competition from Imported Foreign Seafood

Increasingly, seafood bought and sold in this country is imported from foreign countries where the food is aquaculturally raised rather than caught in the wild. The cost of the seafood is significantly lower than seafood caught and processed in Louisiana. The potential damage to our seafood industry is obvious. Although import tariffs which could control some of the importation are federal issues, this issue bears continued watching by the legislature.

Invasive Species Control and Management

An issue that is becoming of greater concern to the state of Louisiana is control of non-native invasive species. And, it is an issue that is also related to coastal restoration because it is an issue that must be recognized and incorporated into the planning for restoration efforts. The non-indigenous invasive species are so numerous that the country's and the state's eco-systems are being completely altered by the presence of the alien species. The battle with these species is estimated to cost the nation more than \$137 billion each year to fund programs to control the spread of the nonnative species, to repair damage to our natural resources and to mitigate the impact on the nation's economy.

- Invasive Species in Louisiana

Some of the invasive species that have found their way to Louisiana include the kudzu, water hyacinth, and salvinia. Many of the inland waterways are completely clogged with salvinia. Louisiana is also confronted with many other invasive species such as nutria, tallow trees, fire ants, Formosan termites, and zebra mussel.

Public / Private Access to Water Bodies

Access to water bodies is a long-term simmering issue. Louisiana Civil Code Article 450 states that ". . . Public things are owned by the state or its political subdivisions in their capacity as public persons" and "Public things that belong to the state are such as running waters, the waters and bottoms of natural navigable water bodies, the territorial sea, and the seashore." However, many canals have been dug along the coast for oil and gas purposes, and many of those canals have been dug through private property. The questions that arise from this situation are whether or not those are navigable waterbodies; whether the fish and wildlife found in those canals are covered by the constitutional provisions which give ". . . control and supervision of the wildlife of the state, including all aquatic life, . . ." to the Wildlife and Fisheries Commission (Constitution Art. IX, §7); and can public access to those canals be restricted? The State Land Office is attempting to identify all lands which are considered to be state lands (and therefore, accessible to the public). Their progress can be seen at the website: <http://www.doa.louisiana.gov/SLO/Database.htm>.

Chapter 2 – State Government Functions

Part G. Business and Labor	2G-1
Economic Development	2G-1
Administration	2G-1
Programs	2G-1
Commerce	2G-4
Consumer Protection	2G-4
Contractors	2G-6
Life Safety and Property Protection	2G-8
State Uniform Construction Code	2G-11
Public Utilities	2G-13
Labor and Industrial Relations	2G-15
Louisiana Workforce Commission	2G-15
Other Louisiana Labor Laws	2G-20

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part G. Business and Labor Economic Development

Administration

Louisiana Department of Economic Development

The Department of Economic Development, the state's chief economic development agency, is specifically charged with the responsibility of fostering the growth of industry and other commercial enterprises in Louisiana that will contribute to the overall improvement of the economy of the state. The department also is required to promote the advantages of Louisiana to out-of-state business and industry, facilitate the expansion of existing enterprises, and coordinate with other state agencies and units of local government plans and programs aimed at developing optimum conditions for new and expanding industrial and commercial enterprises in Louisiana. (R.S. 36:101(B)) The department is advised by a board known as the State Board of Commerce and Industry which shall exercise the powers delegated to it by Article VII, Section 21(F), of the Constitution of Louisiana. (R.S. 51:923)

Louisiana Economic Development Corporation (LEDC)

The Louisiana Economic Development Corporation serves as the single review board for all financial assistance, grants, and investment programs administered by the department, excluding those financial incentive programs administered by the State Board of Commerce and Industry. The corporation also has the power, authority, and duty to examine the impediments to the success of Louisiana small businesses from time to time and to adjust existing programs and develop financial programs that will alleviate such impediments. All programs of the corporation are to be administered pursuant to rules promulgated and adopted in accordance with the Administrative Procedure Act. (R.S. 51:2311 et seq.)

Programs

Small Business Assistance

R.S. 51:941 et seq. establishes the small and emerging business development program within the Louisiana Department of Economic Development. The goal of the program is to "provide for the increased opportunity for small and emerging businesses to become competitive in a modern economy without regard to race or gender." The following is a list of assistance available to small businesses in Louisiana through the Louisiana Department of Economic Development:

- Bonding Assistance Program

The Bonding Assistance Program provides assistance with new bond guarantees to small businesses in Louisiana. The program is available for qualified companies who have never been bonded, and for companies that have been bonded but are increasing bonding capacity. Bond underwriting is accomplished by the surety company, and the surety company has final bonding approval authority. Once the surety has given final bonding approval, the Bonding Assistance Program provides collateral in the form of an irrevocable letter of credit to the surety company of up to twenty-five percent of the base contract amount, or two hundred thousand dollars, whichever is less, on a project-specific basis. The applicant must be a certified small and emerging business development client.

- Contract Loan Program

The Contract Loan Program provides loan participations and guarantees to banks for government contract loans to help businesses finance working capital for contracts with local, state, or federal government agencies. This program is administered by the Louisiana Economic Development through Louisiana Economic Development Corporation.

- Hudson Initiative

The Hudson Initiative is a race- and gender-neutral program that encourages state agencies and contractors who receive state contracts to work with certified small entrepreneurship to provide small businesses with greater access to state procurement and public contract opportunities.

- Micro Loan Program

The Micro Loan program provides loan guarantees and participations to banks for micro business loans with the goal of stimulating the flow of private capital, long-term loans, and other financial assistance for financing which are necessary for the development of small business concerns in Louisiana. The program provides up to eighty percent guarantees and state participations up to fifty percent for banks that fund loans from five thousand to fifty thousand dollars. This program is administered by Louisiana Economic Development through Louisiana Economic Development Corporation.

- Microenterprise Development Program

The Louisiana Department of Economic Development and the Louisiana Department of Social Services created the Microenterprise Development Program to provide self-employment training which will give entrepreneurs the competitive advantage they need to succeed. The first step of the program is a comprehensive assessment. Once the assessment is complete, participants begin a two- to three-month business development course that includes entrepreneurship training, personal effectiveness, financial literacy, and technical assistance. The course also includes the writing of a business plan. Successful completion of the program and application process gives participants the eligibility to apply for seed funding to assist in supplementing business startup costs.

- **Small and Emerging Business Development Program**

This program allows small businesses to help themselves by assisting with entrepreneurial training, legal needs, marketing, computer skills, and accounting. A business must be certified through the small and emerging business development program to obtain these services which are offered by small business development centers, universities, and consultants in Louisiana's rural and urban areas.

- **Small Business Loan Program**

The Small Business Loan Program provides loan guarantees and participations to banks in order to facilitate capital accessibility for businesses and to provide financial assistance, which will help with the development, expansion, and retention of Louisiana's small businesses. The program provides guarantees up to seventy-five percent of the loan amount, not to exceed a maximum of one and a half million dollars, and loan participations of up to forty percent. This program is administered by Louisiana Economic Development through Louisiana Economic Development Corporation.

Veteran-Owned Small Business Assistance Programs

The Louisiana Department of Economic Development administers a veteran initiative program to encourage state agencies and contractors who receive state contracts to work with certified veteran-owned and service-connected, disabled veteran-owned small businesses in order to provide these small businesses with greater access to state procurement and public contract opportunities.

Tax Credit, Rebate, and Exemption Programs

The Louisiana Department of Economic Development also administers and oversees a range of tax exemption and tax credit and rebate programs including but not limited to the Angel Investor Tax Credit, the Enterprise Zone, Gulf Opportunity Zone, Quality Jobs, Industrial Tax Exemption, and the Motion Picture Industry Development Tax Credit.

Part G. Business and Labor Commerce

Consumer Protection

Louisiana Attorney General's Office, Public Protection Division, Consumer Protection Section

The Louisiana Attorney General's Office, public protection division provides legal services in the areas of consumer protection and environmental law, insurance receivership and fair housing. The consumer protection section has the responsibility of enforcing the consumer protection laws of Louisiana.

In the "Unfair Trade Practices and Consumer Protection Law", the consumer protection section was granted authority to conduct investigations as necessary when the attorney general has reason to believe an unfair or deceptive trade practice has taken place, is taking place or is about to take place. The section also conducts consumer awareness seminars throughout Louisiana on such topics as shoplifting, fraud, theft, and other deceptive trade practices. The consumer protection section is also charged with the duty of enforcing the antitrust and related laws relative to the regulation of trade and commerce, including but not limited to, the protection of the welfare of small business interests and the interests of any persons injured by antitrust violations and conspiracies in restraint of trade and other patterns of organized business extortion and theft.

One major focus of the consumer protection section is the mediation and investigation of consumer complaints and inquiries. The consumer protection section acts on behalf of Louisiana consumers at large when a business is operating unfairly or deceptively. However, when individual disputes arise in business transactions, the consumer protection section mediators will try to resolve complaints between an individual consumer and a business.

The consumer protection section handles complaints regarding the following issues: automobiles, telemarketing, landlord and tenant, credit, collection agencies, home improvement and construction, home appliances and furnishings, health clubs, travel, charitable solicitations, sweepstakes, work-at-home programs, and multilevel marketing/business opportunities.

The consumer protection section does not handle complaints regarding: utility companies, cable companies, cellular telephones, insurance claims, elected or public officials, state or municipal agencies, child support claims, employee and employer disputes, or licensed professionals. If the consumer protection section receives a complaint that it does not handle, the section will refer it to the proper agency.

Unfair Trade Practices

The "Unfair Trade Practices and Consumer Protection Law", located at R.S. 51:1501 et seq., provides that "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful." R.S. 51:1404 authorizes the Louisiana Attorney General's Office, public protection division, consumer protection section

to investigate, conduct studies and research, and to conduct public or private hearings into commercial and trade practices in the distribution, financing, and furnishing of goods and services to or for the use of consumers. Under R.S. 51:1407, whenever the attorney general has reason to believe that any person is using, has used, or is about to use any method, act, or practice declared by R.S. 51:1405 to be unlawful, he may bring an action for injunctive relief in the name of the state against such person to restrain and enjoin the use of such method, act, or practice.

Deferred Presentments and Small Loans ("Payday loans")

The "Louisiana Deferred Presentment and Small Loan Act" is located at R.S. 9:3578.1 et seq. The act covers loans of three hundred and fifty dollars or less. R.S. 9:3578.4 regulates the fees that a lender may charge including the maximum interest rate allowed under law. R.S. 9:3578.4 also authorizes the lender to charge a fee not to exceed sixteen and seventy-five one hundredths percent of the face amount of the check issued or in the case of a small loan, the equivalent rate of interest, provided however that such fee or interest does not exceed forty-five dollars, regardless of the name or type of charge. However, if the loan remains unpaid at contractual maturity, the lender may charge an amount equal to the rate of thirty-six percent per annum for a period not to exceed one year. Beginning one year after contractual maturity, the rate shall not exceed eighteen percent per annum.

Deferred presentments and small loans lenders are licensed and regulated by the office of financial institutions, non-depository division. Other programs licensed and regulated by the office of financial institutions, non-depository division, are bond for deed escrow agencies, check cashers, non-real estate consumer loan brokers, licensed lenders for non-real estate loans, notification filers for consumer credit sales and out-of-state consumer loan assignees, pawnbrokers, repossession agents, and residential mortgage lending.

Gift Certificates and Gift Cards

The Federal Reserve recently promulgated rules to provide important protections for certain gift cards sold on or after August 22, 2010. Under the rule change, the money on a gift card shall be good for at least five years from the date the card is purchased. Any money that might be added to the card at a later date shall also be good for at least five years. Also under the rule change, all fees are to be clearly disclosed on the gift card or its packaging. Gift card fees are also limited. Generally, fees can be charged if the card has not been used for at least one year and you are only charged one fee per month. These restrictions apply to fees such as: dormancy or inactivity fees for not using your card, fees for using your card, fees for adding money to your card, and maintenance fees. A consumer may still be charged a fee to purchase the card and certain other fees, such as a fee to replace a lost or stolen card. These rule changes only apply to store gift cards which can be used only at a particular store or group of stores and gift cards with a MasterCard, Visa, American Express, or Discover brand logo which can generally be used wherever the brand is accepted. The new rules do not apply to reloadable prepaid cards that are not intended for gift-giving purposes or cards that are given as a reward or as part of a promotion. Regardless, a consumer must be clearly informed of any expiration dates or fees for these cards.

There are also existing state law regarding gift certificates and gift cards and it is more stringent in some instances, such as a prohibition on fees, than federal law. R.S. 51:1423 prohibits any person or entity from selling a gift certificate or gift card with an expiration date that is less than five years from the date of issuance. The expiration date must be printed in capital letters in at

least ten-point font on the gift certificate or gift card. R.S. 51:1423 also prohibits a gift certificate or gift card from being subject to a service fee, including but not limited to a dormancy fee. The issuer may charge a one-time handling fee, which shall not exceed one dollar per gift certificate or gift card. R.S. 51:1423 does not apply to the following types of gift certificates or gift cards: gift certificates and gift cards that are distributed by the issuer to a consumer pursuant to an awards loyalty or promotional program without any money or other thing of value being given in exchange for the gift certificate by the consumer, gift certificates that are sold below face value or donated to nonprofit and charitable organizations for fundraising purposes, and general use prepaid cards as defined in Title IV of the Credit Card Accountability, Responsibility, and Disclosure Act of 2009, 15 U.S.C. 1693 et seq., which are issued by federally insured depository institutions.

Violations of R.S. 51:1423 are to be considered unfair trade practices. Complaints regarding violations may be made to the Attorney General's Public Protection Division Consumer Protection Section for mediation and assistance.

Contractors

Contractor Licensing Thresholds

Louisiana law requires a contractor to be licensed by the State Licensing Board for Contractors before undertaking a construction project for which the entire cost is fifty thousand dollars or more when the property is to be used for commercial purposes other than a single residential duplex, a single residential triplex, or a single residential fourplex. The licensing threshold for an electrical contractor and a mechanical contractor is ten thousand dollars for any residential, commercial, industrial, or other project.

Under R.S. 37:2167, a residential building contractor is required to hold a residential building contractor license from the board before undertaking a residential project when the cost of the project exceeds seventy-five thousand dollars. R.S. 37:2175.2 requires a contractor performing home improvement contracting to register with the board prior to providing home improvement contracting services in an amount in excess of seventy-five hundred dollars, but not in excess of seventy-five thousand dollars.

A contractor who applies for a state contractor's license to bid and perform plumbing work must also have a valid license from the Louisiana State Plumbing Board. A plumbing contractor who currently holds a state license from the plumbing board shall be exempt from any state contractor licensing requirement for passage of an additional examination in that license classification and may bid and perform plumbing work statewide after making application to the contractors' licensing board for an exemption.

Plumbers

Louisiana law defines a "master plumber" as a person who possesses the necessary qualifications and knowledge to plan and lay out plumbing systems and who supervises journeyman plumbers in the installation, alteration, or repair of plumbing system.

A "journeyman plumber" is defined as a person who possesses the necessary qualifications and knowledge to install, alter, or repair plumbing systems, is supervised by a master plumber, and is in the employ of an employing entity. A journeyman plumber may engage in the art of plumbing only when he is under the supervision of a master plumber licensed by the Louisiana

State Plumbing Board. A journeyman plumber may, however, repair existing plumbing independently and without the supervision of a master plumber.

An "apprentice plumber" is defined as a person engaged in learning the plumbing trade by working under the direct on-the-job supervision of a journeyman plumber and in the employ of an employing entity. Apprentice plumbers are required to be indentured in an apprenticeship program approved by the Louisiana Workforce Commission. Apprentices may engage in the art of plumbing only when they are under the direct constant, on-the-job supervision of a licensed journeyman plumber. Direct, constant on-the-job supervision is defined by the law to mean that a licensed journeyman plumber will supervise apprentices as governed by the Louisiana Workforce Commission. Prior to 2003, the law authorized a licensed journeyman plumber to supervise no more than one apprentice on only one job at a time. The law was changed to the current language in 2003 by Act 815 of the 2003 Regular Session. Current Louisiana Workforce Commission policy is that a journeyman plumber shall supervise no more than one apprentice at a time. The current administrative rules of the plumbing board contain the same ratio.

Complaints and Remedies (New Home Warranty Act)

Complaints regarding contractors should be directed to the compliance division of the Louisiana State Licensing Board for Contractors. Complaints regarding plumbers should be directed to the Louisiana State Plumbing Board. Complaints regarding inspections of homes or businesses for construction code compliance should be directed to the Louisiana State Construction Code Council.

The "New Home Warranty Act" can be found at R.S. 9:3141 et seq. The act establishes mandatory warranties for the purchasers and occupants of new homes in Louisiana and provides for the use of homeowners' insurance as additional protection for the public against defects in the construction of new homes. Under the act, every builder warrants the following to the owner:

- (1) One year following the warranty commencement date, the home will be free from any defect due to noncompliance with the building standards or due to other defects in materials or workmanship not regulated by building standards.
- (2) Two years following the warranty commencement date, the plumbing, electrical, heating, cooling, and ventilating systems exclusive of any appliance, fixture, and equipment will be free from any defect due to noncompliance with the building standards or due to other defects in materials or workmanship not regulated by building standards.
- (3) Five years following the warranty commencement date, the home will be free from major structural defects due to noncompliance with the building standards or due to other defects in materials or workmanship not regulated by building standards.

R.S. 9:3147 authorizes all or part of the builder's obligation under any warranty required by the act to be insured by the builder for the benefit of the purchaser through an insurance company authorized to transact business in Louisiana. R.S. 9:3148 provides that any warranty imposed under the act and any insurance benefit shall automatically transfer without charge, to a subsequent owner who acquires title to the home. The transfer of the home shall not extend the duration of any warranty or insurance coverage. Under R.S. 9:3149, if a builder fails to perform as required by the warranties, any affected owner shall have a cause of action against

the builder for actual damages, including attorney fees and court costs, arising out of the violation. The damages with respect to a single defect shall not exceed the reasonable cost of repair or replacement necessary to cure the defect, and damages with respect to all defects in the home shall not exceed the original purchase price of the home.

State Licensing Board for Contractors

The Louisiana State Licensing Board for Contractors was created as it exists today in 1956 by Act 233 of the legislature and its laws can be found in R.S. 37:2150 through 2192. It is a fifteen member board, appointed by the governor, which regulates both commercial and residential contractors who bid or perform construction projects, whose value exceeds fifty thousand dollars or more for commercial projects, ten thousand dollars or more for electrical or mechanical projects, seventy-five thousand or more for residential projects, and hazardous material contractors on projects valued at one dollar or more.

The staff of the board receives and processes applications for new contractor licenses, additional classifications, changes of license records, and annual license renewals. The board also administers business and law and trade examinations for contractor applicants and qualifying parties. Administrative and disciplinary hearings are conducted monthly for alleged violations by both commercial and residential contractors. Board investigators conduct construction project investigations to determine compliance and enforcement of the contractor licensing law. All board meetings and administrative hearings are conducted at the board's Baton Rouge headquarters.

Fines and penalties levied against violators of the contractor licensing law are sent directly to the Contractors Educational Trust Fund, whose mission is to promote programs used for contractor educational purposes.

Louisiana State Plumbing Board

The Louisiana State Plumbing Board is an eight member board who enforces the plumbing law located at R.S. 37:1361 through 1380. The board does not have any reciprocity agreements with other states; however, if an individual has a valid plumbing license in another state, that individual may use it to qualify to take the journeyman plumber exam in Louisiana in lieu of the required vouchers. Once that individual obtains a journeyman plumber license, the individual may apply to take the master plumber exam.

In addition to the master and journeyman plumber licenses, the State Plumbing Board also issues water supply protection specialist endorsements, medical gas installer licenses, and medical gas verifier licenses. The board also investigates complaints against plumbers and plumbing service providers.

Life Safety and Property Protection

Fire Safety Standards

R.S. 40:1578.6 establishes the Life Safety Code of the National Fire Protection Association (NFPA 101), and Section 518 - Special Provisions for High Rise, of Chapter IV of the Southern Standard Building Code, applicable to high rise structures, as both are annually or periodically amended, as the minimum fire safety construction standards. A parish or municipality which, prior to January 1, 1975, had adopted and is enforcing a nationally recognized model building

code or fire prevention code or the equivalent may continue to enforce those codes as long as the codes contain requirements that are substantially equal to the fire marshal's code with respect to high rise buildings, mandatory automatic sprinkler and extinguishment systems, and fire detection systems. Newly adopted versions of the Life Safety Code do not apply to existing buildings which were lawfully constructed and maintained unless the fire marshal deems that a serious life hazard exists due to a particular condition, at which time he can require the institution of proper fire protection measures to alleviate the particular hazards according to the chapter on existing buildings of the latest adopted edition of the Life Safety Code.

R.S. 40:1578.7 adopted the National Fire Prevention Code (NFPA 1), as it is published by the National Fire Protection Association, as the state uniform fire prevention code to the extent that it does not conflict with the National Fire Protection Association's Life Safety Code. If any political subdivision of the state adopts a fire prevention code, it must adopt the state uniform fire prevention code. The state fire marshal is authorized to promulgate those rules and regulations as may be necessary to incorporate or adopt any subsequent amendments or additions to the state uniform fire prevention code to conform to NFPA 1, as it is subsequently amended or issued as a new edition by the National Fire Protection Association. If the governing authority of a local jurisdiction finds that the state uniform fire prevention code does not meet its minimum needs, that local governing authority may provide more stringent requirements than those specified in the state uniform fire prevention code when such requirements are based upon local climatic, geologic, topographic, or public safety factors after prior review and approval by the state fire marshal to ensure that such variances achieve equivalent or enhanced levels of protection as the state uniform fire prevention code. The mandatory local fire code provisions do not apply to any political subdivision that adopted a model fire prevention code on or prior to July 9, 1999, including review and approval by the state fire marshal of any future amendments, additions, or new editions of the model fire prevention code adopted by the political subdivision.

Life Safety Plan Review

R.S. 40:1574 provides that no structure, watercraft, or movable shall be constructed and no repair, remodeling, or addition shall be made to any structure, watercraft, or movable affecting the exits, stairs, seating arrangement, fire protection, or other such details of construction until building plans and specifications have been submitted to and reviewed by the fire marshal and appear to him to satisfactorily comply with the laws, rules, regulations, and codes of the state. The state fire marshal may take into consideration practical difficulties and unreasonable economic hardships before applying the strict requirements of the law. In cases of practical difficulty or unreasonable economic hardship, the state fire marshal may, upon appeal, allow alternative arrangements provided a minimum acceptable level of life safety is achieved to the satisfaction of the state fire marshal. In order to encourage historic preservation and the preservation of Louisiana's architectural heritage, when applying the requirements of the adopted fire, life safety, or handicapped accessibility regulations, the state fire marshal may take into consideration the impact of these requirements on the historic integrity of existing facilities.

Life Safety Inspections

R.S. 40:1563 confers on the fire marshal the duty to "take all steps necessary and proper to protect life and property from the hazards of fire and of panic which may arise from fire or from the threat of fire or explosion." It also provides that the fire marshal shall supervise the inspection of all structures, except one- and two-family dwellings and movables, for the purpose of reducing or eliminating fire hazards. R.S. 40:1563 prohibits the fire marshal from conducting

or supervising inspections within the jurisdiction of any local governing authority in which a fire prevention bureau has been properly established by special ordinance and accompanying resolution unless specifically requested by the fire prevention bureau or the local governing body of that jurisdiction or upon complaint of any citizen. The fire marshal may, at his discretion, report any complaint received from a citizen to the appropriate fire prevention bureau or conduct a joint inspection with the fire prevention bureau. The fire marshal retains responsibility for all institutional occupancies requiring a state or federal license, detention, colleges, universities, state-owned and state-leased buildings, and certain schools.

Upon complaint of any person or upon his own initiative, the fire marshal may inspect any structure, watercraft, or movable within Louisiana except the interiors of private and one- or two-family dwellings.

Whenever the inspecting officer finds that the structure, watercraft, or movable is especially liable to fire or dangerous to life or is so situated as to endanger other property or the occupants, the officer is required to order the dangerous materials removed, the condition of the premises remedied, or the premises razed. The occupant of the structure, watercraft, or movable shall not permit it to be used until the fire marshal certifies that the hazardous conditions have been eliminated.

Under R.S. 40:1646, the fire marshal is authorized to inspect and test all life safety systems and equipment in the state, including but not limited to fire sprinklers, fire alarms, fire suppressions, special locking systems and equipment, and portable fire extinguishers, whether in public or private buildings, during installation or immediately after installation to determine compliance with applicable standards. The owner of any building containing a life safety system and equipment is required, at a minimum, to have an annual inspection made of the life safety system and equipment in that building to assure compliance with applicable safety standards and to determine whether structural changes in the building or in the contents of the building mandate alteration of a system.

Other Commercial Inspections

The office of state fire marshal also performs several other inspections beyond commercial buildings newly constructed or renovated and life safety systems and equipment. These inspections include:

- (1) Boilers, except for those located in the city of New Orleans (R.S. 23:531-546)
- (2) Fireworks sales, including the licensing of vendors (R.S. 51:650-660)
- (3) Amusement Rides including air-supported structures (R.S. 40:1484.1-1484.14)
- (4) Laundry Mats, to ensure minimum temperature of hot water (R.S. 51:1424)
- (5) Family child day care homes, in which there are fewer than seven children receiving care, whether certified by the Department of Children and Family Services or the Department of Education (R.S. 40: 1563.2)

Life Safety and Property Protection Licensing

The "Life Safety and Property Protection Act", R.S. 40:1664.1-1664.16, regulates the certifying, inspecting, installation, integrating, selling, and servicing of life safety and property protection

systems and equipment and prohibits the use of life safety and property protection systems and equipment which are not properly labeled in accordance with the rules adopted by the state fire marshal in the interest of safeguarding lives and property. Under this act, the office of state fire marshal licenses and regulates the following industries: locksmiths including detention and bank locking systems, closed circuit televisions, fire suppression systems, fire sprinklers, fire detection and alarm systems, security systems, and portable fire extinguishers. Complaints regarding an individual or business providing any of these services can be directed to the office of state fire marshal, licensing section.

Manufactured Housing

The construction standards for manufactured housing and the licensing of manufacturers, retailers, and salespersons of manufactured housing are covered by the "Uniform Standards Code for Manufactured Housing", located at R.S. 51:911.21-911.46. The standards for the installation of manufactured housing and the licensing of installers of manufactured housing are governed by R.S. 51:912.21-912.31. Questions and complaints regarding manufactured housing should be directed to the office of state fire marshal, manufactured housing division.

State Uniform Construction Code

As a result of the widespread damage caused by Hurricanes Katrina and Rita, the Legislature enacted and mandated a state uniform construction code to promote public safety and building integrity. Act No. 12 of the 2005 First Extraordinary Session governs new construction, reconstruction, additions to homes previously built to the International Residential Code, extensive alterations, and repair of buildings and other structures and the installation of mechanical devices and equipment therein. The code establishes uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort, and security balanced with affordability for the residents. The new code went into effect statewide on January 1, 2007.

Standards

R.S. 40:1730.28 requires the Louisiana State Uniform Construction Code Council to evaluate, adopt, and amend only the latest editions of the following as the state uniform construction code:

- (1) International Building Code, not including Parts I-Administrative, Chapter 11-Accessibility, Chapter 27-Electrical and Chapter 29-Plumbing Systems
- (2) International Existing Building Code, not including Parts I-Administrative
- (3) International Residential Code, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The enforcement of these standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations; however, a municipality, parish, or regional planning commission may enforce Appendix J of the code at its option
- (4) International Mechanical Code
- (5) The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the office of public health of the Department of Health and Hospitals

(6) International Fuel Gas Code

(7) National Electric Code

NOTE: For the standards of construction for manufactured housing, please refer to the manufactured housing section under Life Safety and Property Protection.

The governing authority of a parish or municipality is prohibited from enforcing that portion of the state uniform construction code which regulates the construction or improvement of a farm structure or private outdoor recreational structure, other than a residence or structure attached to a residence, such as a hunting or fishing camp or residential accessory structure. However, a municipality with a population in excess of forty-five thousand according the latest federal decennial census may enforce that portion of the state uniform construction code which regulates the construction or improvement of a residential accessory structure. A parish or municipality may require building permits before the construction or improvement of a farm or private outdoor recreational structure. (R.S. 40:1730.30)

Inspections

Buildings must be inspected in accordance with the codes in effect for the locality on the date of the issuance of the original building permit. If no date of issuance of the original building permit can be found, the date of submission of the completed application to the local authority must be used. If no date of application for, or date of issuance of, the building permit is available, the director of the applicable parish planning and development service or similar agency shall determine the nearest possible date by using available documents, such as transfer of property records, mortgage records, tax records, or rent records. (R.S. 40:1730.33) Complaints regarding the construction code inspection of a property or a business providing inspection services should be addressed to the Louisiana State Uniform Construction Code Council.

The state fire marshal may establish contract agreements with municipalities and parishes in order to provide code enforcement on behalf of the municipality or parish. (R.S. 40:1730.39)

Any municipality or parish which issues a permit for construction shall provide a list of registered certified building inspectors to the applicant for the permit at the time the permit is issued. (R.S. 40:1730.23)

Fees

Municipalities and parishes may establish agreements with other governmental entities of the state or certified third-party providers to issue permits and enforce the state uniform construction code in order to provide the services required by the state uniform construction code. In the event of the establishment of such an agreement, the maximum fees applicable to the issuance of permits and the enforcement of the code shall be established by the governing body of the municipality or parish. (R.S. 40:1730.24) Municipalities and parishes that establish agreements with other governmental entities of the state or certified third-party providers to enforce the state uniform construction code shall not impose a fee for inspections not performed by the municipality or parish if a fee for the inspection was collected by the governmental entity or third-party provider that actually performed the inspection. (R.S. 40:1730.24)

Equivalencies

A parish or municipality may accept determinations made by the state fire marshal as they pertain to life safety and fire protection as required in the state uniform construction code. (R.S. 40:1730.23)

Louisiana State Uniform Construction Code Council

The Louisiana State Uniform Construction Code Council consists of nineteen members appointed by the governor. Each member of the council serves a term of four years and may serve no more than two consecutive terms. The primary function of the council is to review and adopt the state uniform construction code, provide for training and education of code officials, and accept all requests for amendments of the code, except the Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code]. Specifically, the council is required by state law to establish the requirements and process for the certification and continuing education of code enforcement officers, code enforcement inspectors, and building officials and to determine if any amendments to the state uniform construction code are justified. If the council determines that an amendment is justified, the council may enact the amendment after a finding on the record that the modification provides a reasonable degree of public health, safety, affordability, and welfare. (R.S. 40:1730.22)

Public Utilities

Storm Recovery Fees

Recently, some rate payer's bills began listing a storm recovery fee or Louisiana Utility Recovery Corporation (LURC) fee. These fees refer to charges incurred by a utility company while repairing utility systems after a major disaster such as a hurricane and passed on to the consumer. The utility companies must file a rate request with the Louisiana Public Service Commission (PSC). The PSC then conducts a rate hearing and, once the request is approved, the PSC issues a financing order setting forth the maximum recovery and the full term the charges are to be collected. In 2006 and 2007, the Louisiana Legislature passed bills to aid in lowering the costs to the rate payers.

Act 64 of the 2006 Regular Session created the "Louisiana Electric Utility Storm Recovery Securitization Act". The purpose of the act was to enable Louisiana electric utilities, if authorized by a financing order issued by the PSC, to use securitization financing for storm recovery costs, because this type of debt may lower the financing costs or mitigate the impact on rates in comparison with conventional utility financing methods which will, in turn, benefit rate payers in the long run. The proceeds of the storm recovery bonds are to be used for the purposes of recovering storm recovery costs, solely as determined by the PSC, to encourage and facilitate the rebuilding of utility infrastructure damaged by storms. Act 64 allows a utility company to obtain bonds for an up-front payment of the costs approved by the PSC. The Act provides for a lower interest rate and was required by federal law in order to provide federal income tax savings on the bonds. The savings could be tens of millions of dollars and will be passed on to the rate payers. The Act also secures the money for restoration up-front which preserves the credit worthiness of the utility companies and allows them to immediately begin the restoration process.

Act 55 of the 2007 Regular Session, is similar to Act 64 of 2006, but differs in that it creates the Louisiana Utility Recovery Corporation under the Louisiana Public Service Commission. LURC

is a tax-exempt entity whose legal status provides legal protection against bankruptcy for the bond holders which translates into lower interest rates and a substantial savings for rate payers. The additional savings could be in the range of 230 to 250 million dollars.

Neither of these acts impose any additional charges on rate payers, but rather the acts authorize the PSC to further their regulatory duties by authorizing certain securitization methods. The PSC remains the regulatory body and dictates the actual amount and length of time of the recovery charges. The PSC must approve the rate charges and then issue a financing order setting forth the maximum recovery and the full term the charges are to be collected before any bonds under Act 64 or Act 55 may be obtained. No additional legislative action is necessary.

Louisiana Public Service Commission

The Louisiana Public Service Commission is established by Article 4 of Section 21 of the Louisiana Constitution of 1974. The commission consists of five members, who are elected for overlapping terms of six years at the time fixed for congressional elections from single member districts established by law. The state constitution grants the commission jurisdiction over the regulation of all common carriers and public utilities and other regulatory authority as provided by law. Because this jurisdiction is constitutionally mandated, the jurisdiction of the commission can only be limited by a change to the constitutional provisions. The jurisdiction of the commission may be expanded by the enactment of a new statute.

The commission has no power to regulate any common carrier or public utility owned, operated, or regulated on the effective date of the Louisiana Constitution (January 1, 1975) by the governing authority of one or more political subdivisions, except by the approval of a majority of the electors voting in an election held for that purpose; however, a political subdivision may reinvest itself with such regulatory power in the manner in which it was surrendered.

The Louisiana Public Service Commission regulates areas of the motor carrier, telecommunications, electric, gas, water and sewerage industries.

Part G. Business and Labor Labor and Industrial Relations

Louisiana Workforce Commission

In Act No. 743 of the 2008 Regular Session, the Louisiana Department of Labor was renamed the Louisiana Workforce Commission (LWC). The commission is charged with administering and enforcing laws and programs designed to protect the economic and physical well-being of Louisiana's workforce. Within the commission, there are a number of offices to address employment-related issues including the office of unemployment insurance administration, office of worker's compensation administration, office of workforce development and office of management and finance. The functions and structure of the Louisiana Workforce Commission can be found at R.S. 36:301 et seq.

Unemployment Compensation

Unemployment insurance (R.S. 23:1471 et seq) is temporary weekly benefits for a worker who has lost his job through no fault of his own, is able to work, available to work, and pursuing employment in his field. Unemployment insurance benefits are paid based on past employment and legal entitlement. Such benefits are not paid on the basis of need. Unemployment insurance is paid by the employer, and is not deducted from the employee's pay.

To qualify for benefits, the worker must have earned sufficient base period wages from a covered employer and lost his job under certain circumstances. A worker is eligible for benefits if he has been laid off, or if he has voluntarily resigned his position, provided he has resigned for good cause due to a substantial change made by the employer. A worker may be disqualified from receiving benefits if he has been discharged, or fired, due to misconduct.

The amount of unemployment insurance benefits paid varies from worker to worker based upon an individual's total amount of wages earned during a certain period of time. Benefit payments are typically paid through the use of debit cards or direct deposit. After an unemployed worker files for benefits, a debit card is mailed along with instructions for activation of the card.

The maximum amount of time a worker can collect benefits is twenty-six weeks, but an extension for an additional thirteen weeks may be granted in certain circumstances when the worker applies for it. To receive benefits, unemployed workers must file for weekly benefits with the Louisiana Workforce Commission.

If a worker has been denied benefits, he may file an appeal within fifteen days, which requests a hearing before an administrative law judge.

Training Programs

- Disaster Unemployment Assistance

If a worker is unable to work due to a disaster that took place where he lives or works, he may be eligible for disaster unemployment assistance funded by federal grants. The Department of Homeland Security, Federal Emergency Management Agency has oversight of the program, but applicants should apply through the Louisiana Workforce Commission, office of unemployment insurance administration.

- Rapid Response Dislocated Worker Unit

The Worker Adjustment and Retraining Notification (WARN) Act of 1989 requires certain employers to notify the state dislocated worker unit, also referred to as the governor's rapid response team, sixty days prior to initiating a mass layoff or plant closing. The rapid response team then mobilizes to possibly prevent the layoff or closure, or if impossible to prevent, assist those affected by the layoff or closure by coordinating with state and local agencies in the area to provide onsite services to the employer and employees. These services include helping the workers obtain unemployment compensation, incumbent worker training, trade adjustment assistance, as well as hosting onsite job search workshops.

- Trade Act of 2002

Workers whose employment is adversely affected by increased imports may be eligible for trade adjustment assistance, alternative trade adjustment assistance, trade readjustment allowances, and the health coverage tax credit under the Trade Act of 2002 (19 U.S.C. §3803–3805). Trade Act assistance includes a variety of benefits and re-employment services to help unemployed workers prepare for and obtain other suitable employment such as training, a job search allowance, a relocation allowance and other re-employment services.

- Incumbent Worker Training Program

- (1) Customized Training

A partnership between LWC, business and industry, and training providers, this component of the Incumbent Worker Training Program (IWTP) is designed to benefit businesses by assisting in skill development of existing employees. An employer must determine the type of training needed and then select an appropriate training provider. Together, the employer and training provider customize a training plan. The employer must train a minimum of fifteen employees or join a consortium of employers to meet the fifteen employee requirement.

Employers meeting certain criteria, including being in business for a minimum of three years, may apply for, and receive, funds no more than once every twenty-four months. The program is funded by a portion of unemployment insurance tax contributions.

- (2) Small Business Employee Training Program

The Small Business Employee Training (SBET) program component of IWTP is designed to benefit business and industry by assisting in the skill development of existing employees through individual, standardized training. The SBET is available to businesses with 50 or

fewer employees. An applicant must meet certain requirements to qualify for the program, and the employer decides what training is needed.. Approved employers are reimbursed for the costs of the training, upon completion, and after submitting the expenses to the Louisiana Workforce Commission.

- **Workforce Investment Act of 1998**

The Workforce Investment Act (WIA) is a federally funded program enacted to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs. (Public Law 105-220) It links employers with potential employees to increase employment opportunities and emphasize the development of skills needed to retain long-term employment. The WIA system is administered locally by the Louisiana Workforce Commission, which provides skills training for WIA-eligible workers. Training will be provided in occupations determined to be in sectors of the economy which have a high potential for sustained demand or growth. Skill levels to be attained by classroom training programs require the participant to obtain a functional occupational proficiency to attain entry-level employment.

- **Dislocated Worker Program**

This program aids workers who have been laid off, or are out of work due to plant closures, foreign competition, or other changes in the economy that results in job loss. Job training and education at vocational or technical schools may be available for dislocated workers, as well as other pre-employment training, assessment and assistance.

- **Workforce Development & Training Program**

This program uses pre-employment training to recruit and train new employees and also provides on-the-job training for current employees. The program was created to develop these training initiatives for businesses to improve competition and production for the state's workforce and business community and to promote employment stability.

- **Older Worker Program**

This program is designed to help both employers and workers by promoting the employment of workers aged 55 years or older. The benefit to employers is the reduced costs associated with training experienced individuals, and there is a benefit to the economy by having capable, experienced, older workers continue to contribute to society. The program consists of on-the-job training with the help of the WIA, which reimburses up to fifty percent of the trainee's wages during the training period.

Louisiana Rehabilitation Services - Vocational Rehabilitation

Louisiana Rehabilitation Services (LRS) offers vocational rehabilitation as a career development program designed to train disabled persons for suitable employment by evaluating and assessing each prospective employee for employment skills as well as any medical and therapeutic needs. The program works with the prospective employee to teach everything from successful job interviewing skills to the training necessary to thrive in his employment and excel in a career. Employers can receive tax credits, salary and wage reimbursement through on-the-job training services, and qualified, job ready applicants if they hire LRS workers.

Louisiana Rehabilitation Services has eight regional offices. These offices are located in New

Orleans, Baton Rouge, Houma, Lafayette, Lake Charles, Alexandria, Shreveport and Monroe.

Veteran Services

Article X of the Louisiana Constitution provides a five-point hiring preference to civil service positions to honorably discharged wartime veterans who served in the United States Armed forces between the following dates:

Apr 6, 1917, through Nov 11, 1918

Sep 27, 1940, through Jul 25, 1947

Jun 25 1950, through Jan 31, 1955

Jul 1, 1958, through May 7, 1975

Aug 2, 1990, through date to be determined

Note: Service requires appropriate campaign medals

A ten-point hiring preference is accorded to each honorably discharged veteran (peacetime or wartime) who has one or more service connected disabilities, as established by the U.S. Department of Veterans Affairs. In certain circumstances, the ten-point hiring preference can be utilized by the disabled veteran's spouse, widow, or parent.

The veterans preference also extends to layoffs over other non-veteran employees with equal lengths of service and efficiency ratings.

In each Business and Career Solutions Center of the Louisiana Workforce Commission, a veterans' employment representative assures that eligible veterans receive priority in all employment services and assists disabled veterans to access Veteran's Benefits Administration approved on-the-job training and apprenticeship programs. They also provide recruitment assistance to federal contractors who have affirmative action responsibilities toward certain honorably discharged wartime veterans that are listed above.

Community Services Block Grant Program

The Community Services Block Grant (CSBG) Program provides funding and assists community action agencies in providing a range of social services. The services include employment assistance, education, income management training, housing assistance, nutrition, emergency services, health, linkage and self-sufficiency training for low-income individuals including homeless individuals and families, migrants and the elderly poor. To qualify for CSBG services, a family's income must not exceed 125% of the federal poverty level.

Workers' Compensation

The Office of Workers' Compensation (OWCA) is the office within the Louisiana Workforce Commission which oversees all worker's compensation related matters. Among OWCA's divisions that deal directly with employers and/or their insurers are Workplace Safety, Hearings, Fraud, Medical Services, Records Management, and Second Injury Board.

Workers who are injured on the job, or who have an illness that is determined to be caused by his job, may be entitled to receive medical care for the injury or illness, disability compensation for a portion of lost wages, rehabilitation services, and, in the event of death, benefits payable to survivors.

Workers' compensation is paid by employers to injured workers, however, there are certain exempt employers who are not required to pay workers' compensation:

- (1) Any employee of a private residential householder or any employee of a private unincorporated farm.
- (2) Musicians and performers who are rendering services pursuant to a performance contract.
- (3) Employees covered by the Federal Employer's Liability Act, the Longshoremen's and Harbor Workers' Compensation Act, or any of its extensions, or the Jones Act.
- (4) Any employer acting as a common carrier while engaged in interstate or foreign commerce by railroad.
- (5) Members of crews of any airplane engaged in dusting or spraying operations.
- (6) Uncompensated officers and uncompensated members of boards of directors of certain nonprofit organizations.
- (7) Any real estate broker or salesmen licensed to do business in the state of Louisiana.
- (8) Any landman rendering services relating to the exploration, development, production, or transportation of minerals.

Where applicable, an employee who falls under these exemptions may seek tort recovery for injuries arising out of such labor, work, or services from any insurance policy that a homeowner or employer may have which extends coverage to persons injured on their premises.

Anyone having a disputed workers' compensation claim must file the appropriate forms and contact the hearing division. Many times cases are resolved by mediation, but cases that are not resolved by mediation proceed to a hearing before a workers' compensation judge. The division has ten offices: Baton Rouge, New Orleans, Covington, Harahan, Houma, Lafayette, Lake Charles, Alexandria, Monroe, and Shreveport.

The medical services division of the OWCA assists parties in resolving disputes involving the necessity, advisability, and cost of medical and non-medical treatment of workers' compensation injuries. They schedule independent medical examinations by doctors for injured employees, perform utilization review of medical treatment, and make recommendations about the amount or method of reimbursements to health care providers.

Second Injury Board

The Second Injury Board encourages employers to hire or retain individuals in their employment with permanent partial disabilities that hinder that individual's future employment. The Second Injury Fund protects employers from excess liability for workers' compensation losses by reimbursing them, or their insurance carrier, for certain benefits paid in the event such an employee is injured on the job.

Louisiana Workers' Compensation Corporation

The Louisiana Workers' Compensation Corporation (LWCC) was created in 1991 by

constitutional amendment and is a private, nonprofit, mutual insurance company that is the largest workers' compensation carrier in the state. (Const. Art. XII, §8.1)

The board of directors consists of 12 members representing labor, business, insurance and public interests.

Other Louisiana Labor Laws

Employment-At-Will

Louisiana is an employment-at-will state, meaning either an employer or an employee may terminate the employment relationship at any time, with or without notice, absent a limiting statute or contractual agreement. (C.C. Art. 2747)

There are certain exceptions to Louisiana's employment-at-will doctrine. Louisiana employees may not be disciplined or discharged at-will for:

Being called to military service	R.S. 29:38.1
Being called to jury duty	R.S. 23:965
Political opinions or voting	R.S. 23:961-962
Exercising right of association	R.S. 23:824
Wage garnishment	R.S. 23:731
Filing workers' compensation claim	R.S. 23:1361
Whistle-blowing	R.S. 23:967 and R.S. 30:2027

Medical Exam & Drug Testing

An employer may require an employee or applicant to submit to a medical exam, a drug test, or fingerprinting, but is prohibited from having the employee or applicant bear the cost of the test, or the cost of any background check or records request. (R.S. 23:897)

Apprentices

Louisiana's registered apprenticeship law authorizes the establishment of a voluntary apprenticeship training program for a trade which provides on-the-job training coupled with a course of related and supplemental instruction.

Upon successful completion of the training program, the apprentice is issued a certificate of completion and is elevated to the level of journeyman in the trade in which he or she has been trained. (R.S. 23:381 et seq.)

Employment of Minors

Any person under the age of 18 must obtain an employment certificate from the parish or city school superintendent or designated representative prior to being employed. Certain restrictions apply to the types of employment in which minors may work. Allowable work hours for minors also apply.

All minor employees must be given an uninterrupted break of not less than 30 minutes if the minor works in excess of five hours. All times worked by minors, including beginning and ending times of breaks, must be fully documented by the employer, and such records must be

made available for review by Unemployment Insurance Administration Specialists. (R.S. 23:151, et seq.)

Payment After Termination of Employment

Any Louisiana employee who is laid off or dismissed must be paid his wages in full no later than the next regular payday or fifteen days from the date of separation of employment, whichever is sooner. Any employee who quits must be paid his wages in full at the next regular payday for the pay cycle during which the employee was working at the time of separation, not to exceed fifteen days from the date of resignation. The employee should send a written demand for payment of final wages to the employer, after which, the employer must pay all wages owed to the employee on a timely basis or be subject to a penalty that may be imposed by a court. (R.S. 23:631-632)

Failure to Pay on Time

An employer must inform his employee, at the time he is hired, the amount and method of payment of his wages, as well as the frequency of those payments. Penalties may be imposed for failure to designate paydays. (R.S. 23:633)

Prohibition Against Fines or Deductions From Pay Checks

An employer is prohibited from penalizing an employee or deducting any sum of money as a penalty or fine from the employee's wages, except where the employee damages property belonging to or in the possession of the employer. (R.S. 23:635)

Questions Concerning Overtime, Minimum Wage, or Salaried Employees

The United States Department of Labor's (USDOL) Wage and Hour Division enforces the Fair Labor Standards Act regulating minimum wage, overtime, and salaried employees.

Employment of Illegal Immigrants

Employers are required to hire only United States citizens or aliens who are authorized to work in the United States. An employer is required to verify citizenship of any potential employee by using either the United States Citizenship and Immigration Services E-Verify system OR by using a United States birth certificate or certified birth card, naturalization certificate, certificate of citizenship, alien registration receipt card or a United States immigration form I-94 with employment authorization stamp. (R.S. 23:991 et seq.)

Verification of Employees Involved in Public Contract Work

Any private employer who bids or contracts with a public entity is required to be registered with, and participate in a status verification system such as the United States Citizenship and Immigration Services E-Verify system to verify that all employees are properly authorized to work in the United States. (R.S. 38:2212.10)

Nondiscrimination

Discrimination against employees is illegal under both federal and state law. (R.S. 23:301 et seq)
An employer may not discriminate against any employee on the basis of race, color, religion,

sex, or national origin (R.S. 23:332), age (R.S. 23:312), disability (R.S. 23:323), sickle cell trait (R.S. 23:352), handicap (R.S. 46:2254), genetic information (R.S. 23:368), pregnancy (R.S. 23:342), or smoking (R.S. 23:966).

Family Medical Leave Act of 1993

Family Medical Leave Act of 1993 (FMLA), 29 U.S.C. 2601, provides an employee up to twelve weeks of unpaid, job-protected leave per year. It also requires that the employee's group health benefits be maintained during the leave. FMLA applies to all public agencies, all public and private elementary and secondary schools, and companies with fifty or more employees. These employers must provide an eligible employee with up to twelve weeks of unpaid leave each year for a new child in the family by birth, by adoption, or by placement in foster care, to care for an immediate family member (spouse, child, or parent) with a serious health condition or to take medical leave when the employee is unable to work because of a serious health condition.

An employee is eligible for leave if he has worked for his employer for at least twelve months, at least 1,250 hours over the past twelve months, and at a location where the company employs fifty or more employees within seventy-five miles.

Americans with Disabilities Act of 1990

The Americans with Disabilities Act (ADA), 42 U.S.C. 12101, was enacted to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities, and to ensure that the federal government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities.

Chapter 2 – State Government Functions

Part H. Insurance	2H-1
Commissioner of Insurance	2H-1
Property Insurance Issues	2H-2
Ratemaking	2H-2
Prior Approval Filings	2H-2
Commercial Informational Filings	2H-2
Mitigation Discounts	2H-2
Compulsory Automobile Liability Insurance - Uninsured Motorist	2H-3
Other Topics	2H-4
Health Insurance Issues	2H-4
The Uninsured	2H-4
Mandated Health Insurance Benefits	2H-4
Health Insurance Rights and ERISA	2H-5
Accessibility and HIPPA	2H-5
Implementation of the Federal Health Insurance Reform of 2010	2H-5
Department of Insurance	2H-6
Office of Property and Casualty	2H-6
Office of Financial Solvency	2H-7
Office of Receivership	2H-7
Office of Licensing and Compliance	2H-7
Office of Health Insurance	2H-7
Office of Consumer Advocacy	2H-8
Agencies and Associations	2H-8
Property Insurance Association of Louisiana	2H-8
Louisiana Automobile Insurance Plan	2H-8
Louisiana Theft and Insurance Fraud Prevention Authority	2H-9
Louisiana Citizens Property Insurance Corporation	2H-9
Louisiana Insurance Guaranty Association	2H-11
Louisiana Property and Casualty Insurance Commission	2H-11
Louisiana Health Care Commission	2H-12
Louisiana Health Plan	2H-12
Louisiana Life and Health Guaranty Association	2H-13
Louisiana Mandated Health Benefits Commision	2H-13

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part H. Insurance

In 2010, Louisianians spent approximately \$16.2 billion in insurance premiums; in addition, over 1,446 insurance companies transacted business in Louisiana during that year. Also in that year, the Department of Insurance collected over \$325 million in premium taxes from insurance companies for the state general fund. The federal McCarran-Ferguson Act, enacted in 1945, clarified that the primary jurisdiction for regulation of "the business of insurance" lies with the states. While this jurisdiction has been somewhat eroded by subsequent federal laws and jurisprudence, insurance remains a business primarily regulated by the states.

Commissioner of Insurance

Louisiana's commissioner of insurance is a constitutional office that was created in 1960. The office is held by a statewide elected official whose term is concurrent with that of the governor. Article IV, Section 11 of the Louisiana Constitution states:

"There shall be a Department of Insurance, headed by the commissioner of insurance. The department shall exercise such functions and the commissioner shall have powers and perform duties authorized by this constitution and provided by law."

Since the constitution does not authorize any powers or duties for the department or the commissioner, the commissioner and the department have only those powers and duties provided by the laws adopted by the legislature. This was a result of a struggle in the Constitutional Convention in 1973 between those who wanted to add language to constitutionally empower the commissioner to regulate insurance and those who opposed creating a "Czar" over the insurance industry. The fundamental conflict was over whether the Insurance Rating Commission, appointed by the governor, or the elected commissioner of insurance would regulate insurance rates. The supporters of the insurance rating commission prevailed and for 35 years Louisiana had an insurance commissioner whose powers excluded rate-making authority. (See Ratemaking below)

Article IV, Section 20 of the constitution additionally authorizes the legislature by two-thirds vote to make the commissioner of insurance an appointed position and merge or consolidate the department with other offices.

The body of law which governs the Louisiana insurance industry is the Louisiana Insurance Code, Title 22 of the Louisiana Revised Statutes of 1950. These laws empower the commissioner and the Department of Insurance to regulate the business of insurance companies. (See Department of Insurance below)

Property Insurance Issues

Ratemaking

From 1948 until 2008, the Louisiana Insurance Rating Commission existed for the statutorily mandated purpose of promoting the public welfare by regulating insurance rates in such a way that the rates were not excessive, inadequate, or unfairly discriminatory. The seven-member commission exercised its authority over property and casualty insurance rates by authorizing and regulating cooperative action among insurers in rate making and in other matters within the scope of the Insurance Code.

Prior Approval Filings

Act No. 459 of the 2007 Regular Session abolished the Louisiana Insurance Rating Commission and designated the powers to accept, review, and approve all applications for insurance rates and rate changes to the commissioner of insurance. Act No. 459 provides for two methods that insurers may use to file for rate approval. Under the "prior approval" method, a written application by an insurer or rating organization seeking rate approval shall be on file with the Louisiana Department of Insurance, Office of Property & Casualty, for a forty-five day waiting period. Unless the commissioner disapproves in writing within the forty-five day waiting period, the application shall be deemed to meet the statutory requirements at the end of the waiting period. Act No. 459 authorizes the commissioner to reduce or eliminate the forty-five day waiting period by rule, regulation, or order. The provisions of Act 459 that address the prior approval method are located in R.S. 22:1451 of the Louisiana Insurance Code.

Commercial Informational Filings

The second method of rate filing is relative to commercial deregulation. Insurers negotiating with and insuring commercial entities, excluding worker's compensation and medical malpractice insurance, with at least \$10,000 in annual insurance premiums shall be required to file insurance rates or rate changes for informational purposes only. This provision of Act No. 459 is located at R.S. 22:1451(D) of the Louisiana Insurance Code.

The legislature has established special criteria for insurance rates in noncompetitive markets. The commissioner of insurance is required to regularly monitor the degree and existence of competition in the state. After being given notice that a reasonable degree of competition does not exist in a market, the commissioner has the authority to hold a fact finding hearing to determine if a competitive market exists. An illustrative list of factors the commissioner may use in determining the competitiveness of a market are provided in R.S. 22:1453. If the commissioner determines that a competitive market for insurance does not exist and issues a noncompetitive ruling the rates in that market shall be regulated in accordance with the statutory provisions applicable to noncompetitive markets. Any insurance company having a rate in effect at the time the commissioner determines a competitive market does not exist may be required to furnish supporting information within thirty days of a written request by the commissioner.

Mitigation Discounts

In 2007, the legislature passed Act No. 323 that authorized premium discounts or adjustments for compliance with building codes and for damage mitigation. The stated purpose is to lower insurance premiums on properties constructed or modified to withstand wind damage. The Act

mandates that any insurer requesting a rate revision must also provide an actuarially justified discount, credit, rate differential, adjustment in deductible, or other adjustment to reduce the insurance premium when the property owner complies with the State Uniform Construction Code or installs mitigation improvements to their property.

Compulsory Automobile Liability Insurance – Uninsured Motorist

An important legislative issue regarding automobile insurance has been compulsory liability insurance. Between 1952 and 1977, Louisiana law only required that a person furnish proof of liability insurance after an accident. Failure to do so resulted in the suspension of driving privileges and vehicle registration. Since the mid-1950's, many attempts were made in Louisiana to pass legislation requiring pre-accident security, modeled after the Massachusetts compulsory liability insurance laws. The Massachusetts program, which originated in the 1920's, required the operator of a motor vehicle to provide proof of insurance coverage before he could register his vehicle. The program also provided for criminal penalties for operating an unregistered vehicle.

Act No. 115 of the 1977 Regular Session enacted R.S. 32:861 et seq. which required a motor vehicle owner to declare that he had the minimum insurance coverage (\$5,000/\$10,000) before obtaining a license plate or inspection sticker. In addition to loss of registration and driving privileges, criminal penalties were added for making a false declaration.

Act No. 237 of the 1984 Regular Session increased the minimum liability limits to \$10,000 for injury or death of one person, \$20,000 for injury or death of more than one person, and \$10,000 for property damage (10/20/10 coverage).

In 1984, pursuant to Act No. 212, the legislature added the requirement that proof of insurance be in the vehicle while it is being operated on a public road or highway. Failure to provide the proof of insurance when requested by a law enforcement officer would result in penalties if the proof of insurance was not provided within ten days.

Since 1984, the penalties for failure to have proof of insurance in the vehicle have been increased in order to induce compliance. In 1992, pursuant to Act No. 805, the seizure of license plates was added as a penalty for noncompliance.

In 1997, pursuant to Act No. 1486, the legislature authorized the impoundment of a vehicle when the driver could not produce the required proof of insurance upon the request of a law enforcement officer. Additionally in 1997, with the enactment of Act No. 1476 ("No Pay, No Play"), an uninsured motorist who is the victim in an automobile accident is prohibited from collecting the first \$10,000 of personal injury and the first \$10,000 of property damages in a civil action. Under this same Act, a 10% reduction in automobile liability rates was required and is now in effect. The legislature included these provisions in the same Act in order to guarantee a reduction in automobile premiums while reducing the exposure of liability by insurance companies to motorists who are uninsured.

The latest statistics from the Insurance Information Institute estimate that, as of 2009, 12.9% of Louisiana motorists are uninsured, placing Louisiana at 27th in the nation of the state rankings for uninsured motorists.

In 2008, Act No. 921 of the Regular Session increased the minimum liability limits from \$10,000 for injury or death of one person, \$20,000 for injury or death of more than one person, and

\$10,000 for property damage (10/20/10 coverage) to \$15,000 for injury or death of one person, \$30,000 for injury or death of more than one person, and \$25,000 for property damage (15/30/25 coverage).

Other Topics

The legislature addressed the issue of Chinese drywall and homeowner's insurance with Act. No. 1005 of the 2010 Regular Session. This law prohibits insurers from cancelling or failing to renew homeowners' insurance policies based upon the presence of Chinese drywall or upon the filing of a claim by the insured that is based on the presence of Chinese drywall which was imported from the People's Republic of China prior to December 31, 2009. The law imposes a penalty to insurers of \$15,000 plus attorney's fees for violation.

Act No. 361 of the 2011 Regular Session addressed the issue of surplus lines that insure risks in multiple states. The Act requires the commissioner of insurance to enter into the Nonadmitted Insurance Multi-State Agreement, a multi-state compact providing that when Louisiana is the home state of the insured, such tax on multi-state risks shall be remitted to him to distributed among all states listed in the surplus lines policy.

Health Insurance Issues

The Uninsured

Recent federal estimates of the number of uninsured Louisianians vary. Based on the U.S. 2010 Census Survey, approximately 866,000 Louisiana residents lack health insurance and are not covered under the federal Medicaid or Medicare programs. This gives the state an uninsured rate of 20%, the tenth highest such rate in the nation, and means that one in five Louisianians are uninsured. However, the Kaiser Family Foundation estimates the percentage at 18% while the Gallup-Healthways Well-Being Index sets it at 21.4%. Whichever estimate is accepted, finding a way to make health insurance accessible and affordable to this population, which is often defined as the "working poor", remains a critical issue to be further addressed by the state. One effort in recent years which has had a significant impact on Louisiana's uninsured rate has been extension of health coverage to low-income children under the Louisiana Children's Health Insurance Program (LaCHIP). (Also see Chapter on Health and Social Services for further information on serving the uninsured and LaCHIP.)

Mandated Health Insurance Benefits

The issue of mandating certain health insurance benefits also remains a volatile one for the legislature. Current state law requires health insurance issuers (insurers and health maintenance organizations) to cover such diverse services and medical conditions as screenings for breast, cervical, prostate, or colorectal cancer, bone mass measurement, immunizations, diabetes, cleft lip and cleft palate, certain clinical cancer trials, certain severe mental illnesses, certain autism services and prosthetic devices and services. Alternatively, the legislature has in the past rejected mandates for coverage of contraceptives and gastric bypass surgery. The debate over mandated benefits generally centers on consumer protection versus cost. Proponents argue that mandates are necessary to ensure adequate benefits for consumers and that, to the extent that they provide for early detection and treatment of illnesses, some of these mandates may decrease the ultimate cost of health care and health insurance. Opponents, however, contend that mandated benefits offset any consumer gains by raising the cost of health insurance, making it less affordable and ultimately increasing the number of the uninsured. It is also important to note that state law

requires that an impact report be prepared by the Legislative Fiscal Office for any bill requiring mandated health benefits or mandated offering of health benefits. This impact report is to "be factual, brief, and concise, and... provide an estimate in dollars of the immediate and long-range fiscal effect of the measure. If no dollar estimate is possible, the impact report shall set forth the reasons therefor. An impact report shall not contain reference to the merits of the measure." (R.S. 24:603.1) Another factor to be considered in enacting a mandate is the Louisiana Mandated Health Benefits Commission, created by Act No. 549 of the 2010 Regular Session (See under agencies and associations). However, the commission is only statutory; therefore, it could be superceded by a subsequently enacted mandate as a later expression of legislative will.

Health Insurance Rights and ERISA

With the advent of managed care, assuring the quality of medical care provided by health plans has also developed as a legislative concern. Before Congress took action in this area, the Louisiana Legislature had enacted a number of important consumer protections such as guaranteeing direct access to obstetricians/gynecologists, prohibiting the unreasonable denial of emergency care claims, and prohibiting incentives to restrict, delay or deny medically necessary care. It is important to note, however, that certain employer-sponsored plans are exempt from certain facets of state regulation of insurance, pursuant to the federal Employee Retirement and Income Security Act (ERISA). Specifically, ERISA preempts states from regulating employer-provided health coverage when the employer "self-insures", that is, when the employer assumes all or some financial risk for the care provided to its employees rather than simply purchasing coverage from an insurer. Thus, many state consumer protection laws are preempted and inapplicable to the estimated 40% of employed Louisiana citizens covered by self-insured plans.

Accessibility and HIPAA

The issue of accessibility to health insurance has also been a subject of legislative debate. Louisiana law currently provides for guaranteed continuation of group insurance, guaranteed renewal of health insurance coverage, limitations on preexisting medical condition exclusions from coverage, prohibitions on discrimination by group plans against individuals based on health status (modified community rating), and guaranteed portability protections. While many of these protections emanate from the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), other protections, such as modified community rating, predate that federal legislation. The Louisiana Health Plan is particularly important in this regard as it not only provides access through the High Risk Pool to health insurance coverage for those individuals unable to obtain such coverage in the private market, but also administers the HIPAA pool to fully implement that federal legislation in Louisiana.

Implementation of the Federal Health Insurance Reform of 2010

The Patient Protection and Affordable Care Act (PPACA, sometimes referred to as "Obamacare") is federal legislation that became law on March 23, 2010. This act, along with the Health Care and Education Reconciliation Act of 2010 (signed into law on March 30, 2010) will implement wide sweeping changes to the delivery of health care and health insurance. Parts of these laws (collectively referred to the ACA) affecting health insurers are currently in effect, while other changes relative to insurance will be phased in through 2018. Lawmakers and federal and state regulators are working to adopt the laws and rules necessary to implement the ACA. The Louisiana Department of Health and Hospitals and the Louisiana Department of Insurance

are the two state agencies which have a great deal of involvement in implementing the ACA. The United States Department of Health and Hospitals has issued regulations to provide implementation guidance in conjunction with the National Association of Insurance Commissioners for the great majority of the ACA's provisions. The federal government is continuously issuing implementation guidelines and regulations regarding ACA provisions that may affect these agencies.

As with HIPAA, Louisiana preceded the ACA with a number of reforms. For example, the state already had a high-risk health insurance pool, mandated coverage of various preventive health services, and continuity of care. The state also has provided for a number of years with respect to coverage of certain dependent children on their parents' health plans and updated that law to extend the age to that of 26 in 2010 (Act No. 912). Louisiana's law on dependent coverage also extends to grandchildren.

It is important to note that different parts of the ACA apply to group and individual plans as well as grandfathered group or individual plans. Grandfathered plans are simply plans that were in existence prior to the ACA and are allowed an exemption from provisions of the ACA as long as these plans do not change its coverage.

Among the provisions of the ACA affecting health insurers which took effect on September 23, 2010 are the following:

- Prohibiting lifetime monetary caps on insurance coverage and limiting the use of annual caps. (Annual caps have a phase-in period in amounts until 2014.)
- Providing relative to rescission (cancellation) of insurance coverage from the inception of a policy in cases that only involve fraud or intentional misrepresentation of material facts.
- Prohibiting insurers from excluding coverage for children (under 19 years of age) with preexisting conditions.
- Requiring the coverage of preventive services without cost sharing from an individual.

By far the most controversial provisions of the ACA are ones which will take effect in 2014: that of requiring employers to provide health insurance coverage to their workers, with exceptions for certain small businesses and that of requiring individuals to have insurance, with some exceptions, such as financial hardship or religious belief, or requiring such employers or individuals to pay penalties.

The Louisiana Department of Insurance's website (www.ldi.state.la.us) contains links to more detailed insurance aspects of the ACA.

Department of Insurance

The Department of Insurance is comprised of the following programmatic offices, in addition to the commissioner's office and the office of management and finance:

Office of Property and Casualty

The office of property and casualty is responsible for the regulation of property and casualty insurance rates, the review of insurance rates, the licensing of insurance rating organizations, and such additional duties and functions as are assigned by the commissioner of insurance.

Specifically, this office includes the actuarial staff of the department which makes recommendations to the commissioner of insurance on insurance rates.

Office of Financial Solvency

The office of financial solvency is responsible for examining and monitoring the financial condition of all companies approved to conduct the business of insurance in this state. Specifically, the office performs financial and market conduct examinations, analyzes financial statements and other required filings of insurers, determines the adequacy of reserve liabilities established by insurers, ensures that reserve requirements are maintained and insurer investments are made in accordance with state law, and validates and maintains the recordation of securities pledged to the commissioner as deposits for the protection of Louisiana policyholders. The goal of the office is to detect those adverse financial and other conditions that will allow for early identification of financially troubled insurers.

Office of Receivership

The office of receivership manages all insurance companies placed in conservation or receivership. In conservation, a failing insurer must have the office's approval for all transactions. Receivership includes rehabilitation, in which the department takes title to a failing insurer's assets, and liquidation, in which the office determines creditors and citizens due to receive the assets of an insolvent company. The goal of the rehabilitation process is to restore troubled insurers to financial health whenever possible. Absent successful restoration of the insurers' financial status, the goal of liquidation is to maximize the value of the assets of the failed insurers and to distribute assets equitably in accordance with the priority of claims prescribed by law.

Office of Licensing and Compliance

The office of licensing and compliance regulates the licensing and monitors the market conduct of individuals and companies engaged in the insurance business in this state. Specifically, it conducts examinations of insurance producers (agents, brokers, and solicitors, now collectively referred to as "producers"); issues producer and company licenses; resolves consumer complaints and provides consumer education programs and services relative to property and casualty insurance and life insurance and annuities; approves policy forms for use by insurers; investigates reported incidences of suspected insurance fraud and performs background checks for purposes of producer and company licensing; and assists minorities by establishing educational and information services to foster a greater awareness of opportunities available in the insurance industry.

Office of Health Insurance

The office of health insurance is responsible for health insurance pilot programs as established by the legislature, research and development of rules and regulations to implement health insurance reform legislation, research and development of health insurance reform measures that broaden the availability of health insurance coverage in the state, liaison activities for the Department of Insurance with other state and national agencies for policy on health insurance, preparation of proposed health insurance reform legislation by the department, general research and implementation issues concerning health insurance policy, and additional duties and functions as assigned by the commissioner. Specifically, the office assists and protects consumers with health care coverage needs, reviews health insurance related contract forms, provides senior citizens with health-related counseling through the Senior Health Insurance

Information Program (SHIIP), and reviews health maintenance organization (HMO) provider networks and accreditation bodies for quality assurance.

Office of Consumer Advocacy

The office of consumer advocacy is the newest office of the department, created by Act No. 222 of the 2007 Regular Session. The office performs the following functions: (1) receiving inquiries and complaints from consumers; (2) preparing and disseminating such information as the department deems appropriate; (3) providing direct assistance and advocacy for consumers who request such assistance or advocacy; (4) reporting, with respect to apparent or potential violations of law or applicable rules or regulations by a person or entity licensed by the department, such violations to the appropriate division or office of the department, which may take further action as it deems appropriate; and (5) ensuring compliance with the policyholder bill of rights. This bill of rights, also enacted by Act No. 222, can be found at R.S. 22:41.

Agencies and Associations

A number of boards and commissions are associated with the Department of Insurance. These include: the board of directors of the Property Insurance Association of Louisiana (PIAL); the Louisiana Automobile Insurance Plan (LAIP); the Louisiana Property and Casualty Insurance Commission; the Louisiana Health Care Commission; the Louisiana Insurance Guaranty Association (LIGA), the Louisiana Citizens Property Insurance Corporation, the Life and Health Guaranty Association (LLHIGA), the Louisiana Health Plan, and Louisiana Automobile Theft and Insurance Fraud Prevention Authority (LATIFPA), and the Louisiana Mandated Health Benefits Commission.

Property Insurance Association of Louisiana

Every insurance company in Louisiana that writes fire insurance is required to adhere to the rates adopted by the Property Insurance Association of Louisiana (PIAL). The rates adopted by PIAL are subject to approval by the commissioner of insurance and individual insurers may deviate from the rates with the approval of the commissioner. PIAL inspects and assesses various types of risk that are rated by schedule for property damage insurance. It is the filing organization for rates, rules, and forms for homeowners, dwelling fire, commercial fire, and farm owners insurance. The association surveys municipal areas and issues fire protection grading for those areas. It is fully funded by the members of the association through an assessment apportioned according to direct premiums received by each member.

The board of directors of the PIAL consists of 17 members as follows: nine members elected by the membership; the commissioner of insurance; three members appointed by the commissioner; a representative of the Professional Insurance Agents of Louisiana; a representative of the Independent Insurance Agents of Louisiana; the chairman of the House Insurance Committee (ex officio); and the chairman of the Senate Insurance Committee (ex officio).

Louisiana Automobile Insurance Plan

The Louisiana Automobile Insurance Plan (LAIP) was created in 1972 as a voluntary agreement to provide automobile insurance coverage to eligible risks who are unable to obtain liability coverage through the voluntary market. Any insurance agent holding a valid license to transact automobile insurance business in the state of Louisiana may write business through LAIP. The 9-member governing committee of the LAIP consists of: the commissioner of insurance or his

designee; a member designated by the commissioner of insurance, a representative designated by the Louisiana Association of Fire and Casualty Insurance Companies; appointments by the president of the Senate and the speaker of the House of Representatives; and four members selected by the committee and approved by the commissioner of insurance.

Louisiana Theft and Insurance Fraud Prevention Authority

Act No. 711 of the 2004 Regular Session created the Louisiana Theft and Insurance Fraud Prevention Authority (LATIFPA) in order to combat motor vehicle theft, insurance fraud, and other criminal acts. LATIFPA seeks to carry out its purpose through a statewide cooperative effort of generating funds to support law enforcement, public awareness, community involvement, and education initiatives.

In 2006, LATIFPA, in conjunction with the National Insurance Crime Bureau, introduced the Vehicle Investigation Prevention Enforcement Response (VIPER) program. VIPER is a statewide bait vehicle program where donated vehicles are equipped with systems funded by LATIFPA and placed throughout the state during a reporting period, which results in the arrest of individuals who are reported for automobile theft. LATIFPA also sponsors the License Plate Recognition Program, which awards grants for license plate recognition systems to law enforcement agencies in Louisiana. The awards are made through a competitive selection process based on applications selected and ranked among law enforcement agencies with city populations of 50,000 or more.

The board of directors of LATIFPA consists of the following eleven members: the commissioner of insurance or his designee; the state treasurer or his designee; a representative of the Louisiana State Police Insurance Fraud Unit; the chairman of the House Committee on Insurance or his designee; the chairman of the Senate Committee on Insurance or his designee; two members appointed by the commissioner of insurance who represent motor vehicle insurers doing business in this state; two members appointed by the commissioner of insurance who represent purchasers of motor vehicle insurance; and two members to be appointed by the attorney general.

Louisiana Citizens Property Insurance Corporation

The Louisiana Citizens Property Insurance Corporation (La. Citizens) is a private, nonprofit corporation that was created in 2003 by Act No. 1133 to operate the residual market insurance programs known as the FAIR Plan and the Coastal Plan. The purpose of these plans is to provide essential property insurance for commercial and residential properties in this state. La. Citizens is governed by a 15-member board of directors consisting of business and insurance industry representatives appointed by the governor, as well as the commissioner of insurance, the secretary of state, and chairmen of the House and Senate insurance committees. All insurance companies that write property insurance on a direct basis in Louisiana are required to be members of the plans. The corporation is funded by the premiums from the insurance issued by the plans and an assessment against the member companies to cover any shortfall between revenues and exposure. The member companies are assessed on a percentage of their total written property premiums. The corporation may impose emergency assessments, issue bonds, pledge assessments, and eventually depopulate the plans. (R.S. 22:2291 et seq.)

The FAIR Plan was established by the legislature in 1968 for the purpose of making certain there is adequate fire, extended, vandalism, windstorm, hail storm, and homeowners property insurance in designated areas in Louisiana. The FAIR (Fair Access to Insurance Requirements)

Plan is a "high risk" pool aimed primarily at inland areas and inner cities where it is difficult to obtain property insurance through ordinary insurance markets.

The Coastal Plan, created by the legislature in 1969, is a "high risk" pool for property insurance for those coastal areas of Louisiana designated by the Louisiana Insurance Rating Commission. It is almost identical to the FAIR plan except that it serves a different geographical area of the state, the coastal area below the Intercoastal Waterway.

La. Citizens is designed to be noncompetitive and is mandated to charge insurance rates that are higher than the rates charged in the private, voluntary market. In accordance with R.S. 22:2303, rates for the corporation's residential property policies must be established on a per parish basis and must be adjusted at least annually to maintain the price differential between the private and residual markets in accordance with various methods.

In accordance with R.S. 22:2301, regular assessments may be levied on insurers, emergency assessments may be levied on all property policyholders of the state to address deficits in the plans, and market equalization charges may be levied on La. Citizens policyholders. Regular assessments are levied against assessable insureds to remedy a deficit in either of La. Citizens plans. Insurers are authorized to recoup regular assessments by surcharging their policyholders within twelve months. When La. Citizens' deficit is less than or equal to ten percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the entire deficit amount is recovered through regular assessments. Emergency assessments are levied directly on property policyholders and may be multi-year to secure bonds issued by the corporation to address any deficit situation. Emergency assessments cover losses in excess of all profits, excess reserves, reinsurance proceeds, and regular assessments. The maximum amount that can be collected via each assessment is twenty percent of the amount of premium (10% per plan).

The present assessments being levied by La. Citizens are the direct result of losses on insured property caused by the 2005 hurricane season. In years when there are no significant catastrophic losses, the corporation will likely collect enough premiums to cover any insured losses. However, the massive losses associated with hurricanes Katrina and Rita cost the corporation over 1.2 billion dollars in losses. La. Citizens was compelled to invoke statutory regular and emergency assessment provisions to repay the bonds issued to pay the claims of its policyholders following the storms. In 2006, the regular assessment was fixed at 18.27% of insurance companies net premiums. For the following years, each homeowner and commercial property policyholder, at issuance or renewal of each policy, will pay an emergency assessment of approximately 4% of the net annual premium. Barring state intervention, annual emergency assessments will continue until the bond debt is satisfied.

Act No. 4 of the 2006 Second Extraordinary Session authorized a refundable income tax credit effective for all taxable periods beginning on or after January 1, 2006 which applies to assessments, surcharges, and market equalization charges levied by La. Citizens. The legislature appropriated \$239 million to refund property insurance policyholders who paid these assessments to La. Citizens. In an effort to expedite relief to policyholders who have paid La. Citizens assessments the legislature enacted Act No. 382 of the 2007 Regular Session that affords policyholders the immediate option to recoup assessments charged on or after January 1, 2007. These rebates may be obtained as soon as they are paid by filing form R540 INS with the Louisiana Department of Revenue. To address the potential inequity in the amount of assessments being paid by policyholders and insurance companies, the legislature passed Act No. 235 during the 2007 Regular Session. This Act authorizes a pro-rata calculation of

emergency or regular assessments based on written premiums over the life of the policy. Assessments may be adjusted accordingly if a policy of insurance is cancelled or modified and results in an increase or decrease in premium. The deadline for insureds to claim the rebate for 2005-2006 was December 2010. The deadline to claim the rebate for assessments and charges paid in 2007 was December 2011. Rebates for assessments paid in 2008, 2009, 2010, and 2011 must be claimed by December of 2012, 2013, 2014, and 2015, respectively.

In August 2011, Finch Ratings upgraded La. Citizens' bond ratings from BBB to A-. This upgrade in ratings reflects an improvement in the corporations's financial position.

Louisiana Insurance Guaranty Association

The Louisiana Insurance Guaranty Association is more commonly referred to as "LIGA". LIGA was created by the legislature in 1970 as a "private nonprofit unincorporated legal entity" that may not be deemed an agency of the state for any purpose. LIGA does not receive any money from the state general fund.

LIGA was created to pay the outstanding claims against property and casualty insurance companies that have become insolvent. LIGA does not cover the following direct insurance: life, health and accident, title, disability, mortgage guaranty, financial guaranty, vehicle breakdown, and ocean marine and certain insurance involving investment risks and credit risks.

Any licensed property and casualty insurer who transacts insurance business in Louisiana is required to be a member of LIGA as a condition of doing business in this state. All members are subject to an annual assessment of up to two percent of the direct written premiums in Louisiana. In addition to the assessment, LIGA receives from the Department of Insurance the investment income and proceeds from the liquidation of insolvent insurance companies. These revenues provide the funds to pay the outstanding claims against the insolvent insurance companies.

LIGA's board of directors consists of nine persons as follows: two consumer representatives appointed by the commissioner of insurance, one Louisiana resident appointed by the president of the Senate, one Louisiana resident appointed by the speaker of the House, and five persons appointed by member insurers who are approved by the commissioner of insurance.

Louisiana Property and Casualty Insurance Commission

The Louisiana Property and Casualty Insurance Commission was created by the legislature in 2003 to replace the Council on Automobile Insurance Rates and Enforcement (CAIRE). The commission is to review and examine the availability and affordability of property and casualty (auto and homeowners insurance) insurance in Louisiana. The commission is also to provide oversight and recommendations regarding programs and the enforcement laws that affect automobile insurance rates. The commission submits an annual report of its recommendations on laws and projects affecting property and casualty insurance to the governor, the commissioner of insurance, and the legislature. The 22-member commission includes: representatives of state and local law enforcement agencies; the attorney general; the assistant secretary of the office of motor vehicles; the executive director of the Louisiana Highway Safety Commission; representatives of agent organizations; members of the House and Senate Insurance Committees; consumer representatives; and the commissioner of insurance.

Louisiana Health Care Commission

The Louisiana Health Care Commission, created by the legislature in 1992, serves as a policy and planning board that undertakes comprehensive review of health care and health insurance issues facing the state. The commission assesses the availability, affordability, and delivery of quality health care in the state by examining such topics as the rising costs of health care, including the cost of administrative duplication, the costs associated with excess capacity and duplication of medical services, and the costs of medical malpractice and liability. The commission further examines the adequacy of consumer protections, as well as the formation and implementation of insurance pools that better assure citizens the ability to obtain health insurance at affordable costs and that encourage employers to obtain health care benefits for their employees by increased bargaining power and economies of scale for better coverage and benefit options at reduced costs. The commission also studies the implementation issues related to national health care reform initiatives. The commission annually makes recommendations on healthcare and health insurance in Louisiana to the commissioner of insurance who subsequently submits a report to the legislature on such matters.

The commission is comprised of approximately 50 members representing a broad spectrum of interests, including health insurers, health care providers, and community leaders, as well as representatives of consumer interests, the governing boards of state colleges and universities, the House and Senate Insurance Committees, the commissioner of insurance, and the Department of Health and Hospitals.

Louisiana Health Plan

The Louisiana Health Plan was originally created by the legislature in 1990 as the Louisiana Health Insurance Association. Its initial purpose was to administer the High Risk Insurance Pool, a major medical health benefits plan which provides health insurance policies to Louisianians who are uninsurable in the private health insurance market, often because of pre-existing medical conditions. Premiums for the high risk pool are currently 110% of the average premium charged by the top five individual health insurance carriers providing coverage in Louisiana. In addition to premium income, the high risk pool is funded by a mandated service charge on hospital admissions and outpatient surgery in Louisiana, to be paid by patients' insurers. In the past, an annual legislative appropriation of two million dollars was made to the plan, but such an appropriation has not been over the past two years. Enrollment in the high risk pool is restricted by the amount of funding for the pool.

During the 1997 Regular Session, the Louisiana Health Plan was additionally authorized to administer the state's HIPAA pool. This pool is the state's alternative mechanism for implementing the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). The purposes of that law are to make insurance coverage from one group employment situation to another group more "portable" and to provide coverage to those persons who move from an eligible group into the individual insurance market. Premiums for the HIPAA pool are currently 125% of the average premium charged by the top five individual health insurance carriers providing coverage in this state. In addition to premium income, the HIPAA pool is funded by assessment of insurance carriers and health maintenance organizations doing business in Louisiana. As enrollment in the HIPAA pool expands, the Louisiana Health Plan is authorized to increase the amount of this assessment accordingly.

The Louisiana Health Plan is governed by a 13-member board of directors, including representatives of health insurance carriers, hospitals, physicians, consumers, and the House and Senate Committees on Insurance, as well as the commissioner of insurance or his designee.

Louisiana Life and Health Guaranty Association

The Louisiana Life and Health Guaranty Association, commonly known as LLHIGA, was created by the legislature in 1991. Modeled on LIGA, LLHIGA is a "private nonprofit unincorporated legal entity" that may not be deemed an agency of the state for any purpose and that receives no money from the state general fund.

LLHIGA was created to pay the outstanding claims against life and health insurance companies who have become insolvent. Any licensed life or health insurer, not including a health maintenance organization or a self-insured employee benefits plan, who transacts insurance business in Louisiana is required to be a member of LLHIGA as a condition of doing business in this state. All members are subject to an annual assessment of up to two percent of the direct written premiums in Louisiana. In addition to the assessment, LLHIGA receives from the Department of Insurance the investment income and proceeds from the liquidation of insolvent insurance companies. These revenues provide the funds to pay the outstanding claims against the insolvent insurance companies.

When a member insurer is found to be insolvent and is ordered liquidated, a special deputy receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. The task of servicing the insurance company's policies and providing coverage to Louisiana's resident policyholders becomes the responsibility of the guaranty association. The protection provided by the guaranty association is based on Louisiana law and the language of the insolvent company's policies at the time of insolvency.

LLHIGA's ten-member board of directors consists of eight representatives of member insurers, appointed subject to the approval of the commissioner of insurance, one Louisiana resident appointed by the president of the Senate, and one Louisiana resident appointed by the speaker of the House.

Louisiana Mandated Health Benefits Commission

In 2010, Act No. 549 created the Louisiana Mandated Health Benefits Commission with a 22-member board representing the diverse interests of business, consumers and health care providers. The commission is tasked with conducting reviews of all proposed legislation that would mandate coverage by health insurance issuers of specifically enumerated benefits, services, conditions, or medical products mandates submitted to it no later than January 15 of each year. The commission is then to annually report its findings and recommendations, if any, on mandated benefit proposals to the House and Senate Insurance Committees for their consideration no later than 30 days prior to the date the regular session of the legislature convenes. These committees are then required to consider the commission's report on a particular mandated benefit proposal is brought before the committees during the session. (See Health Insurance Issues for further information on health insurance mandates.)

Chapter 2 – State Government Functions

Part I. Culture, Recreation and Tourism	2I-1
Tourism	2I-1
Marketing	2I-2
Welcome Centers	2I-2
Administration	2I-3
Louisiana Bicentennial Commission	2I-4
BP Oil Spill - Tourism Funding	2I-4
Tourist Attractions	2I-4
Cultural Development	2I-6
Arts	2I-6
Arts Programs	2I-6
Historic Preservation	2I-7
Division of Historic Preservation	2I-7
National Register of Historic Places	2I-8
Main Street Program	2I-8
Tax Incentives	2I-9
Tax Abatements	2I-9
Section 106	2I-9
Local Preservation	2I-9
Certified Local Government Program	2I-10
Cultural Districts	2I-10
French Heritage	2I-10
Archeology	2I-10
Division of Archeology	2I-11
Regional and Station Archaeologists	2I-11
Archaeological Resources	2I-11
Cemeteries	2I-12
Ancient Mounds Heritage Area and Trail	2I-12
World Heritage Site Designation	2I-12
Museums	2I-12
Louisiana State Museum	2I-13
Museums - Department of State	2I-14
National World War II Museum	2I-14
Libraries	2I-14
State Library	2I-14
Literacy	2I-15
Louisiana Collection	2I-15
Louisiana Gumbo Project	2I-15
Local Libraries	2I-15
Recreation	2I-16
State Parks and Table of State Parks/Historic Sites	2I-16
Ongoing Initiatives	2I-17
Local Recreation	2I-17
Land and Water Conservation Fund	2I-17
Recreational Trails Program	2I-17
Outdoors Outreach	2I-18
Bike Louisiana	2I-18
Louisiana Padde	2I-18

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part I. Culture, Recreation and Tourism

Responsibility for preserving, cultivating, and interpreting Louisiana's cultural and natural heritage lies primarily with the Department of Culture, Recreation and Tourism (CRT). In addition, the department has an obligation to promote aspects of Louisiana's unique heritage in order to attract visitors to the state. Most of the programmatic activity of the department is executed through one of its five offices: the office of tourism, the office of cultural development, the office of the state museum, the office of the state library, and the office of state parks. In the language of the Revised Statutes,

The department shall be responsible for the development, maintenance, and operation of library, park, recreation, museum, and other cultural facilities; the statewide development and implementation of cultural, recreational, and tourism programs; and planning for the future leisure needs of the people. (R.S. 36:201(B))

In meeting these responsibilities, the department contributes to the quality of life of Louisiana citizens both directly, by providing recreational and educational opportunities, and indirectly, by contributing to the economic health of the state through income generated by the tourism industry.

Tourism

The Louisiana tourism industry suffered a tremendous blow in the fall of 2005 due to the devastation caused by hurricanes Katrina and Rita. Many state parks, historical sites, museums, libraries, and welcome centers were severely damaged by the storms. The state was also hit by the national recession in 2009 resulting in a loss in both spending and visitation. In addition, in the spring of 2010, the BP oil spill had a detrimental impact on the state's tourism. Although tourism has suffered during these tumultuous times, the office of tourism has worked to expedite Louisiana's return to worldwide preeminence as a top tourist and cultural destination.

The office of tourism is responsible for providing for the design, plan, development, and implementation of the promotion of Louisiana's history, culture, art, folklife, recreational, and leisure opportunities, natural and scenic resources, transportation, cuisine, attractions, accommodations, and events. It also is responsible for encouraging and assisting local government and private sector development for the promotion of tourism. The office partners with tourism professionals and industry stakeholders in private and public sectors in order to conduct an ongoing promotional campaign of information, advertising, and publicity to create and sustain a positive image and understanding of Louisiana.

Marketing

The mission of this division is to provide advertising, promotion, development, and publicity for the assets of the state; to design, produce, and distribute materials in all media; and to reach as many potential tourists as possible.

- Development and Sales

This section merges traditional on-the-ground marketing efforts with statewide, regional, national, and international travel and tourism industry trade, tour operators, wholesalers, and suppliers. The sales team works closely with Louisiana tourism industry partners and organizes and implements an aggressive schedule of tourism sales missions, sponsors premier special events, and attends numerous trade shows to promote Louisiana as a top tourism destination. The tourism development team works closely with Louisiana tourism industry partners and other community-based organizations to develop high quality and authentic tourism products for the sales team to promote. Projects include designation and promotion of Louisiana Scenic Byways, development of themed driving, biking, birding and other trails, coordination of efforts of the Atchafalaya National Heritage Area, and conducting several tourism industry outreach programs.

- Coordinated Marketing

This section is charged with creating and implementing a unified marketing plan and advertising campaign for CRT agencies to brand the department and to leverage state dollar investment in media buys, print projects, and special promotions. It provides guidance to strengthen the department's marketing brand by providing strategic direction for the creation, management, and distribution of marketing and advertising initiatives throughout CRT. In addition, it is responsible for establishing promotional and advertising programs for both print and electronic collaterals such as ad materials, Internet/web pages, and special promotions.

- Consumer Information Services

The research, distribution, and inquiry sections are part of the marketing division. Distribution sees that the mail is processed for all program areas as well as servicing the material and supply needs of the network of welcome centers. The research section oversees all contracted research and generates its own data on advertising effectiveness, cost per inquiry, conversion rates, and other data vital to overall advertising and marketing effectiveness. The inquiry section fields calls from consumers who plan to arrive in our state within the next few weeks and prepares fulfillment packets for immediate response to their needs.

The office of tourism is developing a presence in the social media space, using tools such as Facebook, Twitter, and a Louisiana Travel Blog. In addition, the office launched a new marketing campaign called "Louisiana: Pick Your Passion" which is aimed at luring visitors back after the BP oil spill caused the cancellation of a large percentage of trips to the state.

Welcome Centers

Louisiana's welcome centers, located along major highways entering the state, provide safe, friendly environments for visitors to find information about area attractions. They also seek to

encourage visitors to spend more time in the state. Recently completed or ongoing projects include:

- I-10/Slidell Welcome Center - A new CRT building was completed in June 2009. Because the federal government requires rest stations to keep truck parking and accessibility up to date, the office of tourism used the order to upgrade as an opportunity to remodel the entire facility.
- I-55/Kentwood Welcome Center - In September 2011, the La. Department of Transportation and Development (DOTD) commenced work on ramps, parking, additional restroom buildings, a vending area, storage, and extensive landscaping. Funding was made available through federal stimulus funds.
- I-10/East Vinton Welcome Center - This is the last of the original generation of interstate welcome center buildings. A capitol outlay request for a new center was approved in 2007-2008. Design development under this request has been completed but construction documents are not yet developed because of DOTD budgeting delays/issues. Currently in talks with DOTD to begin construction in 2013.

Administration

- Louisiana Tourism Development Commission

Within CRT, this state agency serves as an advisor to the assistant secretary of the office of tourism and the secretary of the department on matters related to the development and implementation of programs to promote tourism and the historical, cultural, recreational, and scenic legacy of the state. (R.S. 51:1256-1257) There are 21 members of the commission who have the following responsibilities:

- (1) Reviewing and advising with regard to the major types of promotion and advertising contracts, prior to their approval.
- (2) Aiding in the formulation of the master plan for tourism development.

- Louisiana Tourism Promotion District

The Louisiana Tourism Promotion District is a special taxing district whose boundaries are coterminous with the state. The purpose of the district is to provide funds to assist the state in the promotion of tourism. The district does this by levying and collecting a sales and use tax limited to three one hundredths of one percent. Specifically, these funds can be used by CRT for the promotion of the state's tourism industry through the purchase of media advertisements, provided that any funds used by the department for the purchase of in-state media advertisements shall not exceed 10% percent of all funds used and such expenditures are consistent with the office of tourism's strategic plan for marketing. (R.S. 51:1282-1287).

- Encore Louisiana Commission

Within the office of the lieutenant governor, this 11-member commission supports the development of infrastructure and programs that enhance quality of life for persons age 50 and above, in order to retain and attract residents in this demographic and yield positive economic outcomes. Among other things, the commission is responsible for the following:

- (1) Formulating a strategic plan for the attraction and retention of persons 50 years old and above.
- (2) Monitoring and evaluating guidelines for a designation program that recognizes Louisiana assets and developments attractive to residents and tourists 50 years old and above.
- (3) Approving a marketing or communication strategy to promote Louisiana as a location or destination for residents and tourists 50 years old and above.
- (4) Researching and developing programs designed to assist state government, local governments, private sector entities, and nonprofit entities in developing Louisiana as a destination for residents and tourists 50 years old and above. (R.S. 51:1317-1319)

The Encore Awards program is a competitive grant program created to identify, support, and promote best practice models for attracting and accommodating people 50 and above. Applications are open to any civic entity, municipality, public or private business, academic institution, or not-for-profit that meets specified requirements.

Louisiana Bicentennial Commission

In 2010, the legislature created the Louisiana Bicentennial Commission. The commission consists of 12 members and serves to plan and develop activities appropriate to commemorate the bicentennial of Louisiana's statehood. These activities include a limited number of projects to be undertaken by the state seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education.

BP Oil Spill - Tourism Funding

In response to the damage suffered by Louisiana's tourism industry as a result of the BP oil spill, BP announced in the fall of 2010 that it would provide funding in the amount of \$30 million to help the industry get back on its feet. The \$30 million will be provided to CRT and will be invested in a Louisiana campaign (including nature based tourism), a coastal tourism response, a Greater New Orleans response, and tourism events.

Tourists Attractions

- Louisiana Scenic Byways

The Louisiana Scenic Byways are so designated by the National Scenic Byways Program. The goal of the Louisiana Byways Program is to brand Louisiana Scenic Byways as a premier traveling experience, highlighting their intrinsic cultural, historical, archeological, recreational, natural, and scenic resources, thus building awareness and expanding economic opportunity. Some of the most popular activities along the byways include hiking, camping, picnicking, biking, fishing, photographing scenery, viewing historic sites, and of course scenic driving.

- Atchafalaya National Heritage Area

The Atchafalaya National Heritage Area celebrates and preserves the heritage and culture of 14 parishes in south central Louisiana. The area is among the most culturally rich and

ecologically varied regions in the United States and is home to the widely recognized Cajun culture as well as a diverse population of European, African, Caribbean, and Native-American descent. The Atchafalaya Trace Commission, managing entity of the Atchafalaya National Heritage Area, is charged with planning and managing the area so that communities can save important cultural and natural resources, enhance the positive benefits of tourism, and create a sustainable, healthy economy.

The Atchafalaya National Heritage Area Development Zone (ATHADZ) is a tax credit program intended to boost economic development within the area. The program provides state income tax credits to small businesses (fewer than 20 employees) that meet specified criteria and make use of the natural, cultural, and historic assets of the area.

- America's Wetland Birding Trail

The America's Wetland Birding Trail is the final leg of birding trails in states bordering the Gulf of Mexico, linking Texas and Mississippi. Traveling along the trail visitors will explore some of Louisiana's most productive natural places and be exposed to some of the best birding in the country. In addition to exceptional birds and other wildlife, the birding trail also exposes visitors to some of the state's unique history and culture. The America's Wetland Birding Trail has expanded into four corridors: Great Gulf Coast, Mississippi River, Red River, and Zachary Taylor Parkway.

- Audubon Golf Trail

The Audubon Golf Trail was created under the tourism umbrella of the office of the lieutenant governor for the purpose of stimulating economic development, enhancing tourism, attracting new residents and retirees to the state, and elevating the quality of life experience in the state. Named for naturalist/artist John James Audubon, all courses on the trail are members of the Audubon Cooperative Sanctuary for golf courses, a program dedicated to protecting the environment and preserving the natural heritage of the game of golf. The trail features 12 courses by designers including Hal Sutton, David Toms, and Pete Dye.

- African American Heritage Trail

The African American Heritage Trail leads visitors in the footsteps of celebrated and everyday African Americans who helped shape the state of Louisiana. Plantations, universities, churches, and art museums showcase all facets of African American contributions, from academic to artistic. Stretching from New Orleans to Shreveport the trail offers a triumphant immersion into the state's rich black history and culture. One of the more than 30 stops on the trail is the nation's oldest surviving black community — Tremé, a New Orleans' neighborhood where generations of the city's musicians grew up and learned to play.

- Louisiana Culinary Trails

The Louisiana Culinary Trails program promotes Louisiana's food and travel to culinary tourists. Seven culinary trails, known as Creole Fusion, Capital Cuisine, Bayou Bounty, Seafood Sensation, Prairie Home Cooking, Delta Delights, and Red River Riches, feature nationally renowned and locally loved restaurants and food markets that highlight Louisiana's unique flavor. Their offerings reflect the tastes of their regions and range from

fried seafood and po-boys to gourmet meals and upscale desserts.

- Local Tourism

State law also provides for the creation of parish tourist commissions to promote tourism within their respective parishes. (R.S. 33:4754 et seq.) Often known as convention and visitors bureaus, tourist commissions generally have two revenue sources which support their promotional activities. First, each is authorized to levy a hotel occupancy tax. The maximum rate for this tax is set independently for each parish but in most cases is three or four percent of the amount charged for the room. Many tourist commissions also receive a rebate of the portion of the state sales tax which is collected from the hotels in their respective jurisdictions.

Cultural Development

Like other states in the nation, Louisiana is the product of migration, conflict, cultural exchange, and societal evolution through time. The past is reflected most notably in the rich array of art, buildings, archaeological sites, historic landscapes, and traditional cultural properties that are a shared inheritance for all the people of the state. The office of cultural development performs the functions of the state relating to the arts, historical and archaeological preservation, crafts, humanities, cultural heritages and traditions, and related cultural programs and activities. Three divisions comprise the office: the division of the arts, the division of historic preservation, and the division of archaeology.

Arts

The division of the arts, in cooperation with the Louisiana State Arts Council, is the catalyst for participation, education, development, and promotion of excellence in the arts. It is the responsibility of the division to support established arts institutions, nurture both emerging arts organizations and our overall cultural economy, assist individual artists, encourage the expansion of audiences, and stimulate public participation in the arts in Louisiana.

Arts Programs

- Stabilization Program

The Stabilization Program seeks to support nonprofit 501(c)3 arts organizations that help to create, present, and preserve the various unique arts resources that make up Louisiana. The program provides grants to arts organizations that have made an impact locally, statewide, regionally, nationally, or internationally. The goals of the program include strengthening the infrastructure of the arts industry, celebrating Louisiana's diverse artistic tapestry, and increasing in-state purchasing of Louisiana cultural products and services by Louisiana residents and businesses.

- Decentralized Arts Funding Program

The Decentralized Arts Funding Program is administered in cooperation with local arts agencies throughout the state. The program makes the arts available in all areas of the state by giving people in each parish the opportunity to develop arts programs that meet their local needs. Using the latest census figures for parish populations, the program allocated approximately fifty cents for each resident of the parish. These funds will be granted to

applicant organizations in the parish which received the allocation. Applicants compete only against other organizations and individuals within their parish.

- Percent for the Art Program

The Louisiana Percent for Art Program places public artwork in and around state buildings. The legislation governing the program specifies that if construction or renovation of a state building equals or exceeds \$2 million, one percent of the expenditure shall be for works of art by artists and craftsmen for the building and its grounds. The overall goals of the program include creating a world-class collection of public art for Louisiana citizens and creating economic opportunities for Louisiana artists. Louisiana is one of 27 states with Percent for Art legislation guiding the inclusion of works of art in new public construction.

- Louisiana Folklife Program

The Louisiana Folklife Program is designed to identify, document, conserve, and present the folk cultural resources of Louisiana. Folklife includes living traditions learned informally over time within ethnic, regional, occupational, and family groups. The program initiates projects, collaborates with other organizations, provides technical assistance for planning and funding folklife projects, and manages the division of the arts folklife grants with the goal of serving the greater folklife community of Louisiana.

- Arts in Education

Imagination, Creativity and Innovation (ICI) Initiative supports schools with a mission of nurturing creativity in every learner through an integrated arts education. Participating schools are receiving support to integrate the arts into curriculum including a two-week artist residency which places a professional theater artist in the classroom to demonstrate teaching opportunities by integrating theater with English language arts.

Historic Preservation

Louisiana has one of the most diverse cultural heritages of any state in the nation. Conserving the objects, sites, buildings, and districts that represent that heritage is of great importance to the future of our state. Preservation is essentially carried on through a blending of efforts by major players at the national, state, and local levels.

Division of Historic Preservation

The division of historic preservation serves as the staff of the appointed state historic preservation officer for federal programs that pertain to historic buildings, structures, and places as such appointment is required by the National Historic Preservation Act. The division also implements state historic preservation policy. More specifically, the responsibilities of the division include the following:

- Nominating Louisiana properties to the National Register of Historic Places.
- Developing a comprehensive statewide historic preservation plan.
- Reviewing applications for federal and state historic preservation tax credit and tax incentive programs.

- Administering the main street program and the certified local government program.
- Administering the federal historic American buildings survey program.
- Reviewing federal projects and federally assisted or licensed projects for their impact upon historic buildings and places.
- Implementing a program of activities that will make information about the historic resources of the state available to the public.
- Providing for the management of all Federal Historic Preservation Fund monies and state funds allocated for historic preservation grants.

National Register of Historic Places

The National Register of Historic Places is the official list of the Nation's historic places worthy of preservation. Authorized by the National Historic Preservation Act of 1966, the National Park Service's National Register of Historic Places is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources. It is a great honor for a property to be listed on the prestigious National Register of Historic Places. This status can be very useful in helping to save historic buildings and sites because people typically hold Register properties in high regard and think twice about insensitive alteration and demolition. The National Register recognizes five basic types of historic properties:

- Historic buildings such as plantation houses, courthouses, or log cabins.
- Historic structures such as old bridges, lighthouses, or forts.
- Historic districts such as old residential or commercial neighborhoods.
- Historic sites such as battlefields or Indian mounds.
- Historic objects such as old steamboats or fire engines.

Generally, properties are not placed on the Register if they are less than 50 years old; if the period of their historical significance is less than 50 years old; or if they have been significantly altered.

Main Street Program

The division of historic preservation operates the very successful Main Street program as this program has been developed by the National Trust for Historic Preservation. The goals of this program are to rehabilitate the historic buildings in the downtown areas of small towns and to reestablish downtown as an economically viable part of the community. The program attempts to achieve these goals through comprehensive consideration of planning and ordinance review, manager and volunteer training and development, economic development, landscape planning, commercial rehabilitation, building design, real estate development, tourism, and marketing.

The division estimates that since 1984, more than 35 communities have been active in revitalizing historic downtown areas and neighborhood commercial districts. Investments, including private rehabilitation and public improvements, exceed \$400 million dollars and nearly \$94 have been generated locally for every one dollar invested by the state. In addition, more than 9,100 new jobs have been created by more than 2,000 new businesses.

Louisiana Main to Main is an annual statewide initiative designed to foster economic development and stimulate cultural tourism throughout the state of Louisiana. Throughout the month of November, residents and visitors are encouraged to take road trips from one Main Street community to the next to experience the rich and diverse culture of Louisiana.

Tax Incentives

The Federal Historic Preservation Tax Incentives program is the largest, most successful, and most cost-effective federal community revitalization program. The division of historic preservation administers the federal rehabilitation tax credit in conjunction with the National Park Service and the Internal Revenue Service and also administers two state tax credits in conjunction with the Louisiana Department of Revenue. The purpose of tax credits is to encourage the preservation of historic buildings through incentives to support rehabilitation of historic buildings. Since the inception of the federal rehabilitation tax credit, Louisiana has been a leader in certified tax credit projects, generating over \$2 billion in private reinvestment in Louisiana communities. The state commercial tax credit has leveraged more than \$350 million in private reinvestment in downtown development districts and cultural districts.

Tax Abatements

The Restoration Tax Abatement, or RTA, program provides five-year property tax abatement for the expansion, restoration, improvement, and development of existing commercial structures and owner-occupied residences. The program can be used in combination with the federal historic preservation tax program, resulting in even more substantial savings. The tax abatement program is available for buildings individually listed in the National Register of Historic Places or buildings that are considered historic components of Register districts. It is also available for existing buildings in downtown or economic development districts.

Section 106

The staff of the division of historic preservation reviews assorted projects in accordance with Section 106 of the National Historic Preservation Act of 1966. The federal law mandates that all endeavors or undertakings that involve federal funds, licenses, permits, or property be reviewed for potential effects on cultural resources. If a project is determined to have an adverse impact on such cultural resources, the division staff consults with the appropriate federal agency and other interested groups to develop and approach that avoids, minimizes, or mitigates the impact.

Local Preservation

Local governments are authorized to establish historic preservation districts. After appropriate study by a committee created for that purpose and after review by any planning or zoning commission, the local governing authority may create a district and establish the regulations which apply within the district. The governing authority is required to create a commission to review all proposed construction, renovation, and demolition work within the district. Generally, unless otherwise provided by the local ordinance, construction, renovation, and demolition of private property within the district is prohibited unless the historic preservation district commission grants a certificate of appropriateness.

Certified Local Government Program

The Certified Local Government (CLG) Program is an initiative of the National Park Service and was developed to assist municipalities in protecting their historic resources. CLG designation is intended to encourage communities to establish historic preservation programs at the local level. The program aims to foster neighborhood pride, to survey and inventory local historic properties, and to assist property owners in preserving their community's heritage.

Cultural Districts

Any municipal or parish government in Louisiana may designate a specific geographic area and apply for that area to become a cultural district. The primary goal of the Cultural Districts Program is to revitalize communities and contribute to the lives and livelihoods of the citizens by creating locally driven hubs of cultural activity. The program provides two primary incentives for communities to create or rebuild cultural destinations:

- Renovations to historic structures within the district may be eligible for state historic tax credits.
- Sales of original, one-of-a-kind works of art are exempt from local and state sales tax.

French Heritage

- Council for the Development of French in Louisiana

The Council for the Development of French in Louisiana (CODOFIL), a 50 member organization appointed by the governor, is empowered to do any and all things necessary to accomplish the development, utilization, and preservation of the French language as found in the state of Louisiana for the cultural, economic, and tourist benefit of the state. CODOFIL offers Louisiana's citizens, whether they be of French ancestry or not, the opportunity either to learn French or to enhance and utilize the French they already know; and to explore, understand and support Cajun, Creole, and Francophone heritage in Louisiana for the cultural and economic benefit of all its citizens.

- La. French Language Services Program

The La. French Language Services Program provides state government services in the French language to French-speaking citizens and visitors in order to sustain La.'s historic French cultural heritage and to promote an increase in tourism and greater investment in the state from Francophone countries. Requires CRT to develop program guidelines addressing such issues as prioritizing service areas with greater numbers of French-speaking citizens or visitors and services related to health, safety, compliance with regulations, or complexity of processes.

Archeology

The challenges to archaeological conservation in Louisiana are vast and complex. Many of Louisiana's archaeological sites are threatened by an ever-growing population needing land for homes and businesses, the increased use of land-leveling and drainage techniques by agricultural interests, the rapid erosion of the state's coast, and oil and natural gas exploration.

Division of Archeology

The division of archaeology is leading the effort in addressing threats to the state's archaeological sites. The division operates under three mandates: the National Historic Preservation Act, the state Archaeological Resources Act, and the state Unmarked Burial Sites Act. The division's responsibilities relate to recording, protecting, and distributing information about the state's archaeological resources. Duties of the division include the following:

- Promulgating rules and regulations concerning the recovery and study of archaeological remains.
- Maintaining the state archaeological site files, which include site records, field notes, maps, photographs, and reports.
- Functioning as legal custodian for the state's archaeological artifacts and objects.
- Implementing activities that will make available to the public information about the historic and prehistoric resources of the state.
- Serving as the archaeological advisory source for all state agencies by assisting them in evaluating any potential impact of their projects on archaeological resources.
- Administering those portions of the National Historic Preservation Act relative to archaeology. (R.S. 41:1603 et seq.)

Regional and Station Archaeologists

The division manages five regional archaeologists as follows: Louisiana State University, University of Louisiana–Monroe, University of Louisiana at Lafayette, Northwestern State University, and University of New Orleans. The division also manages a station archaeologist at Poverty Point State Historic Site.

Regional Archaeologists are available to meet with landowners who have sites on their property and to talk to educators, school groups, and other organizations about Louisiana's prehistoric and historic archaeology. The station archaeologist promotes research, preservation, and interpretation of archaeological remains at the Poverty Point State Historic Site.

Archaeological Resources

The Louisiana Archaeological Survey and Antiquities Commission is an 11 member commission that was established in 1974 to promote the goals and objectives of CRT and to act in an advisory capacity to the department and its secretary in their administration of the Archeological Resources Act (R.S. 41:1603 et seq.) and in matters relating to antiquities, archaeology, and other cultural resources.

The division of archaeology offers several databases to help with archaeological research and Section 106 investigative projects.

- Louisiana Radiocarbon Database is a searchable database of radiocarbon dates obtained for archaeological sites in Louisiana that have been reported to the division.

- Louisiana Cultural Resource Management Bibliography includes abstracts and bibliographic information for the library of cultural resource management reports housed in the division.
- Louisiana Cultural Resources Map is the division's online GIS system showing both standing structures and archaeological sites.

Cemeteries

The Louisiana Unmarked Human Burial Sites Preservation Act (R.S 8:671-681) identifies the division of archaeology as the agency responsible for abandoned cemeteries and unmarked human burials in Louisiana, and establishes processes for protecting and, when necessary, excavating cemeteries and burials when they are encountered.

The Louisiana Historic Cemetery Preservation Act (R.S 25:931-943) identifies the division of archaeology as the agency responsible for permitting any activities at an abandoned cemetery that could potentially disturb the graves, tombs, headstones, fencing, or other elements of the cemetery.

Ancient Mounds Heritage Area and Trail

Native Americans have lived in what is now Louisiana for at least 12,000 years. A durable reflection of prehistoric Native American societies is the public architecture that remains—the earthen mounds that provided the focus for social, political, and religious life. In 1997, the Ancient Mounds Heritage Area and Trail was established to make an inventory of earthworks in northeast Louisiana. The long-term goal was to create a self-guided mounds trail on which visitors would be directed to historic markers that would describe the earthworks visible from the highway at those locations. The trail promotes 39 well-preserved and visible mound sites, emphasizing the interaction of history, ecology, and culture during the past 5,000 years, and providing unique educational and tourism experiences.

World Heritage Site Designation

The Poverty Point State Historic Site represents the climax of archaic mound building. Constructed between 1600 and 1300 B.C., the site contains six concentric earthen rings, a 650-yard central plaza, and the third largest mound in the United States. A staggering quantity of dart points, drills, jasper beads, and other objects have been recovered from the site.

The U.S. Department of Interior announced in Summer 2011 that the earthworks of Poverty Point would be considered as one of the United States' nominations for the United Nations' World Heritage List. The list, administered by the U.N.'s Educational, Scientific and Cultural Organization, recognizes cultural and natural sites of universal importance. The U.S. nominations will likely be formally nominated to the UNESCO World Heritage Committee in 2013, for possible inclusion on the World Heritage List in 2014.

Museums

Louisiana treasures its long history and values the ongoing contributions of many of its talented citizens. The result is an abundance of museums that preserve and celebrate the unique aspects of Louisiana's remarkable people.

Many of the state's museums feature famous (and sometimes infamous) figures from Louisiana

history—from notorious pirate and smuggler Jean Lafitte to colorful politicians, war heroes, and celebrities. Other museums, such as the Eddie G. Robinson Museum, focus entirely on the lives of ordinary individuals who made extraordinary contributions to the state and country. The office of the state museum and the division of museums within the Dept. of State exhibit some of the state's most valued assets and help to bring Louisiana's incredibly rich history to life to visitors from all around the world.

Louisiana State Museum

The office of the state museum operates and maintains the Louisiana State Museum (LSM), including all buildings, collections, and exhibitions of the Louisiana State Museum complex in New Orleans, and other museums under its jurisdiction. (R.S. 36:208(C)) Currently the following properties constitute the state museum complex: the Cabildo, the Presbytere, the Arsenal, the Old U.S. Mint, Madame John's Legacy, and the 1850 House, all of which are located in the New Orleans French Quarter and are designated as national historic landmarks. Additional properties under the jurisdiction of the office of state museum include: Louisiana State Museum Collections Storage Facility in New Orleans, the Creole House and Jackson House in New Orleans, the Lower Pontalba Building in New Orleans, the Wedell-Williams Aviation Museum and the Cypress Sawmill Museum in Patterson, the Old Courthouse Museum in Natchitoches, the E. D. White Historic Site in Thibodeaux, the Louisiana Political Museum and Hall of Fame in Winnfield, and the Capitol Park Complex in Baton Rouge. The artifacts held by the state museum are a vast and varied collection of documents, art objects, furnishings, and textiles dating back to Louisiana's colonial days and reflecting the rich cultural heritage embodied within our state.

Ongoing and future projects of the Louisiana State Museum include:

- Completion of the Louisiana Sports Hall of Fame Museum in Natchitoches. The new museum will feature 3 different exhibits: The Hall of Fame, Sports Paradise, and Northwest Louisiana history. The Hall of Fame exhibit will feature a video introduction by the Louisiana sportswriters and artifacts from new inductees. Visitors to the Sports Paradise will experience the different seasons of Louisiana and the sporting activities that go with each. The Northwest Louisiana history exhibit focuses on the rich Spanish and French Creole heritage, plantation culture, notable women, and living traditions. The museum is scheduled to open in Fall 2012.
- Opening of the Bicentennial exhibition in Baton Rouge celebrating 200 years of Louisiana's statehood. The large exhibition is a selection of up to one hundred artifacts from the LSM collection that both individually and collectively illustrate the state's rich history over the past 200 years. LSM curators will make artifact selections from the following collections: decorative arts, science and technology, jazz and Louisiana music, Mardi Gras and costumes, visual arts, and maps and manuscripts.
- Opening of a permanent exhibit at the Old U.S. Mint exhibit entitled "Jazz and Louisiana Music". This permanent exhibit, scheduled to open in the Fall of 2014, will feature some of the over 4,000 historic artifacts and more than 15,000 photographic images that make up the LSM's jazz and Louisiana music collections.
- In October 2010, LSM opened an exhibit entitled "Living with Hurricanes: Katrina & Beyond". The exhibit, located in the Presbytere on Jackson Square, chronicles the effects of the storm, levee failures, and the recovery efforts of Louisiana residents. The exhibit

stretches across four galleries, each telling one aspect of the story using artifacts and rich media – sound, video, and computer graphics. Artifacts in the galleries include music legend Fats Domino's baby grand piano found in his flooded Ninth Ward house, a Coast Guard rescue basket and seats from the heavily damaged Louisiana Superdome where thousands of people sought refuge and rescue. The objects serve as touchstones in recalling the days after the storm.

Museums – Department of State

The division of museums within the Dept. of State operates and maintains the following museums: Chennault Aviation and Military Museum in Monroe, Delta Music Museum in Ferriday, Eddie G. Robinson Museum in Grambling, Germantown Colony Museum in Minden, Jean Lafitte Marine Fisheries Museum in Lafitte, Louisiana Military Hall of Fame and Museum in Abbeville, Louisiana Military Museum in Ruston, Louisiana State Cotton Museum in Lake Providence, Louisiana State Exhibit Museum in Shreveport, Louisiana State Oil and Gas Museum in Oil City, Louisiana's Old State Capitol in Baton Rouge, Mansfield Female College Museum in Mansfield, Old Arsenal Museum Adjacent to the State Capitol in Baton Rouge, Shreveport Water Works Museum in Shreveport, Spring Street Historical Museum in Shreveport, and Tioga Heritage Park and Museum in Pineville. The department is currently developing the Garyville Timbermill Museum in Garyville.

The division has launched the Heroes and Heritage Trail as a way to promote the museums in the absence of tourism marketing funds. The trail is a series of destinations throughout Louisiana each telling a compelling story through historic artifacts. The trail winds its way from Lafitte to Oil City. The route ties together local museums that were largely hidden for many years.

National World War II Museum

Louisiana is home to the National World War II Museum, formerly known as the National D-Day Museum. The museum is located in the central business district of New Orleans and focuses on the contribution made by the United States to victory by the Allies in World War II, and the Battle of Normandy in particular. It has been designated by the U.S. Congress as country's official World War II Museum. The museum holds a wide display of military uniforms, weaponry, medals, artwork and personal items of the war including photos, correspondence and mementos.

Libraries

State Library

The State Library of Louisiana offers a comprehensive collection of almost 1 million items, including books, magazines, reference materials, maps, government publications, audiovisual materials, DVDs, CDs, and more. The state library provides planning, coordination, and leadership to and for the various local, regional, and school libraries around the state so as to provide every citizen with access to free, high quality library service. Consultants from the state library visit each library system regularly and routinely advise directors, staff, and trustees on programs, new services, construction, administration, and management of libraries, including legal and ethical issues.

The staff at the state library provide research assistance to state employees, agencies, and the

general public. The Recorder of Documents administers the Louisiana State Documents Depository Program. Through this program, state government documents are made available to the public. In addition, the state library provides a state-of-the-art automated interlibrary loan system. If the library does not have a particular item that a user needs, it can borrow that item from other libraries. The Interlibrary Loan program allows patrons access to library collections from all over the world.

The state library also offers services directly to Louisiana's blind, visually impaired, physically disabled and reading disabled citizens. The Talking Books and Braille Library Services for the Blind and Physically Handicapped provide recorded books and playback machines, Braille and large print books, special Louisiana materials, recorded magazines, and other accessible materials. The growing collection encompasses both fiction and nonfiction, with books for children, teenagers, and adults.

Literacy

Through the years, the state library has contributed to literacy in Louisiana by purchasing and circulating appropriate materials to public libraries and other literacy providers. The Louisiana Center for the Book stimulates public interest in reading, literacy, and libraries through a variety of programs and public events, including the statewide summer reading program and the annual Louisiana Book Festival. The Louisiana Book Festival encourages Louisianians of all ages to read more adventurously and regularly by offering opportunities to interact with authors from across the state, region, and nation, as well as from other parts of the world who have contributed to the literary heritage of our state.

Louisiana Collection

The Louisiana Collection is the state library's center for all things Louisiana; this includes history, culture, biography, and statistics. The staff performs in-person, telephone, mail, and email reference and referral services on Louisiana-related subjects and assists researchers using the collection.

Louisiana Gumbo Project

The "Louisiana Gumbo Project: a Recipe for Empowerment" is a digital collection comprising materials about Louisiana's history, culture, places, and people. This project provides free access to Louisiana's unique historical treasures. Louisiana Gumbo was made possible by a \$470,000 National Leadership Grant for Libraries that was awarded to the state library along with the state museum and the Historic New Orleans Collection. It provides digital resources to K-12 students and educators, as well as for researchers, writers, and genealogists.

Local Libraries

In addition to the state library, any city or parish is authorized to establish and operate a public library. In creating a library, a local governing authority is required to create a governing board which is responsible for adopting rules and regulations governing the library and for employing a librarian and other employees. If approved by the voters, the parish or municipality may levy taxes for construction, maintenance, and support of the library. (R.S. 25:211 et seq.) The state library administers state and federal grants for local libraries.

Recreation

State Parks

The unique natural and historical features of Louisiana's state parks system hold great potential for visitors of all ages to learn about and appreciate Louisiana's unusual environment and rich cultural heritage. The office of state parks serves the citizens of Louisiana and visitors by preserving and interpreting natural areas of unique or exceptional scenic value, planning, developing and operating sites that provide outdoor recreation opportunities in natural surroundings, preserving and interpreting historical and scientific sites of statewide importance, and administering intergovernmental programs related to outdoor recreation and trails. The office operates three classes of facilities: state parks, state historic sites, and state preservation areas.

- "State preservation areas" are those areas of exceptional scenic value which because of their unique characteristics should be preserved for current and future enjoyment.
- "State historic sites" are those areas which when evaluated on a statewide basis possess historical, cultural, or memorial significance. The principal function of a commemorative area is to preserve and maintain a specific historical, cultural, or memorial theme.
- "State parks" are natural areas which, when evaluated on a statewide basis, possess outstanding potential for recreation utilization. The natural area must possess outstanding scenic and natural qualities to provide a recreation opportunity of high quality in a natural setting.

Louisiana State Parks / Historic Sites		
State Parks		
Bayou Segnette	Cypremort Point	St. Bernard
Lake Bruin	North Toledo Bend	Hodges Gardens
Bogue Chitto	Fairview-Riverside	Sam Houston Jones
Lake Claiborne	Palmetto Island	Jimmie Davis
Chemin-A-Hunt	Fontainebleau	South Toledo Bend
Lake D'Arbonne	Poverty Point Reservoir	Lake Bistineau
Chicot	Grand Isle	Tickfaw
		Lake Fausse Pointe
State Historic Sites		
Audubon	Fort Pike	Poverty Point
Mansfield	Plaquemine Lock	Locust Grove
Centenary	Fort St. Jean Baptiste	Rebel
Marksville	Port Hudson	Longfellow-Evangeline
Fort Jesup	Forts Randolph & Buhlow	Rosedown Plantation
Los Adaes	Otis House at Fairview-Riverside	Winter Quarters

In addition to these general definitions, the Revised Statutes set forth size and other criteria which an area must meet in order to be taken into the state parks system. As of late 2011, the office is operating 22 state parks and 18 state historic sites. The Louisiana State Arboretum is the only state preservation area. Several of the state's historic sites and preservation areas have been placed on the National Register of Historic Places or designated as National Historic Landmarks.

Ongoing Initiatives

- Designation of Poverty Point State Historic Site in northeast Louisiana as a World Heritage Site. The U.S. Department of Interior announced in Summer 2011 that the earthworks of Poverty Point would be considered as one of the United States' nominations for the United Nations' World Heritage List. The list, administered by the U.N.'s Educational, Scientific and Cultural Organization, recognizes cultural and natural sites of universal importance.
- Continue to seek funding for the maintenance and operation of facilities in the state parks system and the completion of expansion and improvement projects, including statewide electrical, water, and sewer utility upgrades as well as erosion prevention measures.
- Continue the recovery of the New Orleans City Park as it sustained extensive damage in aftermath of Hurricane Katrina. At 1,300 acres, the park is one of the largest urban parks in the country. The park was placed in CRT in 2006, and the department began to partially subsidize the park's operations. The nonprofit City Park Association operates the park and continues to work with local businesses and organizations to expedite the recovery of the park.

Local Recreation

The office of state parks does not operate playgrounds, ball fields, or similar recreation facilities. Responsibility for these is left to local governments. State law authorizes and provides for creation of local recreation districts and many municipalities and parishes have taken advantage of this authority.

Land and Water Conservation Fund

The Land and Water Conservation Fund Act provides federal financial assistance for the acquisition and/or development of public outdoor recreational land and facilities. The office of state parks is designated as the state liaison agency for the administration of the federal program through the U.S. Department of Interior. This program has existed since 1964 to provide matching funds for local recreation projects.

Recreational Trails Program

The Recreational Trails Program (RTP) is a Federal-aid assistance program that provides funds to states to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses. RTP is an assistance program of the Department of Transportation's Federal Highway Administration. RTP funds come from the Federal Highway Trust Fund. Federal transportation funds benefit recreation including hiking, bicycling, in-line skating, cross-country skiing, off-road motorcycling, and all-terrain vehicle riding.

Outdoors Outreach

Louisiana Outdoors Outreach Program (LOOP) was created by the office of state parks to provide educational, recreational, and related outdoor programs, activities, and services to underserved and at-risk youth. Through a comprehensive organizational model, the goal is to enhance self-esteem, exercise the mind and body, and develop the many characteristics necessary for good citizenship. The program addresses the state's third to twelfth grade students, emphasizing environmental education, outdoor skills, and soft skills which include teamwork, problem solving, and conflict resolution. Programs are available in Baton Rouge and New Orleans.

Bike Louisiana

CRT publishes a list of bike routes throughout the state as an aid to local and visiting bicyclists. Many routes provided are on regular state and local roads. The department does not warrant the safety or suitability of the routes. Bikers may choose from lightly traveled, paved rural roads to challenging mountain-biking trails to easy, leisurely paths through Louisiana's state parks.

Louisiana Paddle

CRT publishes a list of trails and paddling areas as an aid to local and visiting paddlers. Many routes provided are also used by motorized vessels. The department does not warrant the safety or suitability of the routes. The state's many rivers, bayous, lakes, and other waterways provide almost countless opportunities for pleasant paddling.

Chapter 2 – State Government Functions

Part J. Public Officials and Public Employees	2J-1
Compensation	2J-1
Employees	2J-1
Elected Officials	2J-2
State Civil Service	2J-2
Composition	2J-2
Classified and Unclassified	2J-3
State Civil Service Commission	2J-3
Appointments	2J-4
Political Activity	2J-4
Administration/Rules	2J-4
Department of State Civil Service	2J-4
Funding	2J-5
Pay Plan	2J-5
State Police Service	2J-5
State Employment: Information; Control; Staffing Levels	2J-6
Personnel Practices	2J-6
Human Resources System	2J-7
Reporting Requirements	2J-8
Table 1: Report of Number of Employees	2J-9
Table 2: Classified and Unclassified Employment by Department (All Employees)	2J-10
Table 3: Classified and Unclassified Employment by Department (Excludes Students and Board and Commission Members)	2J-11
Public Personnel Management	2J-12
Employee Training	2J-12
Employee Performance Appraisal/Pay for Performance	2J-12
Recruiting, Staffing, and Workforce Planning	2J-14
Increased Employee Accountability	2J-14
Retirement	2J-15
Insurance	2J-18
Political Activity in the Classified State Civil Service and State Police Service	2J-19
Table: Prohibited Political Activity Classified State Civil Service and State Police Service	2J-19
Dual Officeholding and Dual Employment	2J-20
Table: Dual Officeholding and Dual Employment Prohibited and Regulated Relationships	2J-23

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part J. Public Officials and Public Employees

Matters relating to public employees and public officials are of inherent importance to the operations of state and local government. Efforts to control growth of state government inevitably give attention to the number of officials and employees. Civil service issues and personnel management practices are of key importance in assuring an able and productive workforce. Political activity by state employees is a related issue. Benefits of public employees, such as compensation, retirement, and health care benefits, and matters relating to dual officeholding and dual employment are other important issue areas relating to public officials and employees.

Compensation

Compensation and related benefits, such as health care benefits and retirement, paid from state and federal funds to state officials and employees comprise approximately 12% of the total state budget each year. Recruiting, compensating, and retaining highly competent personnel to perform the services provided by the state, while at the same time maintaining state fiscal responsibility, is a difficult but crucial task.

Employees

The state constitution provides that the wages and hours of classified employees are set by the State Civil Service Commission, but are effective only after approval by the governor. (Const. Art. X, §10) Thus, compensation of the employees in the classified service is established in a pay plan approved by the governor which is not subject to legislative approval or veto. (See "Pay Plan" under "State Civil Service Commission" on page 2J-5.) Similar provisions are in place for the State Police Service; however, the state police pay plan is effective only after approval by the governor and subject to appropriation of sufficient funds by the legislature. (Const. Art. X, §48; also see "State Police Service" beginning on page 2J-5.)

With respect to the unclassified service, Title 36 of the Louisiana Revised Statutes of 1950 (the Executive Reorganization Act) generally provides that the salaries of the officers of executive branch departments appointed by the governor are fixed by the governor, but cannot exceed the amount approved by the legislature in session (usually through the appropriations process). (Salaries of department officers in each statewide elected official's department are set by the statewide elected official, subject to the same limitation.) Salaries of other unclassified employees are established by the appointing authorities within their respective agencies and are subject to review by the legislature during the budget review and appropriations processes.

Elected Officials

State law provides for the salaries of the seven statewide elected officials: the governor, the lieutenant governor, the secretary of state, the attorney general, the treasurer, and the commissioners of agriculture and insurance. R.S. 36:10 sets the governor's salary at \$130,000 per annum and the salary of each of the other statewide elected officials at \$115,000 per annum.

R.S. 45:1162 sets the salary of each member of the Public Service Commission at \$45,000 per annum.

The salary for members of the legislature is set by law at \$16,800 per year, and members also receive a \$6,000 per year unvouchered expense allowance which is established by law. (R.S. 24:31.1) Legislators also receive a per diem for each day of a legislative session, for actual attendance at legislative committee meetings during the interim, and for attendance at other approved official meetings. As of October 1, 2011, the per diem rate is \$149.00. (R.S. 24:31–The amount is equal to the rate allowable for per diem deduction under Section 162(h)(1)(B)(ii) of Title 26 of the United States Code for the location of the state capital.)

In 2009, a constitutional amendment was adopted to prohibit any salary increase enacted by law for statewide elected officials, members of the Public Service Commission, and members of the legislature, from being implemented until a subsequent term of office. (Const. Art. IV, §4; Const. Art. III, §4(G); and Const. Art. IV, §21(F))

The salaries of justices and judges are also set by statute. (See page 1B-7 for a brief discussion.)

Other elected officials whose compensation is provided by statute include the clerks of court, district attorneys, assessors, coroners, and sheriffs. Therefore, legislative amendment, enactment, or repeal can change these salaries; however, the constitution prohibits decreasing the compensation of elected officials during the term for which they are elected. (Const. Art. V, §21; Art. VI, §12; and Art. X, §23)

State Civil Service

Composition

The state civil service is established by the constitution. (Const. Art. X, §1) It includes all persons holding offices and positions of trust or employment in the employ of the state, of any instrumentality thereof, and of any joint state/federal, state/parochial, or state/municipal agency, regardless of the funding source for such employment. This provision of the constitution has been the basis for including the employees of a number of local entities in the state civil service, including employees of port commissions, levee boards, and housing authorities. Specifically excluded from the state civil service are members of the state police service, established by constitutional amendment in 1990, and persons holding offices and positions of any parish or municipality or of any municipal board of health.

Classified and Unclassified Service

The state civil service includes the unclassified and the classified service. Persons not included in the state unclassified service are in the classified service. The constitution specifically lists those officers and employees who are placed in the state unclassified civil service. The constitution permits the state civil service commission to add additional positions to the unclassified service and to revoke those positions added. (Const. Art. X, §2)

Unclassified employees are civil servants, but they are not covered by the civil service protection and prohibitions of the constitution or by the regulations of the civil service system. Instead they are subject to the authority of the employing agency and procedural and substantive due process protections of the federal and state constitutions. They are also subject to law and, in the executive branch, to executive orders of the governor. Classified employees are covered by the civil service protection and prohibitions of the constitution and by regulations of the State Civil Service Commission.

(See tables in "Employment Statistics" beginning on page 2J-9 for statistics on state employment.)

State Civil Service Commission

The State Civil Service Commission, established by the constitution, has seven members who serve overlapping six-year terms. The governor appoints six members from nominees submitted by the presidents of private colleges and universities in the state, with no more than one appointment from any congressional district. One member is elected by the classified employees of the state. (Const. Art. X, §3)

Officials and Employees in the State Unclassified Civil Service

The constitution places the following officers and employees in the state unclassified civil service:

- (1) Elected officials and persons appointed to fill vacancies in elective offices.
- (2) The heads of each principal executive department appointed by the governor.
- (3) Registrars of voters, commissioners of elections, watchers, and custodians and deputy custodians of voting machines.
- (4) Members of state boards, authorities, and commissions.
- (5) One private secretary to the president of each college or university.
- (6) One person holding a confidential position and one principal assistant or deputy to any officer, board, commission, or authority mentioned in (1), (2), (3), or (4) above, except civil service departments.
- (7) Members of the military or naval forces.
- (8) Teaching and professional staffs, and administrative officers of schools, colleges, and universities of the state, and bona fide students of those institutions employed by any state agency.
- (9) Employees, deputies, and officers of the legislature and of offices of the governor, lieutenant governor, attorney general, and of all offices provided for in Article V of the constitution (judicial branch).
- (10) Railroad employees whose working conditions and retirement benefits are regulated by federal agencies in accordance with federal law.
- (11) The director, deputy director, and all employees of the Governor's Office of Homeland Security and Emergency Preparedness.

Source: Const. Art. X, Sec. 2

Appointments

Permanent appointments and promotions in the classified state civil service may be made only upon certification of the applicant or employee under a general system developed by the commission based upon merit, efficiency, fitness, and length of service, as ascertained, as far as practicable, by competitive examination. A classified employee may not be discriminated against because of political or religious beliefs, sex, or race. An employee with permanent status may not be subjected to disciplinary action except for cause. Employees may appeal certain agency actions to the commission. In cases involving disciplinary actions or removals, the burden of proof is on the agency to prove charges against the employee. In cases of discrimination, the burden of proof is on the employee. The commission has exclusive power to hear and decide all removal and disciplinary cases, subject to review by the courts of appeal. The commission may appoint a referee to take testimony, hear, and decide removal and disciplinary cases. (Const. Art. X, §§7, 8, 12)

Political Activity

Members of the State Civil Service Commission and officers and employees in the classified service are prohibited by the constitution from participating in political activity. (Const. Art. X, §9) (Members of the State Police Commission and state police officers in the classified state police service are also prohibited by the constitution from participating in political activity. (Const. Art. X, §47) See also "Political Activity in Classified State Civil Service & State Police Service" on page 2J-19.)

Administration/Rules

The constitution vests the State Civil Service Commission with broad and general rulemaking and subpoena powers for the administration and regulation of the classified service, including the power to adopt rules for regulating employment, promotion, demotion, suspension, reduction in pay, removal, certification, qualifications, political activities, employment conditions, compensation and disbursements to employees, and other personnel matters and transactions; to adopt a uniform pay and classification plan; to require employee training and safety programs; and generally to accomplish the objectives and purposes of the merit system of civil service. Commission rules have the force and effect of law. They cannot be changed by the legislature since the authority of the commission to adopt rules is constitutionally granted.

Any rule or determination by the State Civil Service Commission affecting wages and hours of employment has the effect of law and becomes effective only after approval by the governor. A new pay plan becomes effective only with the governor's approval. (Const. Art. X, §10)

Though the constitutional status of the commission's rulemaking authority exempts it from legislative review of administrative rules under the Administrative Procedure Act, civil service rules provide for submission of rules for review by the appropriate legislative committees prior to adoption and also provide for fiscal impact statements for proposed rules.

Department of State Civil Service

The Department of State Civil Service, one of the 20 departments within the executive branch, is headed by the director of civil service who is a classified employee and who serves as the administrative arm of the State Civil Service Commission. The department implements the commission's rules and policies with respect to employment, wages, examinations, job

classifications, appeals, training, and related matters. (Const. Art. X, §6)

More information regarding the Department of State Civil Service, including its rules and job listings, is available on the department's website (www.civilservice.la.gov).

Funding

The constitution requires the legislature to make adequate annual appropriations to the state civil service system to enable it to implement efficiently and effectively the constitutional civil service provisions. The constitution prohibits gubernatorial veto of the annual legislative appropriation to the state civil service system. (Const. Art. X, §13)

Pay Plan

There are six pay schedules for classified state employees: Medical, Protective Services, Technician and Skilled Trades, Scientific and Technical, Social Services, and Administrative.

A merit increase under the current plan is equal to four percent and may be awarded to an employee whose performance rating is at least "Meets Expectations" (as long as the employee has not already achieved the maximum salary of his pay range). The first general increase in 17 years, of \$1,500, for all state employees was approved by the State Civil Service Commission and the governor and awarded by the legislature in 2007.

Due to the state's financial situation in 2009, the State Civil Service Commission voted to suspend merit increases for FY 2010-11 and because of the ongoing financial situation, voted again to suspend merit increases for FY 2011-12. The Governor approved both actions. During these fiscal years, no appointing authority may grant a merit increase to any classified employee nor may any classified employee gain eligibility for a merit increase.

State Police Service

A constitutional amendment adopted in 1990 took state police officers out of the state civil service system and created the state police service as a separate personnel system for these state employees. (Const. Art. X, §41 et seq.) The state police also have a separate pay plan.

Constitutional provisions for the state police service are similar to those for the state civil service system. Composition of the State Police Commission is similar to that of the State Civil Service Commission. Like state civil service, the state police service is divided into the classified and the unclassified service. The State Police Commission determines those positions which shall be in the unclassified service, and it may provide that any such position shall become classified. Certifications for appointments and promotions are made by the director. Political activity prohibitions are similar to those for state civil service employees. Unlike state civil service, State Police Commission rules and determinations concerning wages and hours are subject to appropriation of sufficient funds by the legislature. (Const. Art. X, §48(C)) With respect to appeals, the power to decide removal and disciplinary cases is reserved to the commission; however a referee may take testimony only. In 2007, the State Police Commission proposed a new pay plan for state police; funding for the pay plan was included in the General Appropriation Act; and though effective on July 1, 2007, it was formally approved by the governor in August of that year.

More information regarding the state police service and the State Police Commission, including

rules and employment information, is available on the State Police Commission's web site (<http://laspc.dps.louisiana.gov/>).

State Employment: Information; Control; Staffing Levels

Issues relating to the number of state employees have attracted the attention of legislators and governors over the last couple of decades. State government reorganization in the 1970s provided better tools to report and oversee employment levels. In addition, the legislature has taken other steps to provide for such reporting and oversight and various methods have been tried to reduce employment levels.

The General Appropriation Act each year specifies the number of authorized positions for the unit or program. In addition, it may include other general provisions about changes in employment numbers. It also permits the commissioner of administration to increase the number of authorized positions approved for each department, agency, or program if sufficient documentation or other necessary adjustments are presented and the request is deemed valid. He is specifically authorized to increase the number for a department, agency, or program if funds or functions are transferred to the department, agency, or program (provided sufficient documentation is presented and the request is deemed valid). The Act limits the total increase in the number of personnel in state government approved by the commissioner to 350. It also requires Joint Legislative Budget Committee approval of any request for an increase in positions which reflects an annual aggregate increase in excess of 25 employees for any department, agency, or program.

Personnel Practices

In 1982, the State Personnel Practices Act was enacted to provide for personnel information and hiring and compensation controls for executive branch employees. The Act, as such, is no longer on the books, but most of its provisions were incorporated into the revision of laws governing the budget process. The Department of State Civil Service and the division of administration must jointly develop and maintain an automated information system to serve as the official state personnel and position records, with immediate system access for the budget office, state civil service, and the legislative fiscal office. The system is required to include a current record of personnel tables for each budget unit, program, and subprogram. Each budget unit must submit a personnel table annually with its budget request which must include authorized, estimated, and requested positions organized according to

Contents of Personnel Tables for Budget Units

- Number of authorized positions for the prior fiscal year and the number classified and unclassified.
- Number of authorized positions in the initial operating budget and in the existing operating budget for the current fiscal year, and the number classified and unclassified.
- Number of positions estimated for the continuation budget for the next fiscal year and the number classified and unclassified.
- Number of positions requested for the next fiscal year and the number classified and unclassified.
- Actual amount expended for salaries continuing for authorized positions for the prior fiscal year.
- Total amount budgeted for salaries continuing for authorized positions in the initial operating budget and in the existing operating budget for the current fiscal year.
- Estimated amount for salaries continuing for the positions estimated for the continuation budget for the next fiscal year.
- Total amount requested for salaries continuing for requested positions for the next fiscal year.
- All of the above information for positions paid from other charges.

Source: R.S. 39:32

programs or subprograms and other specified contents. (See "Contents of Personnel Tables for Budget Units" list above.) Each budget unit must also submit in its budget request, a listing of authorized positions that have been vacant for twelve months or more.

The number of authorized positions for a budget unit or program is specified annually in the General Appropriation Act. The budget office is required by law to establish in the information system the number of authorized positions for each budget unit, program, or subprogram, in accordance with the Appropriation Act. A budget unit head may adjust the classifications of these positions, subject to certain limitations. Only a personnel transaction which conforms with the authorized positions may be completed; otherwise it may be completed only if the table is changed and necessary approvals are granted. The law requires all personnel transactions to be submitted to the director of state civil service for approval (except unclassified positions within a statewide elected official's department, but civil service must be notified of these transactions). The state civil service director may not approve a personnel transaction for a position paid from the salaries continuing category that is not in the approved personnel table. Civil service may reclassify any position when given sufficient documentation, if sufficient funds are available in the salaries continuing category. The division of administration must update the personnel tables to reflect actions during the fiscal year.

The commissioner of administration is required by law to monitor all personnel transactions affecting authorized positions. If he finds that they are adversely affecting mission performance or the balance of the salaries continuing category, he must notify the budget unit head and the legislative fiscal office and require that all modifications to the personnel table be individually approved by the budget office. If he disapproves a transaction, the commissioner must inform the budget unit head of the reason. The reason may be only a finding that a reclassification is not warranted, that insufficient funds have been appropriated for personnel in the budget category, or that the action was not consistent with agency program goals. However, funds or positions may be transferred as otherwise provided by law.

The division of administration is required to develop and implement a central automated payroll system for all budget units or programs, designated to issue payroll checks only to employees who occupy positions approved by civil service, and to monitor all transactions which result in the payment of salaries or wages. It must report on transactions not in conformance with the appropriation acts. The Department of State Civil Service is required to report by department and budget unit detailing the variances by position and incumbent between the actual payroll and the approved personnel table. (See R.S. 39:83-86)

Human Resources System

The Integrated Statewide Information Systems for Human Resources (ISIS HR) system was implemented in October of 2001. The original scope of the ISIS Human Resources project was to encompass the human resources functions for Louisiana state government: organizational management (positions), personnel, and payroll. ISIS HR, now referred to as LaGov HCM, includes all employees and positions (classified and unclassified) in the executive branch of government excluding payroll for postsecondary education, most boards and commissions, and quasi-state agencies (levee boards, housing authorities, ports). The purpose for the development and implementation of the LaGov HCM is to have a statewide integrated human resources system that is user-friendly and which supports single entry of data for agencies on payroll. The system maintains data that is real-time and accurate and can be easily accessed for ad hoc reporting, budget projections, and other analysis.

With only one system for those agencies paid through LaGov HCM, much of the duplication of effort that existed in previous systems has been eliminated. LaGov HCM provides these agencies effective and efficient processing and management of their human resource information including features such as employment history, retroactive pay processing, a transfer process whereby personnel records follow the employee from agency to agency, and personnel budget projections.

One of the objectives of the LaGov HCM system was to develop an electronic interface so that executive branch entities such as the LSU System and LSU Health Sciences Center, which run their own personnel and payroll systems, could submit transactions electronically, avoiding the situation where data had to be entered twice. However, the effort required by both LaGov HCM and these postsecondary education entities to sustain the interface was both labor intensive and costly. Therefore, this method of electronic interface was discontinued, and the Department of State Civil Service developed an alternative solution which merges data from the LaGov HCM system with data from the LSU system into one state personnel file. This complete state personnel file resides at the Department of State Civil Service.

The implementation of the LaGov HCM system has also facilitated the Department of State Civil Service's transition from preapproval of personnel actions to post-audit. With the elimination of the preapproval process and the inherent delays associated with preapproval, the timeliness and accuracy of data has been improved. By empowering agencies, State Civil Service has redirected staff resources to human resources consulting and technical assistance roles. State civil service uses data in the LaGov HCM system to identify agency data entry and compliance issues and initiates contact to assist agencies with corrective actions to bring them into compliance and to encourage the use of best practices.

Reporting Requirements

Pursuant to recommendations of the House Committee on Governmental Reorganization, in 1987 the legislature made changes in statutory requirements for Department of State Civil Service reports of state employment statistics. Since state civil service includes certain employees of ports, levee boards, and other local entities, civil service reports include these local employees in employee totals. In addition, there has been confusion as to what constitutes an "employee," since many do not realize that the civil service designation "unclassified employee" includes such categories as members of boards and commissions, faculty of postsecondary education institutions, and student employees. The legislature required the state civil service department to structure reports of state employment so as to clarify their meaning and to better represent actual numbers of state employees. The requirements provide that total state employees be reported by full-time equivalent positions, both classified and unclassified, and that a breakdown be provided to give numbers of education employees, student employees, board members, and other employees. (R.S. 42:289-291) As a result, the Department of State Civil Service now records and reports employment by both the old method (See Tables 1 and 2 on pages 2J-9 and 2J-10) and the new method (See Table 3 on page 2J-11).

Employment Statistics. Classified employment experienced an overall decline in the 2000s, including a noticeable drop after the 2005 hurricanes. However, during the same period there was overall growth in the number of unclassified employees. Beginning in 2009, the number of classified has declined to the level of classified employment in the 1970s. The number of unclassified employees has begun to decline as well. Table 1 provides the number of classified and the number of unclassified state employees as reflected in civil service records from 1972 to the present. As noted above, the figures in Table 1 include some local employees and all

persons in the state classified and unclassified service (including board and commission members, higher education faculty, and student employees). The totals are not converted to full-time equivalents. Most unclassified employees are in higher education institutions (24,619 on Sept. 30, 2011, and 1,261 in Health Care Services on the same date).

A further breakdown of state classified and unclassified employees arranged according to employing department is presented in Table 2. The figures include the state executive branch departments, the governor's and lieutenant governor's offices, as well as all employees of the departments and all agencies and facilities within each department. Note that the Department of Education includes faculty and other employees of postsecondary education institutions and vo-tech schools, and Health Care Services as well as employees of the State Department of Education. Members of boards and commissions, higher education faculty, and student employees are included as unclassified employees. Figures are not based on full-time equivalents (FTE).

Table 3 provides September 30, 2011, Department of State Civil Service figures for classified and unclassified employees, by department, excluding board and commission members and student employees. Both total employees and full-time equivalent (FTE) employees are listed. Employees of each department and all agencies in the department are included.

TABLE 1
REPORT ON NUMBERS OF EMPLOYEES
JUNE 30, 1972 - SEPTEMBER 30, 2011

Period Ending	Classified Employees	Unclassified Employees
June 30, 1972	48,161	11,080
June 30, 1973	50,283	12,130
June 30, 1974	52,068	13,039
June 30, 1975	57,809	13,839
June 30, 1976	57,879	14,662
June 30, 1977	57,710	15,264
June 30, 1978	59,236	15,604
June 30, 1979	62,392	16,576
June 30, 1980	64,230	17,830
June 30, 1981	68,393	18,737
June 30, 1982	69,581	20,281
June 30, 1983	68,294	19,733
June 30, 1984	67,940	19,960
June 30, 1985	69,415	20,574
June 30, 1986	65,068	23,357
June 30, 1987	60,926	23,807
June 30, 1988	59,177	23,722
June 30, 1989	56,788	24,298
June 30, 1990	57,868	25,794
June 30, 1991	61,808	26,948
June 30, 1992 ¹	63,047	28,618
June 30, 1993 ¹	64,252	29,763
June 30, 1994 ¹	65,804	30,956
June 30, 1995 ¹	67,232	31,872
June 30, 1996 ¹	67,648	31,860
June 30, 1997 ¹	67,065	32,483
June 30, 1998 ¹	67,346	33,967
June 30, 1999 ¹	68,039	34,312
June 30, 2000 ¹	67,267	35,194
Dec. 31, 2001 ²	66,900	31,998
June 30, 2002	66,521	33,432
June 30, 2003	66,930	35,292
Sept. 30, 2003	66,702	35,208
Sept. 30, 2004	65,836	36,105
Sept. 30, 2005	65,424	36,417
Sept. 30, 2006	58,471	35,062
Sept. 30, 2007	61,292	37,876
Sept. 30, 2008	60,717	38,592
Sept. 30, 2009	61,069	38,369
Sept. 30, 2010	57,648	37,723
Sept. 30, 2011	54,181	34,879

SOURCE: Department of State Civil Service

¹ These figures (classified) also include members of the State Police Service (a separate civil service system). The total number of commissioned state police officers for the dates indicated were provided by the Dept. of Public Safety and Corrections.

² This is the first reporting period that includes records from the ISIS HR system, now LaGov HCM. Beginning with this period, the members of the State Police Service are included in the source document totals.

TABLE 2
CLASSIFIED AND UNCLASSIFIED EMPLOYMENT BY DEPARTMENT

All Employees

(See "Employment Statistics" on page 2J-8 for explanation of employees included)

Department	Sept. 30, 2008		Sept. 30, 2009		Sept. 30, 2010		Sept. 30, 2011	
	Classified	Unclassified	Classified	Unclassified	Classified	Unclassified	Classified	Unclassified
Office of the Governor	1,749	1,914	1,773	2,037	1,780	2,059	1,784	2,019
Veterans Affairs	733	78	769	71	792	72	801	88
Economic Development	81	45	78	61	74	59	70	52
Culture, Recreation & Tourism	684	548	670	524	641	482	593	500
Transportation & Development	4,651	131	4,639	113	4,454	77	4,443	72
Public Safety & Corrections	10,322	623	9,691	418	9,358	412	8,721	443
Health & Hospitals	11,999	1,441	11,812	1,292	10,657	1,183	9,057	1,074
Children & Family Services ⁽¹⁾	5,143	40	4,923	99	4,320	213	3,925	180
Natural Resources	474	63	480	66	357	35	367	38
Revenue	865	148	834	114	729	79	762	76
Environmental Quality	893	45	875	44	786	25	747	28
Workforce Commission ⁽²⁾	900	116	907	134	1,262	104	1,118	133
Wildlife & Fisheries	790	67	806	76	807	115	868	77
Civil Service	161	70	174	90	179	79	208	82
Education ⁽³⁾	19,322	31,636	19,005	30,884	18,137	30,337	17,474	27,738
Public Service Commission	74	25	73	19	76	19	80	20
Agriculture & Forestry	737	324	639	250	588	206	542	189
Justice	0	558	0	546	0	520	0	520
Insurance	244	77	226	44	236	43	234	39
Lieutenant Governor	6	28	4	27	4	16	4	16
State	407	487	410	494	383	474	374	383
Treasury	482	127	486	128	482	128	471	124
Total	60,717	38,591	59,274	37,531	56,102	36,737	52,643	33,891

Source: Department of State Civil Service

(1) Formerly the Department of Social Services

(2) Formerly the Department of Labor

(3) Totals include postsecondary education employees and Health Care Services employees.

TABLE 3
CLASSIFIED AND UNCLASSIFIED EMPLOYMENT BY DEPARTMENT⁽¹⁾
Excludes Students and Board and Commission Members

Department	Sept. 30, 2011 - Total Employees		September 30, 2011 - Full-Time Equivalent (FTE)	
	Classified	Unclassified	Classified	Unclassified
Office of the Governor	1,784	1,700	1,781.27	1,577.38
Veterans Affairs	801	79	801.00	9.00
Economic Development	70	42	69.50	42.00
Culture, Recreation & Tourism	593	493	592.63	395.96
Transportation & Development	4,443	28	4,438.50	27.00
Public Safety and Corrections	8,721	395	8,721.00	157.50
Health & Hospitals	9,057	837	9,041.34	239.14
Children & Family Services ⁽²⁾	3,925	165	3,925.00	75.00
Natural Resources	367	11	367.00	8.00
Revenue	762	64	762.00	10.00
Environmental Quality	747	17	746.75	9.00
Workforce Commission ⁽³⁾	1,118	85	1,107.18	20.32
Wildlife & Fisheries	868	31	867.00	13.00
Civil Service	208	54	208.00	4.60
Education ⁽⁴⁾	17,474	27,022	17,329.60	21,839.99
Public Service Commission	80	13	80.00	13.00
Agriculture	542	127	541.00	104.50
Justice	0	491	0.00	488.95
Insurance	234	27	234.00	27.00
Lieutenant Governor	4	15	4.00	9.00
State	374	380	373.00	170.60
Treasury	471	64	471.00	33
Total	52,643	32,140	52,460.77	25,273.94

⁽¹⁾ Includes all executive branch departments and offices of governor and lieutenant governor. Includes employees of the respective department and of agencies and facilities in the department. See "Employment Statistics" on page 21-8 for further explanation of employees included in table.

⁽²⁾ Formerly the Department of Social Services

⁽³⁾ Formerly the Department of Labor

⁽⁴⁾ Totals include postsecondary education employees and Health Care Services employees.

Source: Department of State Civil Service

Public Personnel Management

The term personnel management refers to programs and procedures intended to improve the quality and productivity of the work force and to make effective use of personnel dollars. (Other terms used for personnel management include Human Resource Management and Human Capital Management.) Personnel management issues and initiatives over a number of years have included such matters as employee training, employee performance appraisal and pay for performance, workforce planning, and proposals to create an executive career service.

Employee Training

As a result of legislative action in 1979, the Comprehensive Public Training Program (CPTP) was created to provide generally applicable skills training for all state employees and supervisory and managerial skills training for current supervisory employees. In 2010, pursuant to Act No. 825, the legislature moved the CPTP program from the division of administration to the Department of State Civil Service. The program continues to institute, develop, conduct, maintain, and provide for continuing programs of in-service training and education designed to improve the supervisory, managerial, and other generally applicable skills and expertise of officials and employees of all state agencies, including supervisory, administrative and managerial personnel as well as nonsupervisory employees. State employees attend these courses as part of their work day as requested or required by their agencies.

The Civil Service Commission implemented the Minimum Supervisory Training program in 2002 for certain supervisory, managerial, and administrative jobs in the classified service who supervise classified employees. This training includes classes on topics including supervisory skills, performance planning and review, civil service rules, and discipline.

The budget for CPTP is established through the Executive Budget development process and currently is about \$1.119 million. The program is funded (through interagency transfers (IATs)) by assessments charged to state agencies having classified state employees. The assessments are based on a percentage of the total annual gross salary budget for classified employees.

In FY 2010-2011, 17,680 employees participated in CPTP classes either in a traditional classroom setting or through computer-based training technologies.

More information about the Comprehensive Public Training Program is available on the Dept. of State Civil Service's website (www.civilservice.la.gov/Training/CPTP/CPTP.asp).

Pursuant to Act No. 377 of 2009, the Department of State Civil Service and the division of administration were required to develop and institute an educational program designed to improve the supervisory and managerial skills of certain specified unclassified employees in the areas of hiring and terminating state employees and conducting effective performance reviews. This training was developed by the Department of State Civil Service and is available in both web-based and instructor-led formats.

Employee Performance Appraisal/Pay for Performance

Employee performance and pay along with giving agencies more flexibility was the subject of many legislative resolutions during the 2008-2012 term. A few of these include:

- House Concurrent Resolution No. 6 of the 2009 Regular Session of the Legislature requests the Department of State Civil Service to change layoff rules to allow agencies to retain employees based on factors other than seniority, to revise the classification system to limit the number of pay bands and reduce the number of job classifications to provide for more agency flexibility, to revise the compensation system for classified employees, and to provide that merit increases of classified managers and supervisors be contingent upon meaningful Performance Planning and Review of the employees under their direction and supervision.
- House Resolution No. 8 of the 2010 Regular Session of the Legislature requests all executive branch agencies, including the Board of Regents, to submit reports to the Department of State Civil Service relative to methods used for and certain information about pay increases for unclassified employees, including staff and faculty of postsecondary education institutions.
- House Concurrent Resolution No. 61 of the 2010 Regular Session of the Legislature requests the Department of State Civil Service to adopt an executive service program to provide appointing authorities greater flexibility in building policy implementation teams and to provide recognition to skilled managers who excel in assisting an agency in meeting its goals.
- House Concurrent Resolution No. 77 of the 2010 Regular Session of the Legislature which includes requests to the Department of State Civil Service to annually report turnover rates and costs to the Joint Legislative Committee on Budget and to encourage, in conjunction with the implementation of a new annual pay increase system, a system of reward and recognition policies to reward outstanding performance.

The issue of performance appraisal for state employees and the related issue of pay for performance have been addressed by state civil service over the last several years. In 1997, civil service implemented a five-tier performance appraisal system for all classified state employees. The system is continuously monitored to assure that classified state employees are rated by their supervisors, and the number of classified employees rated is no less than 95% each year. A comprehensive review of the system was completed in 2007, and enhancements were made available to agencies wishing to use them.

Employees receiving ratings less than "Meets Expectations" may not be given merit increases. Agency managers may exempt employees with outstanding performance ratings from layoffs.

The Department of State Civil Service is proposing a change to the rating system during FY 2011-2012 to establish a three-tier rating system that aligns performance to agency mission and provides for variable pay or pay for performance. In the proposed system, employees receiving ratings of "Unsuccessful" cannot receive pay for performance and agency managers will be able to exempt employees with exceptional performance ratings from layoffs.

Various approaches to pay for performance are available to agency managers so that they can customize compensation options to fit their unique needs. The state civil service rule on Gainsharing and Exceptional Performance allows employees who save money or increase efficiency to receive a monetary reward of up to 20% of annual base salary. Other specific pay tools for agency managers include Employee Rewards and Recognition, Optional Pay Adjustments, and dual career ladders. Rewards for innovations and special projects can be up to 10% of annual base pay. Optional Pay Adjustments allow payment for additional duties for

which an employee is not otherwise compensated of up to 10% of annual base salary. Dual career ladders enable managers to compensate extremely valuable scientific or technical employees who have no subordinates without creating unnecessary layers of management. In FY 2010-2011, approximately 1,117 classified employees were authorized additional pay using one of these options.

Recruiting, Staffing, and Workforce Planning

In February 2009, civil service implemented "LA Careers," a one-stop job posting center where both classified and unclassified job opportunities for all jobs in state government can be posted in one online employment system. Moving to an online application system has reduced time-to-hire from several weeks to as little as six days. The state has also realized some cost savings by moving to accepting applications online instead of exclusively on paper. In FY 2010-2011, approximately 487,000 applications were received in response to jobs posted in the LA Careers system. Of those received, 99% were received online. In addition, the online system has enhanced transparency and accountability and improved public access to state job opportunities.

Civil Service continues to provide enhanced assessment tools to help state agencies select the best qualified candidates. Examples of these include:

- In-basket exercise to assess management skills for supervisors.
- Video assessment of face-to-face customer service skills, used for driver's license officers.
- Bio-data (behavioral) assessment for administrative support staff.
- S.C.O.R.E. (Score Candidates on Relevant Experience) procedures to provide hiring managers with a list of ranked candidates based upon candidates' experience and/or education.

Since February 2002, testing of applicants for state employment has been offered on a walk-in basis at all six testing centers throughout the state. For more information about testing, including exam schedules and testing locations, please visit the Department of State Civil Service's web site (www.civilservice.la.gov).

Because approximately 40% of the classified officials and administrators and 23% of the professionals in Louisiana state government are eligible to retire within the next five years, state civil service conducts an annual workforce planning survey and produces an annual statewide workforce plan to assist agencies with workforce and succession planning. The statewide workforce plan includes a toolkit for agencies to use as a resource in workforce and succession planning. Each year, state civil service also provides a workforce profile to each agency showing how its staffing levels may change over the next five years due to potential retirements. The statewide workforce plan, toolkit, and workforce profiles are available on the civil service web site.

Increased Employee Accountability

The state civil service Commission extended the probationary period for classified employees from 12 to 24 months. This change gives agencies more time to make a thorough evaluation of a new employee prior to the employee gaining a property right to his position through the attainment of permanent status. Additionally, the mandatory supervisory training programs

enhance the ability of supervisors to utilize tools such as the performance planning and review system and the disciplinary process to hold employees accountable for their performance.

During FY 2010-2011, 247 employee appeals were filed with the State Civil Service Commission. Of these appeals, 94% were offered hearings or were disposed of within 90 days of receipt and 97% of appeal decisions were rendered within 60 days of being heard.

Retirement

More than 20 retirement or pension systems, funds, or plans exist for the benefit of public employees in the state of Louisiana. The constitution vests the legislature with certain powers and duties regarding 13 of these retirement systems. Two of the 13 are strictly for employees of the state, two are for employees of the public educational system, and nine are statewide in scope, serving employees of political subdivisions of the state.

The systems for state employees and for public school employees are the Louisiana State Employees' Retirement System, the State Police Pension and Retirement System, the Teachers' Retirement System of Louisiana, and the Louisiana School Employees' Retirement System. These systems, commonly referred to as the "state systems", are statutorily defined as state agencies and are under the jurisdiction of the Department of the Treasury. The nine systems for employees of political subdivisions, called "statewide systems", are for various categories of public employees such as municipal employees, parish employees, district attorneys, and clerks of court. The other systems for which the legislature has less responsibility are purely local in nature, such as for employees of a particular municipality.

Each system is governed by a board of trustees with the authority to transact the business of the system, to invest system funds, and to hold all cash and securities of the system in trust. The trustees have a fiduciary duty to act in the best interest of the system, to the exclusion of all other concerns, in transacting the business of their system.

State and Statewide Systems

Membership eligibility is generally determined directly by the type of employment. This is indicated by the names of the major state and statewide systems.

- (1) State Employees' Retirement System
- (2) State Police Pension and Retirement System
- (3) School Employees' Retirement System
- (4) Teachers' Retirement System
- (5) Assessors' Retirement Fund
- (6) Clerks' of Court Retirement and Relief Fund
- (7) District Attorneys' Retirement System
- (8) Firefighters' Retirement System
- (9) Municipal Employees' Retirement System
- (10) Municipal Police Employees' Retirement System
- (11) Parochial Employees' Retirement System
- (12) Registrars of Voters Employees' Retirement System
- (13) Sheriffs' Pension and Relief Fund

The constitution requires that any benefit changes for the state and statewide systems occur through legislative enactment; however, any such benefit change having an actuarial cost must be approved by 2/3 of each house of the legislature. Furthermore, for the state systems, no benefit changes having an actuarial cost may be approved by the legislature unless a funding source is identified which is sufficient to pay for such benefit changes within 10 years.

Legislation either provides directly as to a particular system or specifies limits applicable to several systems and generally provides for membership eligibility, employee and employer contributions, retirement eligibility, and benefits.

Louisiana's public retirement systems are primarily funded from 3 sources: (1) contributions; (2) local taxes or assessments; and (3) investments. Under most plans both the employee and the employer contribute a percentage of salary to the system. In some systems the employer contributions are supplemented by dedicated local taxes or assessments. Additionally, the employer contributions to the Sheriffs' Pension and Relief Fund, the Firefighters' Retirement System, and the Municipal Police Employees' Retirement System are further supplemented by a .7% assessment of the insurance premium taxes assessed against insurers operating in Louisiana, and \$1.5 million of such assessment goes to the State Police Pension and Retirement System.

Retirement eligibility is theoretically keyed to the employee's productive life relative to the work performed. Many systems provide for retirement after 10 years of service at age 60, 25 years of service at age 55, or 30 years of service at any age. However, in some systems this multitude of options has been eliminated for new hires, and retirement is allowed only upon attaining the age of 60. The number of retirees seeking reemployment performing the same or similar duties in positions covered by the same system from which they draw benefits has raised an actuarial concern that the standards for retirement eligibility are not keeping pace with the increasing longevity and productivity of today's workforce.

The vast majority of Louisiana's public retirement systems are known as "defined benefit" (DB) plans as opposed to "defined contribution" (DC) plans. DB plans provide a lifelong retirement benefit to a retiree and/or his beneficiary based on the retiree's years of service and level of compensation. During an employee's working lifetime, employer and employee contributions will typically be made to the retirement system, which funds will be held in trust and invested by the system in order to fund an employee's future benefit. The longer a person is employed, the greater his monthly benefit will be upon retirement. Benefits are usually determined by multiplying a percentage, called an accrual rate, (normally 2.5% to 3.33%) of the highest average compensation for a certain period of employment (normally 36 or 60 successive months) times the number of years of service credit.

DC plans, unlike DB plans, pay a benefit without regard to years of service or level of compensation. During his working lifetime, the employee and possibly his employer make contributions to the employee's retirement account. Those monies are invested, typically by the employee, and the benefit at retirement depends on the account balance at the time of retirement. For the most part, DC plans are not offered to public employees; however, there are a few exceptions. For instance, the Teachers' Retirement System of Louisiana has an optional DC plan for higher ed. employees.

Of special interest among the benefits Louisiana retirement systems afford their members is the Deferred Retirement Option Plan or "DROP". In lieu of terminating employment and accepting a retirement allowance, a member who has reached retirement eligibility may elect to participate in DROP. Upon entry into DROP, the member begins "receiving" retirement benefits while continuing to receive his salary; however, the retirement benefit payments are not made to the member. Instead, they are paid into a designated account for the period during which the member participates in the plan, up to a maximum of three years. After the member separates from employment, the member enters actual retirement, and the funds in his DROP account are paid to him in a lump sum or in a lifetime annuity.

The DROP was created by actuaries as a cost-neutral benefit. Even though a benefit is paid into a member's DROP account while the member is working, his average compensation and his service credit will be frozen. So long as the provisions of the DROP mechanism remain as they are, the systems maintain their actuarial integrity while providing a benefit. However, nearly any change in the plan provisions of DROP, particularly extending the participation period, would come with an actuarial cost.

Providing retirement benefits coupled with paying cost-of-living increases to retirees is a considerable expense of state and local government. The legislature has been extremely interested in the funding of these benefits and the corresponding effect on the unfunded accrued liabilities (UAL) of the systems. This unfunded accrued liability is the difference between the amount of assets necessary to pay the value of all benefits already earned if such benefits were all payable today and the amount of assets the system possesses which are available to pay these benefits.

The solvency of state retirement systems is of critical importance since the state guarantees the retirement benefits of its public school employees and officials and employees of the state. Since 1975, all legislation affecting a retirement system must have an actuarial note attached explaining the long-range financial and actuarial effect of the measure. The financial state of the state *and* statewide retirement systems is also critically important since decreases in a retirement system's funding level results in increases in the employer contributions that state and local governments must remit to the systems.

The total unfunded accrued liabilities of the 13 state and statewide systems had reached \$3.1 billion as of June 30, 1986. In response to this problem, a constitutional amendment was approved by the state's voters in November 1987, that required the actuarial soundness of the systems to be attained and maintained. The constitution now requires that the unfunded accrued liability which existed on June 30, 1988, be eliminated over a forty-year period ending in the year 2029. This particular piece of the UAL is known alternately as the "1988 UAL" or the "Initial UAL (IUAL)". It is not the only UAL since more UAL has accrued subsequent to 1988.

As of June 30, 2010, the total unfunded accrued liability of the 13 state and statewide systems equaled \$19.8 billion, of which \$18.2 billion is attributed to the four state systems.

The present amortization schedule provides for total payment of the IUAL by the year 2029. UAL accruing after 1988 is subject to a different amortization schedule and is typically required to be paid off either 15 years or 30 years from the year in which the liability is created, depending on the system. The constitution requires the legislature to establish for each state or statewide retirement system the particular method of actuarial valuation to be employed for purposes of attaining and maintaining the actuarial soundness of each system. The legislature is required to maintain the actuarial soundness of the state and statewide retirement systems and to determine and set all required contribution rates for members and employers of those systems. For the four state systems, the state is responsible for providing an amount necessary to fund the employer contributions to those systems.

The funding level of each of Louisiana's public retirement systems is highly dependent on each system's investment performance. Systems must invest assets in order to provide sufficient funding to pay for future benefits. Investment gains and losses, from an accounting standpoint, are averaged over a period of 3 to 5 years depending on the system, a method referred to as "smoothing". The benchmark that must be achieved by each system from year to year, and over the long term is known as the Actuarially Assumed Rate of Return (AARR). When a system's

yearly return on investments is lower than the AARR, UAL is created and employer contributions will increase. The AARR for the 13 state and statewide retirement systems ranges from 7.5% to 8.25%.

The market crash of 2008 and 2009 along with several systems' involvement in alternative investments which have proven to be illiquid have led to increased scrutiny of the investment decisions made by the boards of trustees of the state and statewide retirement systems. The steady increases in employer contribution rates following the market crash for the state and local governments has led to an increased awareness of retirement system funding for those employers and the general public.

Related to the topic of investment earnings is the topic of Cost-of-living adjustments (COLAs), which are sometimes referred to as Permanent Benefit Increases (PBIs). COLAs are typically funded from earnings on investments in excess of a system's AARR. Though certain thresholds must be met in each case, a system typically cannot grant a COLA unless its earnings exceed its AARR, and in most cases the funds used to finance the COLA must derive from those excess earnings.

There are several current issues that may result in retirement legislation. All of the retirement systems share common design characteristics. As a consequence, when a major issue arises, the situation that gives rise to the issue and any solution thereto may involve all or most of the systems. At the present time such issues include:

- Paying off the UAL.
- Defined benefit plans versus defined contribution plans.
- Increasing employee contributions / lowering benefits to offset increases in employer contribution rates.
- Employment of retirees and the reduction of benefits that applies to such reemployed retirees.
- Cost-of-living adjustments, specifically the legislatively-prescribed methods used for payment of COLAs, and some systems' inability to grant COLAs year after year under such methods.
- Increased oversight of system investments.
- Consolidation of retirement systems.

Insurance

The Office of Group Benefits (OGB) provides health care and life insurance to substantially all employees and retirees of the state, employees and retirees of school boards of 43 out of the 68 school systems, and employees and retirees of eligible political subdivisions of the state. The state contributes 75% of the premium liability of active employees for health and life insurance coverages only, but makes no premium contribution for certain optional accident and extended term life benefits also available through the program. Employees participating in group benefits may continue their coverage upon retirement. The state contribution for persons who retire and who begin participating in group benefits after January 1, 2002, ranges from a low of 19% for

individuals with less than 10 years of preretirement participation to 75% for individuals with 20 years or more of participation prior to retirement. Premium rates are established by the office under the direction of the commissioner of administration and in consultation with actuaries for the life, health, and other benefit programs offered through the office.

A chief executive officer and a chief operating officer are responsible for the operations of the office. The CEO serves at the pleasure of the commissioner of administration and the chief operating officer is appointed by the CEO. The program is self-insured; premium payments are collected and managed by program personnel and claims disbursements are made out of the pooled premiums.

There is a 16-member Group Benefits Policy and Planning Board which reviews the life and health benefit programs offered to eligible employees and reports to the legislature any comments and recommendations regarding modifications to such programs. The commissioner of insurance serves as a nonvoting member of the board. One member of the House and one member of the Senate are appointed by their respective presiding officers to four-year terms concurrent with their term of office. Five members are appointed by the governor, two retirees (one retired state employee and one retired teacher) are elected by retired participants in health benefits programs, and six members are elected by participants in health benefits programs, all to no more than two six-year terms. The six elected active employees represent employee groups from higher education, Department of Health and Hospitals/Department of Children and Family Services, school personnel, Department of Transportation and Development, Department of Public Safety and Corrections, and all state agencies not otherwise represented.

More information on the Office of Group Benefits is available at its web site www.groupbenefits.org.

Political Activity in Classified State Civil Service & State Police Service

The constitution prohibits certain specified political activity for an officer or employee in the classified civil service or in the classified state police service. "Political activity" as it relates to classified employees is defined by the constitution as an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election. (Const. Art. X, §§9(C) and 47(C))

An officer or employee of the classified service (state civil service or state police service) is not prohibited from supporting issues involving bonded indebtedness, tax referenda, or constitutional amendments; nor is he prohibited from expressing his opinion privately, serving as a commissioner or official watcher at the polls, or casting his vote as he desires.

Prohibited Political Activity Classified State Civil Service and State Police Service (Const. Art. X, §§9(A) and 47(A))

- Participating or engaging in political activity.
- Being a candidate for nomination or election to public office, except to seek election as the classified state employee serving on the State Civil Service Commission or the classified state police officer serving on the State Police Commission.
- Being a member of any national, state, or local committee of a political party or faction.
- Making or soliciting contributions for any political party, faction, or candidate.
- Taking active part in the management of the affairs of a political party, faction, candidate, or any political campaign.

Soliciting contributions for political purposes from an officer or employee of the classified service or the state police service is also prohibited. (Const. Art. X, §§9(B) and 47(B)) The same constitutional provisions further prohibit any person in the classified service from using or attempting to use his position to punish or coerce the political action of a classified employee. (There are also provisions in the Code of Governmental Ethics which generally prohibit public servants from using the authority of public office or position, directly or indirectly, in a manner intended to compel or coerce any person or other public servant to engage in specified political activity. (R.S. 42:1116(B)))

Civil service rules (state civil service and state police service) further regulate political activity. For example, state civil service rules and state police service rules specify that classified employees in those respective systems may not actively participate in the circulation of petitions for the recall of an elected public official, but they may sign such petitions. (State Civil Service Rule 14.1 and State Police Service Rule 14.2.) The state civil service rules are available on the department's web site (www.civilservice.la.gov) and the state police service rules are available on the State Police Commission's web site (www.laspc.com). In addition, the Department of State Civil Service issued General Circular No. 2011-20 dated July 27, 2011, which specifies permissible and prohibited political activities by classified employees and which is available on the department's web site.

Dual Officeholding and Dual Employment

Article X, Section 22 of the Constitution of Louisiana mandates the legislature to enact laws defining and regulating dual employment and defining and regulating dual officeholding in state and local government. To meet this mandate and achieve this goal, the legislature enacted Part III of Chapter 2 of Title 42 (R.S. 42:61-66). The premise of these provisions of law is that the attainment of a high level of confidence and trust by the general citizenry in public officials, employees, and governmental decisions is impaired by the excessive accumulation of governmental power which may result from public officials or employees holding two or more public offices or public jobs.

The law provides definitions, specific prohibitions, additional prohibitions on incompatible combinations of office holding and employment, penalties, and exceptions.

Two of the more important terms in these provisions of law are "full-time" and "part-time", which are defined as follows:

- "Full-time" means that the person normally works or is expected to work in an appointive office or employment at least seven hours per day and at least 35 hours per week.
- "Part-time" means that the person normally works or is expected to work in an appointive office or employment less than the number of hours of work defined as full-time.

The expressly prohibited combinations of office holding and employment are generally as follows:

- Elective office, appointive office or employment in any of the branches of state government or in a political subdivision and elective office, appointive office, or employment in the

government of a foreign country, the government of the United States, or the government of another state.¹

- Office or employment in one branch of state government and office or employment in another branch of state government (except as provided by the constitution).
- Elective office in the government of the state and another elective office, full-time appointive office, or employment in state government or in a political subdivision.
- Elective office in a political subdivision of the state and another elective office or full-time appointive office in state government or in any political subdivision or employment in state government or in the same political subdivision from which he is elected.
- More than one full-time appointive office or full-time employment in state government or in a political subdivision.
- Elective office in state government and contract to provide full-time health or health-related services for any agency of state government.

Holding "incompatible offices" or employments is also prohibited. "Incompatible offices" are offices or employments in which the incumbent of one of the offices or employments (whether or not in conjunction with others):

- Has the power to appoint or remove the incumbent of the other.
- Receives the oath and/or bond of the incumbent of the other.
- Is charged by law with instituting actions for penalties against the incumbent of the other.
- Is charged by law to execute orders and follow directions given by the incumbent of the other.
- Is charged with auditing the accounts of or approving the budget of the other.
- Receives funds that are deposited with or turned over to the other.

The remedy for prohibited dual officeholding or employment is a petition for declaratory judgment filed in the parish of domicile of the defendant or that of the office he holds. Such a suit may be filed by the attorney general, a district attorney, or any citizen of the state. If the suit is filed by the attorney general or a district attorney, written notice must first be sent to the person. If the court declares that a violation exists, the court must declare the office with the term first to expire or one of the employments vacant. (However, an elective officeholder

¹There are specific exceptions to this prohibition for holding employment in the government of the United States and (1) appointive office in a political subdivision or (2) part time elective office, unless the particular nature of the employment in combination with the duties and interests of the appointive office is otherwise prohibited or is adverse to the public interest as set forth in R.S. 42:61. However, the Hatch Act, 5 U.S.C. §§1501-08, prohibits federal employees from engaging in certain political activity and, therefore, prohibits certain combinations of employment and office holding that might otherwise be allowable under Louisiana law. The Office of Special Counsel issues advisory opinions concerning the Hatch Act.

remains in office until his successor has qualified.) The court may order reimbursement of certain pay and other compensation. If a person vacates the position or office within 14 days after receiving written notice from the attorney general or district attorney, the person is not subject to such reimbursement. The attorney general is responsible for issuing advisory opinions on dual officeholding and dual employment. Anyone acting on such advice is also not required to reimburse pay.

The following classes of officeholders and employees are generally exempt from the provisions of law relative to dual officeholding and dual employment:

- Notaries public.
- Officers in U.S. military service detailed to educational institutions in the state and persons serving in the National Guard or reserve military forces.
- Delegates to and employees of any constitutional convention or any charter commission.
- Presidential electors.
- Persons serving on any board, commission, or committee which is solely advisory in nature.
- The governor or his designee, when serving as a member of a state agency, commission, or other state entity in accordance with a provision of the constitution, laws, resolution, or executive order.
- Any official who holds another office by virtue of the office to which he is elected or appointed.
- A board member of a community action agency.
- Persons serving as district or state soil and water conservation committee members.
- The current administrator of the Jefferson pre-trial release program.

The following chart summarizes the provisions of the dual officeholding and dual employment statutes. Exemptions in addition to the ones above are footnoted.

Dual Officeholding and Dual Employment – Prohibited and Regulated Relationships (R.S. 42:61 - 66) ^{19, 20}											
	State Elective Office	Local Elective Office	State Full-Time Appointive Office	State Part-Time Appointive Office	Local Full-Time Appointive Office	Local Part-Time Appointive Office	State Full-Time Employment	State Part-Time Employment	Local Full-Time Employment	Local Part-Time Employment	Federal Office or Employment
State Elective Office	Prohibited §63(C)	Prohibited §63(C) & (D)	Prohibited §63(C)	Prohibited except in same branch §63(B)	Prohibited §63(C)	Allowed	Prohibited §63(C) ³	Prohibited §63(C) ³	Prohibited §63(C) ³	Prohibited §63(C) ³	Prohibited §63(A) ^{17, 9}
Local Elective Office	Prohibited §63(C) & (D)	Prohibited §63(D) ¹	Prohibited §63(D) ^{10, 16}	Allowed	Prohibited §63(D) ^{1, 2, 8, 11, 12, 14, 16, 18}	Allowed ^{2, 5, 8, 11, 12, 13, 16, 18}	Prohibited §63(D) ^{3, 8, 10, 14, 16, 19}	Prohibited §63(D) ^{3, 9, 10, 14, 16}	Prohibited in same political subdivision. Allowed in different political subdivisions. ^{1, 2, 3, 5, 8, 16}	Prohibited §63(A) ^{7, 9, 16, 17}	
State Full-Time Appointive Office	Prohibited §63(C)	Prohibited §63(D) ^{10, 16}	Prohibited §63(E)	Prohibited except in same branch §63(B)	Prohibited §63(E)	Allowed	Prohibited §63(E) ³	Prohibited except in same branch §63(B) ³	Prohibited §63(E) ³	Allowed	Prohibited §63(A) ¹⁷
State Part-Time Appointive Office	Prohibited except in same branch §63(B)	Allowed	Prohibited except in same branch §63(B)	Prohibited except in same branch §63(B)	Allowed	Allowed	Prohibited except in same branch §63(B) ³	Prohibited except in same branch §63(B) ³	Allowed	Allowed	Prohibited §63(A) ^{6, 17}
Local Full-Time Appointive Office	Prohibited §63(C)	Prohibited §63(D) ^{1, 2, 8, 11, 12, 13, 16, 19}	Prohibited §63(E)	Allowed	Prohibited §63(E) ^{1, 12}	Allowed	Prohibited §63(E) ³	Allowed	Prohibited §63(E) ^{1, 3}	Allowed	Prohibited §63(A) ^{4, 17, 21}
Local Part-Time Appointive Office	Allowed	Allowed ^{2, 5, 8, 11, 12, 13, 16, 18}	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Prohibited §63(A) ^{4, 6, 17, 21}
State Full-Time Employment	Prohibited §63(C) ³	Prohibited §63(D) ^{3, 8, 10, 14, 16}	Prohibited §63(E) ³	Prohibited except in same branch §63(B) ³	Prohibited §63(E) ³	Allowed	Prohibited §63(E)	Prohibited except in same branch §63(B)	Prohibited §63(E)	Allowed	Prohibited §63(A) ¹⁵
State Part-Time Employment	Prohibited §63(C) ³	Prohibited §63(D) ^{3, 8, 10, 14, 16}	Prohibited except in same branch §63(B) ³	Prohibited except in same branch §63(B) ³	Allowed	Allowed	Prohibited except in same branch §63(B)	Prohibited except in same branch §63(B)	Allowed	Allowed	Prohibited §63(A) ¹⁵
Local Full-Time Employment	Prohibited §63(C) ³	Prohibited in same political subdivision.	Prohibited §63(E) ³	Allowed	Prohibited §63(E) ^{1, 3}	Allowed	Prohibited §63(E)	Allowed	Prohibited §63(E) ¹	Allowed	Prohibited §63(A)
Local Part-Time Employment	Prohibited §63(C) ³	Allowed in different political subdivisions. ^{1, 2, 3, 5, 8, 17}	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Prohibited §63(A)

See footnotes beginning on the next page.

Dual Officeholding and Dual Employment – Footnotes

- 1 *A municipal officer or employee may hold another municipal office or employment as authorized by R.S. 33:381(C). A municipal and/or parochial officer or employee may hold another municipal and/or parochial office or employment if specifically authorized by a legislative or home-rule charter. §66(C) & (D)*
- 2 *Sheriffs, assessors, and clerks of courts are prohibited from holding any office or employment under a parish governing authority or school board and members of parish governing authorities or school boards are prohibited from holding any office or employment with a sheriff, assessor, or clerk of court. §63(D)*
- 3 *A school teacher or other person employed in a professional educational capacity in an educational institution or in a parish or city school board may at the same time hold an appointive or elective office. §66(B)*
- 4 *A U.S. government employee may hold appointive office in a political subdivision unless the particular nature of his employment in combination with the duties and interests of the appointive office is otherwise prohibited or is adverse to the public interest as set forth in R.S. 42:61. §63(A)(2)*
- 5 *Permits a joint commission of two parishes (except a causeway commission) to appoint a member of a parish governing body as general superintendent. Prohibits appointment of a parish governing authority member or parish employee to a joint causeway commission of more than one parish. §64(B)*
- 6 *Permits a health care facility board member (state or political subdivision) to serve as an employee of a U.S. health care facility. §66(H)*
- 7 *Permits a U.S. Postal Service employee to hold a local elective office in a village or town with a population of 5,000 or less. §66(I)(1)*
- 8 *Permits an elected school board member to be employed as a juvenile probation officer in a district court, a parish prison warden, or a deputy sheriff, if on September 7, 1979, the person was an elected school board member and held elective or appointive office in juvenile services of the district court or held employment as a parish prison warden or as a deputy sheriff and has continued to so serve as a school board member and in juvenile services of the district court, or as a school board member and as a parish prison warden or a deputy sheriff. Not applicable to parish prison wardens and deputy sheriffs in any parish over 400,000 in population. §66(J)*
- 9 *Permits a U.S. government employee to hold part-time elective office unless the particular nature of his employment in combination with the duties and interests of the appointive office is otherwise prohibited or is adverse to the public interest as set forth in R.S. 42:61. ("Part-time elective office" includes those offices listed in Art. X, §29.1 of the constitution.) However, the Hatch Act, 5 U.S.C. §§1501-08, prohibits federal employees from engaging in certain political activity and, therefore, could prohibit certain combinations of employment and office holding that might otherwise be allowable under Louisiana law. §63(A)(3)*
- 10 *Permits a mayor of a municipality with a population of not more than 5,000 who is a licensed physician to be employed in or appointed to any position for which a physician is required at the Lallie Kemp Regional Medical Center. §66(K)*
- 11 *Permits a deputy sheriff to hold the office of mayor or alderman of a municipality with a population of 2,000 or less. §66(L)(1)*
- 12 *Permits a chief of police of a municipality with a population of less than 5,000, according to the 1990 federal decennial census, to hold the office of deputy sheriff. §66(M)*

Dual Officeholding and Dual Employment – Footnotes (cont.)

- 13 Permits a deputy sheriff to hold the elected office of part-time constable of a justice of the peace court whose jurisdiction has a population of 15,000 or less, according to the 1990 census, or part-time constable or marshall of a city court in a municipality with a population of 10,000 or less, according to the 1990 census, provided such positions were held as of January 1, 1997. §66(L)(2)*
- 14 Permits a person holding employment in state government to hold elective office in a municipality with a population of less than 6,500, according to the 1990 census, unless the particular nature of the employment or the office make the combination incompatible. §66(N)*
- 15 Permits a person employed in the state classified civil service as a toll collector to be employed as an emergency rural carrier with the United States Postal Service, provided such person was employed as a toll collector as of January 1, 1999. §66(I)(2)*
- 16 Allows a coroner to hold appointive office or employment in any governmental entity as a physician. §66(F)*
- 17 Allows any of the following to be an assistant U.S. attorney when so designated for cooperative efforts in criminal prosecutions and without additional compensation: (a) attorney general, (b) assistant attorneys general, (c) district attorneys, (d) assistant district attorneys, (e) city attorneys, and (f) assistant city attorneys. §66(G)*
- 18 Allows the elected clerk of court of Jefferson Parish to serve as the ex officio clerk of court for a consolidated Justice of the Peace Litter Court of Jefferson Parish. §66(P)*
- 19 If the office is a judicial office including that of justice of the peace, the Judiciary Commission should be consulted. (See also Attorney General Opinion #96-356.)*
- 20 Please note that certain positions may have specific prohibitions, eligibility requirements, or qualifications applicable to persons serving or interested in serving in such positions.*

Chapter 2 – State Government Functions

Part K. Ethics and Related Matters	2K-1
Ethics Administration	2K-1
Ethics Board and Ethics Adjudicatory Board	2K-1
General Procedures	2K-2
Opinions	2K-2
Enforcement	2K-2
Removal From Office	2K-3
Impeachment	2K-3
Felony Conviction	2K-3
Recall	2K-3
Election Law Offenses	2K-3

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part K. Ethics and Related Matters

The Code of Governmental Ethics was enacted pursuant to constitutional mandate. (Const. Art. III, §9 and Art. X, §21) The code is found in Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950 and is the primary body of law which regulates conflicts of interest of legislators and other public officials and employees. This Part includes a discussion of the administration, procedure, and enforcement of the ethics code and related provisions. (The ethical standards for public officials and employees are discussed in "Orientation Guide for Louisiana House Members", which is made available to all members of the House of Representatives.) This Part also contains a brief discussion of causes and methods for removal from office.

Ethics Administration

Ethics Board and Ethics Adjudicatory Board

The constitution provides that the ethics code "shall be administered by one or more boards created by the legislature with qualifications, terms of office, duties, and powers provided by law." (Const. Art. X, §21) The legislature has provided for two boards: the Board of Ethics and the Ethics Adjudicatory Board.

The Board of Ethics administers and enforces the code of ethics; functions as the Supervisory Committee on Campaign Finance Disclosure in enforcing the Campaign Finance Disclosure Act; and administers provisions of law relative to elections integrity and lobbying and certain provisions relative to gaming and the Louisiana Lottery Corporation. (R.S. 42:1132) The Board of Ethics is composed of eleven members who serve staggered five-year terms. The governor appoints seven members; two members are elected by the House of Representatives; and two members are elected by the Senate. Members are selected from lists of nominees submitted by a nominating committee that consists of presidents or designees of certain private colleges and universities in the state. There are restrictions on who can serve on the board. For example: no elected official can serve, and no former elected official can serve within six months of the end of his or her term; no public employee can serve (except a person who is a public employee only by virtue of his service on the Board of Ethics), and no former public employee can serve within six months of the termination of his public employment; and no person who was a registered lobbyist in the previous two years can serve. With respect to the ethics code, the Board of Ethics receives complaints, conducts investigations concerning alleged violations, and issues charges based on such alleged violations. Once charges are issued, the matter is referred to the Ethics Adjudicatory Board.

The Ethics Adjudicatory Board conducts hearings on ethics charges to determine whether a violation has in fact occurred. The adjudicatory board is made up of seven administrative law judges selected at random by the director of the division of administrative law. The law requires

that members of the adjudicatory board have at least two years experience as an administrative law judge or at least ten years experience in the practice of law. The adjudicatory board sits in rotating panels of three, and its members serve three-year terms.

General Procedures

The Board of Ethics is required to consider any signed sworn complaint from any elector; it may, by a two-thirds vote, consider any matter which it believes may be a violation of the ethics code; and it may consider any matter which it believes may be a violation of any other provision of law under its jurisdiction. (A complainant who, with knowledge of its falsity, makes a false non-sworn complaint is subject to penalties.) The board conducts a confidential investigation to elicit evidence. Based on this evidence, the board decides whether a public hearing should be conducted to determine whether a violation has occurred. If the board determines following an investigation that a hearing should be conducted, it issues charges. If the Board of Ethics fails to issue charges within one year from the date upon which a sworn complaint is received or, if no sworn complaint was received, within one year from voting to consider the matter, the matter must be dismissed.

The hearing on the charges is conducted by the Ethics Adjudicatory Board in accordance with the Administrative Procedure Act and the ethics code. (R.S. 42:1141) If the hearing of the adjudicatory board fails to disclose clear and convincing evidence to support the charges, the Board of Ethics is required to close its file on the charges. If the adjudicatory board determines that a violation has occurred, it must determine what authorized penalties or other sanctions should be imposed. (R.S. 42:1141) A person who is aggrieved by an action taken by the ethics board or the adjudicatory board may appeal to the Court of Appeal, First Circuit. (R.S. 42:1142)

Opinions

The Board of Ethics is authorized to render advisory opinions with respect to the provisions of law within its jurisdiction. It has adopted rules of procedure for the issuance of such opinions. (R.S. 42:1134) The board may also declare the rights, status, and other legal relations established by provisions of law within its jurisdiction upon application by a person or agency. The purpose of such declaratory opinions is to "settle and afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations established by the provisions of [the ethics code] or by any other law within the board's jurisdiction or under opinions issued by the board, or the construction of said laws and opinions." (R.S. 42:1141.1) Opinions of the board are public.

Enforcement

The Board of Ethics has authority to impose penalties and to collect them as provided in the ethics code, and the board may recommend to the legislature that the legislature censure any person the board finds guilty of violations and prohibit such person from lobbying for not less than 30 days and not more than one year. (R.S. 42:1153) No action to enforce the law can be taken more than two years after the discovery of the alleged violation or four years after the occurrence of the alleged violation, whichever period is shorter. (R.S. 42:1163)

Removal From Office

Impeachment

Article X, Section 24 of the Constitution of Louisiana provides for impeachment of state or district officials. Such an official, whether elected or appointed, is subject to impeachment for commission of or conviction for a felony or for malfeasance or gross misconduct while in office. An impeachment proceeding is instituted in the House of Representatives. The Senate conducts the trial and two-thirds of the elected senators must concur to convict. Such conviction results in immediate removal from office.

Felony Conviction

The legislature has provided for the removal of public officers by suit in R.S. 42:1411 et seq. Pursuant to R.S. 42:1411, a public officer shall automatically be suspended from office for conviction of a felony without compensation. The public officer shall be removed from office upon that conviction becoming final but shall be reinstated, with back wages, should the conviction be overturned on appeal.

Recall

The state constitution also provides in Art. X, §26 for the recall by election of any state, district, parochial, ward, or municipal official, except judges of the courts of record. The general statutes relative to recall elections are provided in R.S. 18:1300.1 et seq.

Election Law Offenses

R.S. 18:1461.8 provides that any candidate who is elected to public office and who is convicted of one or more of certain election law offenses committed while running for the office to which he was elected will forfeit the public office. Upon the conviction becoming final, the public office is declared vacant.

Chapter 2 – State Government Functions

Part L. Administrative Procedure	2L-1
Administrative Procedure Act	2L-1
Agency Rulemaking	2L-1
Legislative Oversight of Rulemaking	2L-2
Table: Timetable for Adoption of Rules, Fees, Emergency Rules and Emergency Fees by Louisiana State Agencies	2L-3
Adjudication	2L-5
Division of Administrative Law	2L-5

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part L. Administrative Procedure

Administrative Procedure Act

The Louisiana Administrative Procedure Act (R.S. 49:950 et seq.) provides for public access to agency decision-making and furthers public awareness of agency rules by applying uniform requirements to state agencies with rulemaking power and by setting minimum standards for agencies to follow in adopting and implementing rules. Very generally, the Administrative Procedure Act (APA) establishes a uniform, comprehensive set of procedures covering the administrative actions of state executive branch agencies, including rulemaking, fee setting, adjudicatory proceedings, and licensing, and judicial review of those actions. The APA applies to any state board, commission, department, agency, officer, or other entity (within the executive branch of state government) which makes rules, regulations, or policy, or formulates or issues decisions or orders pursuant to or as directed by the laws of the state or the United States. (R.S. 49:951)

The office of the state register is the official agency charged with publishing the "Louisiana Register", which contains agencies' notices of intent to adopt rules and the text of such proposed rules. In addition, the office of the state register directs and supervises the publishing, indexing, and revision of the "Louisiana Administrative Code", which contains all effective rules adopted by each agency in accordance with the provisions of the APA. For further information, see the office of the state register's web site at www.doa.louisiana.gov/osr/osr.htm.

Agency Rulemaking

An agency that engages in rulemaking must file a description of its organization with the office of the state register; adopt rules setting forth the nature and requirements of all agency procedures; and make available for public inspection all rules, preambles, responses to comments, and submissions and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions. (R.S. 49:952)

Prior to the adoption, amendment, or repeal of any rule or fee, an agency shall give notice of its intended action at least 90 days prior to taking action on the rule. The notice must include a description of the subjects and issues involved or a statement of the terms or substance of the intended action; statements concerning the fiscal impact, economic impact, and the impact upon family formation, stability, and autonomy; the name of the person within the agency responsible for responding to inquiries regarding the action; the time, place, and manner in which interested persons may present their views; a statement that the intended action complies with the statutory law administered by the agency; and a statement indicating whether the agency has prepared an explanatory preamble. Such notice must be published in the "Louisiana Register". The agency is required to allow interested persons to submit data, views, comments, or arguments, orally or in writing, and the agency must respond to comments and submissions.

(R.S. 49:953(A)) (See the "Timetable for Adoption of Rules, Fees, Emergency Rules, and Emergency Fees by Louisiana State Agencies" table beginning on following page.)

If an agency finds that imminent peril to public health, safety, or welfare requires adoption of a rule or fee upon shorter notice than 90 days, the agency must, within five days of adoption, inform the governor, the attorney general, the speaker of the House of Representatives, the president of the Senate, and the office of the state register in writing of its reasons for so finding. It may proceed without prior notice or hearing or upon abbreviated notice and hearing to adopt such emergency rule subject to certain requirements. (R.S. 49:953(B)) The agency must take appropriate measures to make emergency rules known to the persons who may be affected. An emergency rule cannot remain in effect beyond the publication date of the "Louisiana Register" in the month following the month in which the rule was adopted, unless the rule and the reasons for its adoption are published in that issue. An emergency rule shall not be effective for a period longer than 120 days. (R.S. 49:954(B))

Legislative Oversight of Rulemaking

The legislature may review the exercise of rulemaking authority and the adopting, increasing, or decreasing of fees, as well as any extensions of the legislative lawmaking function which it has delegated to state agencies. Prior to the adoption, amendment, or repeal of any such rule, the agency must submit a report relative to the proposed action to the appropriate committees of the legislature and the presiding officers of the respective houses of the legislature. The chairman of each committee to which reports are submitted must appoint an oversight subcommittee (which may consist of the entire committee), which may conduct hearings on the proposed rule change or action on fees. At such hearings, the committee must determine if the rule change or action on fees is in conformity with the intent and scope of the enabling legislation; if the rule change or action on fees is in conformity and not contrary to law; if the rule change or action on fees is advisable or has merit; and if the rule change or action on fees is acceptable or unacceptable to the committee. (R.S. 49:968) (See the "Timetable for Adoption of Rules, Fees, Emergency Rules, and Emergency Fees by Louisiana State Agencies" table beginning on the following page.)

Within 60 days after the adoption of an emergency rule or fee, an oversight subcommittee of either house may conduct a hearing to review an emergency rule or fee and make a determination of whether such rule or fee meets the criteria for an emergency rule or fee and the determinations as provided in the paragraph above. (R.S. 49:953(B)) (See the "Timetable for Adoption of Rules, Fees, Emergency Rules, and Emergency Fees by Louisiana State Agencies" table beginning on the following page.)

**TIMETABLE FOR ADOPTION OF RULES, FEES,
EMERGENCY RULES AND EMERGENCY FEES BY LOUISIANA STATE AGENCIES**

DAY	TIME REQUIREMENT	ACTION
<u>Agency Rule and Fee Proposal</u>		
10 days prior to Day 1	10 days prior to publication date of <i>Louisiana Register</i> in which notice of rulemaking or fee setting intent is published (Because the <i>Register</i> is published on the 20th day of the month, the deadline is always 10th day of month). (R.S. 49:951(7), 953(A)(1)(b)(i), and 968(B))	Last day for agency to submit notice of intent of rulemaking or fee setting to Louisiana Register and legislative committee and presiding officers.
Day 1	Louisiana Register publication date (always the 20th day of month).	Notice of intent is published. By this date, also must mail notice to interested persons who have requested notice.
Day 36-41	Agency hearing, if requested, no earlier than 35 days and no later than 40 days after notice publication. (R.S. 49:953(A)(2))	The agency must conduct a hearing on the proposed rule or fee, if requested as specified in the law.
***	Prior to legislative oversight, agency report to legislative committees. (R.S. 49:968(D)) “Summary Report”	A report of the hearing, summary of comments received, and of any proposed revision must be provided to the legislative committee, with an explanation of agency action on changes suggested.
<u>Legislative Oversight of Rules and Fees</u>		
Day 1	Delivery of agency report to legislative committee. (R.S. 49:968(D)) “Summary Report”	When the agency has completed its report of hearing, comments, and/or revision and is ready for oversight, the report is submitted to the legislative committees. This starts the timetable for legislative oversight hearings.
Day 6-31	Legislative hearing no earlier than 5 days and no later than 30 days after agency report. (R.S. 49:968(D)(2) and 953(A)(2)(b)(ii))	The legislative committees having jurisdiction may conduct a hearing to review and determine if the rule change or fee action is acceptable or unacceptable.
4th day after determination	Committee report to the governor, the agency, and the <i>Louisiana Register</i> not later than 4th day after committee determination, if the rule or fee is found unacceptable. (R.S. 49:968(F))	If rule is found unacceptable, the committee must submit a report to the governor, the agency, and the Louisiana Register summarizing its determination.
10th day after receipt by governor	The governor has 10 calendar days after receipt of committee report to disapprove committee action. (R.S. 49:968(G))	The governor may disapprove committee action. If he <u>does not</u> disapprove committee action the agency <u>may not adopt</u> rule unless modified and approved by committee or legislature. If he <u>does</u> disapprove committee action, the agency <u>may adopt</u> rule.
<u>Legislative and Gubernatorial Oversight for Emergency Rules and Emergency Fees</u>		
Day 1	Adoption of emergency rule or emergency fee. (R.S. 49:953(B)(4)(a) and (b))	Adoption of emergency rule or emergency fee begins time period for review by oversight subcommittee or by governor.
Day 2-60	Oversight subcommittee hearing or gubernatorial review within 60 days of adoption of emergency rule or emergency fee. (R.S. 49:953(B)(4)(a) and (b))	Oversight subcommittee may conduct a hearing or governor may review to determine if such rule or fee meets criteria for emergency rule and determinations as provided in R.S. 49:968(D)(3).

DAY	TIME REQUIREMENT	ACTION
4th Day after determination	If rule is found unacceptable, committee report to the governor, the agency, and the Louisiana Register and gubernatorial report to the agency and Louisiana Register. (R.S. 49:953(B)(4)(a) and (b) and 968(F))	If rule is found unacceptable, the committee must submit a report to the governor, the agency, and the <i>Louisiana Register</i> or the governor must submit a report to the agency and <i>Louisiana Register</i> summarizing the determination. Upon agency receipt of report from committee or governor, rule is null and ineffective. Also, if the subcommittee determines that fee action is unacceptable, must provide report of reasons to governor, agency, and the other house. (R.S. 49:971)
<u>Adoption and Effectiveness</u> <i>Rules and Fees</i> 90 days after publication	First day agency may adopt rule or fee is 90 days after publication of notice of intent in <i>Louisiana Register</i> and after compliance with rulemaking and oversight requirements; last day for adoption is 12 months after publication of notice of intent. (R.S. 49:953(A)(1) and 968(H))	Agency may adopt rule if the legislative committees of both houses fail to find the rule unacceptable or, if found unacceptable by a legislative committee of either house, if the governor disapproves committee action. Otherwise, it may not adopt the rule unless changed and approved by the committee or legislature. Agency may adopt fee if a legislative committee of one house fails to find the fee unacceptable. The governor has no authority to disapprove. (R.S. 49:971)
***	Effective date of adopted rule or fee is date of <i>Louisiana Register</i> publication of such rule or fee, unless rule or law provides later date. (R.S. 49:954(B))	Final rules or fees are effective after adoption by the agency and upon publication in the <i>Louisiana Register</i> , unless a later date is provided in the rule, fee, or by law.
<i>Emergency Rules and Emergency Fees</i> Adoption or 60 days from adoption	Emergency rule or emergency fee is effective on date of adoption, or date specified by agency not more than 60 days from adoption provided written notice is given within 5 days of adoption to governor, attorney general, speaker, president, and Department of State Register. (R.S. 49:951(7) and 954(B)(2))	Agency may adopt emergency rule or emergency fee if emergency criteria are met. Emergency rule may be invalidated by declaratory judgment that it does not meet emergency criteria. (R.S. 49:953(B)(3)) Emergency rule is null upon agency receipt of report from oversight committee or governor that the rule is unacceptable. (R.S. 49:953(B)(4))
***	Not effective beyond publication date of <i>Louisiana Register</i> published in month following the month adopted, unless such rule or fee and the reasons for adoption are published therein (however, not effective for longer than 120 days in any case). (R.S. 49:954(B)(2))	Agency must publish emergency rule or emergency fee and the reasons for adoption in the <i>Louisiana Register</i> published the month after the month of adoption to continue effectiveness, provided not effective longer than 120 days.

This table uses the term legislative committee to include oversight committees of legislative committee. It should be noted that the APA authorizes and provides for oversight subcommittees of legislative committees to conduct hearings and make determinations; however, it also provides that the oversight subcommittee may consist of the entire membership of the standing committee.

This table is a summary and does not purport to fully reflect the law. Please refer to the APA at LSA R.S. 49:950 et seq.

Revised by House Legislative Services 9/11.

Adjudication

In an adjudication, all parties who do not waive their rights shall be afforded an opportunity for hearing after reasonable notice. The notice must include the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing is to be held; reference to the particular sections of the statutes and rules involved; and a short and plain statement of the matters asserted. Parties involved must be afforded the opportunity to present evidence on all issues of fact and argument on all issues of law and policy and to conduct cross-examination as may be required for a full and true disclosure of the facts. The record of the adjudication must include certain required documents, and the agency must produce a full transcript of the proceedings if required to do so by statute or requested to do so by any party or person. (R.S. 49:955) Final decisions or orders adverse to a party in an adjudication proceeding must be in writing or stated in the record. Upon request, a copy of the decision must be given to each party and to his attorney of record. (R.S. 49:958)

Division of Administrative Law

The Division of Administrative Law (DAL) is an independent state agency which provides for administrative law judges to conduct fair, impartial, and prompt hearings for persons affected by state agency actions. The DAL conducts administrative hearings for state agencies according to the APA. Each party to an administrative hearing has a right to present and question witnesses and submit or challenge documents regarding the decision. The result of the proceeding is a decision to affirm, modify, or set aside the original agency decision. The administrative law judge will issue a written decision based on the evidence introduced and the laws and regulations which apply to the case. In most cases a decision will be issued within 30 days after the hearing is completed. A person who is dissatisfied with the administrative law judge's decision has a right to appeal. However, a state agency or a representative of such agency may not appeal. Typically, the appeal is a judicial review of the record by the district court. (www.adminlaw.state.la.us)

In *Wooley v. State Farm Fire and Casualty Ins. Co.*, 2004-CA-0882 (La. 1/19/05), 893 So. 2d 746, the Louisiana Supreme Court upheld the constitutionality of the provisions of law creating the DAL and transferring to it the authority to conduct adjudications for certain agencies. The court also upheld the provision of law which precludes the agencies from seeking judicial review of adverse rulings by administrative law judges.

Chapter 2 – State Government Functions

Part M. Homeland Security and Emergency Preparedness	2M-1
Governor's Office of Homeland Security and Emergency Preparedness	2M-1
Parish Emergency Preparedness	2M-2
Parish Emergency Advisory Committee	2M-2
Declared State of Emergency	2M-2
State Emergency Declaration	2M-2
Unified Command	2M-2
WebEOC	2M-3
Financing	2M-3
Disaster and Emergency Funding Board	2M-3
State Disaster or Emergency Fund Relief	2M-3
Grants Assistance Programs	2M-3
Emergency Management Performance Grants (EMPG)	2M-4
Flood Mitigation Assistance (FMA)	2M-4
Hazard Mitigation Grant Program	2M-4
Pre-Disaster Mitigation Grant (PDM)	2M-4
Public Assistance	2M-4

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part M. Homeland Security and Emergency Preparedness

Governor's Office of Homeland Security and Emergency Preparedness

The agency responsible for emergency preparedness and homeland security is an independent agency under the office of the governor called the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP). The agency is governed under R.S. 29:721 et seq., the Louisiana Homeland Security and Emergency Assistance and Disaster Act.

GOHSEP provides leadership and support to reduce the loss of life and property to the citizens of the state through an all-hazards emergency management program of prevention, mitigation, preparedness, response, and recovery. More detailed information regarding each area is provided on the GOHSEP website at: www.gohsep.la.gov.

Each of the state's sixty-four parishes have an emergency management program. Louisiana is divided into nine emergency management and homeland security planning districts, which GOHSEP uses in conjunction with its Regional Support Program. The map below illustrates each of the nine districts.



Region 1: Orleans, St. Bernard, Plaquemines, and Jefferson Parishes

Region 2: East Baton Rouge, West Baton Rouge, Livingston, Ascension, Iberville, Pointe Coupee, East Feliciana, and West Feliciana Parishes

Region 3: Lafourche, St. John, St. Charles, St. James, Assumption, and Terrebonne Parishes

Region 4: Lafayette, Evangeline, St. Landry, Acadia, St. Martin, Iberia, Vermilion, and St. Mary Parishes

Region 5: Beauregard, Allen, Calcasieu, Jefferson Davis, and Cameron Parishes

Region 6: Vernon, Sabine, Natchitoches, Winn, Grant, Rapides, LaSalle, Catahoula, Concordia and Avoyelles Parishes

Region 7: Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and DeSoto Parishes

Region 8: Ouachita, Union, Lincoln, Jackson, Caldwell, Richland, Morehouse, Franklin, West Carroll, East Carroll, Madison, and Tensas Parishes

Region 9: Washington, St. Tammany, St. Helena, and Tangipahoa Parishes

Parish Emergency Preparedness

Each parish in the state has an Office of Homeland Security and Emergency Preparedness or Emergency Operations Center, which is responsible for homeland security and emergency preparedness in the parish. All information regarding each parish office and/or website can be found on the GOHSEP website at www.gohsep.la.gov/parishpa.aspx.

Parish Emergency Advisory Committee

Each parish in the state must have a parish emergency management advisory committee to offer advice and counsel to the parish or police jury president on homeland security and emergency management issues. The parish or police jury president may consider the advice and counsel from the committee on such matters as planning, development, prioritization, coordination, and implementation of homeland security and emergency management issues to include but not be limited to homeland security and emergency management mitigation, preparedness, response and recovery, grant requests, and the expenditure of grant funds.

Declared State of Emergency

State Emergency Declaration

A disaster or emergency, or both, must be declared by executive order or proclamation of the governor if he finds a disaster or emergency has occurred or the threat thereof is imminent. The state of disaster or emergency must continue until the governor finds that the threat of danger has passed or the disaster or emergency has been dealt with to the extent that the emergency conditions no longer exist and terminates the state of disaster or emergency by executive order or proclamation, but no state of disaster or emergency may continue for longer than thirty days unless renewed by the governor.

The legislature, by petition signed by a majority of the surviving members of either house, may terminate a state of disaster or emergency at any time. This petition terminating the state of emergency or disaster may establish a period during which no other declaration of emergency or disaster may be issued. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster or emergency.

Unified Command

GOHSEP operates under the Unified Command structure during activation for all major disasters. Unified Command is a team effort process, allowing all agencies with responsibility for an incident, either geographical or functional, to establish a common set of incident objectives and strategies. This is accomplished without losing or abdicating agency authority, responsibility or accountability. The governor serves as the Unified Commander. The Deputy Unified Commander is the GOHSEP director. The Unified Command Group consists of the Secretary of the Department of Transportation and Development, the Superintendent of State Police, the Adjutant General, the Commissioner of Agriculture, the Secretary of Social Services, the Secretary of Public Safety, the Commissioner of Administration, the Secretary of Health and Hospitals, the Secretary of Wildlife and Fisheries, the Secretary of Environmental Quality, the Secretary of Natural Resources, the Public Service Commission, the Attorney General, and the Governor's Oil Spill Coordinator. The legislature also participates in the Unified Command through the House and Senate legislative liaisons.

WebEOC

The WebEOC is a web-based information management system that provides a single access point for the collection and dissemination of emergency or event-related information. During a declared emergency or event, all requests for resources must be input into the WebEOC through each parish's Office of Homeland Security and Emergency Preparedness or Emergency Operations Center. The request will then be routed to the appropriate state or federal governmental entity to provide the requested resources. This system allows GOHSEP to track all requests and resources to insure that all needs are being met on the local level and for purposes of reimbursement from the federal government.

Financing

Disaster and Emergency Funding Board

The disaster and emergency funding board is composed of the president of the Senate, the speaker of the House of Representatives, and the chairmen of the House Appropriations Committee and the Senate Finance Committee.

The governor, with the concurrence of the disaster and emergency funding board, may make funds available by transferring and expending monies appropriated for other purposes or may borrow for a term not to exceed two years from the United States government or any other public or private source for purposes of coping with a particular disaster.

State Disaster or Emergency Relief Fund

The State Disaster or Emergency Relief Fund is administered by the Governor's Office of Homeland Security and Emergency Preparedness. The sources of monies deposited in the fund shall be funds from specific legislative appropriations and from donations, gifts, grants, and matching or other funds provided by regional or local governments. The monies in the fund must be used for declared disasters or emergencies or both, including use as state match requirements for the payment of claims submitted and approved by the Federal Emergency Management Agency.

Grants Assistance Programs

Through the Department of Homeland Security (DHS), the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) provides annual Homeland Security grants to state and local first responders within Louisiana. GOHSEP serves as the State Administrative Agent (SAA) for federal homeland security grants, and as the primary liaison with DHS and its Office of Grants and Training (G&T).

The eligible categories for most grants include management and administration, training, planning, exercise, and equipment. The focus for Louisiana has been upon enhancing the capabilities of state and local first responders to prevent and respond to Chemical, Biological, Radiological, Nuclear and Explosive (CBRNE) related incidents as detailed in the State Homeland Security Strategy.

Emergency Management Performance Grants (EMPG)

To assist the development, maintenance, and improvement of state and local emergency management capabilities, which are key components of a comprehensive national emergency management system for disasters and emergencies that may result from natural disasters or accidental or man-caused events. By combining former program activities into the Emergency Management Performance Grant (EMPG), FEMA is providing states the flexibility to allocate funds according to risk and to address the most urgent state and local needs in disaster mitigation, preparedness, response, and recovery. Working within the standard Federal government grant administration process, EMPG provides the support that state and local governments need to achieve measurable results in key functional areas of emergency management.

Flood Mitigation Assistance (FMA)

The Flood Mitigation Assistance (FMA) Program is a partnership designed to assist states, local, and Indian Tribal governments in reducing or eliminating long-term risks of flood damage to repetitively flooded structures insured under the National Flood Insurance Program (NFIP). The FMA program provides assistance and grants to states and repetitive loss communities for activities that will reduce the risk of flood damage to repetitive loss structures insurable under the National Flood Insurance Program (NFIP). FMA provides grants up to 75% for both planning and projects on an annual basis.

Hazard Mitigation Grant Program

The Hazard Mitigation Grant Program provides state and local governments with financial assistance to implement measures that will permanently reduce or eliminate future damages and losses from natural hazards through safer building practices and improving existing structures and supporting infrastructure.

Pre-Disaster Mitigation Grant (PDM)

States are encouraged to use grants to implement a sustained pre-disaster hazard mitigation program to reduce risk to the population, the costs and disruption to individuals and businesses caused by severe property damage, and the ever-growing cost to all taxpayers of federal disaster relief efforts. The program is similar to both the Flood Mitigation Assistance (FMA) Program and the Hazard Mitigation Grant Program (HMGP) in that there is an emphasis on "brick and mortar" mitigation projects and that state and local mitigation plans are required prior to approval of mitigation project grants. Allowable costs will be governed by 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments.

Public Assistance

Public assistance is that part of disaster relief through which the federal government supplements the efforts of state and local governments to return the disaster area to pre-disaster conditions. These efforts primarily address the repair and restoration of public facilities, infrastructure, or services which have been damaged or destroyed.

The grant links index and information on writing and developing a grant proposal can be found <http://gohsep.la.gov/grants.aspx>.

Chapter 3 – Local Government

Part A. Structure and Organization	3A-1
Parish Government	3A-2
Municipal Government	3A-2
Legislative Charters	3A-2
Table: Special Legislative Charter Municipalities	3A-3
Mayor - Board of Aldermen Form (Lawrason Act)	3A-3
Home Rule Charters	3A-4
Table: Home Rule Charter Municipalities, Parishes, and City-Parishes	3A-4
Special Districts	3A-5
Table: What is a Political Subdivision?	3A-5
Recurring Issues	3A-6
Annexation	3A-6
Automated Traffic Enforcement Systems (Red Light/Speed Cameras)	3A-6
Blighted/Abandoned/Adjudicated Property	3A-7
Housing	3A-7
Police Chiefs	3A-7
Smart Growth	3A-8
Tax Increment Financing	3A-8
Expropriation	3A-9

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 3 — LOCAL GOVERNMENT

In addition to the executive branch agencies discussed in the previous chapter, the management of many of the public affairs of Louisiana citizens is handled by local government. The governing authorities of parishes, municipalities, and special districts assume a tremendous amount of responsibility for governance in important areas such as public safety, the use, development, and ownership of immovable property, and roads and other transportation matters.

This chapter focuses on three important aspects of local government:

- Part A presents information on the organization and structure of local governments.
- Part B deals with civil service systems which cover certain employees of local governments.
- Part C covers local government finance.

Part A. Structure and Organization

Despite the important areas for which local governments assume responsibility and despite the fact that some cities are older than the state, the American federal system has defined the state as sovereign with respect to its local governments. Consequently, all matters relating to the form and authority of local government are subject to provisions of state constitutional or statutory law. An understanding of how the state provides for local government, therefore, is important to understanding local government.

Primary units of local government in Louisiana are parishes and municipalities. The constitution uses the term “local governmental subdivision” to refer to them collectively. Another term that is important to a discussion of local government is “political subdivision” which is a parish, a municipality, or any other unit of local government, including a special district, authorized by law to perform governmental functions.

For Louisiana parishes and municipalities, there exists a traditional form of government which remains the most common form: the police jury system for parishes and the mayor-board of alderman form, as provided by the Lawrason Act, for municipalities. Additionally, the constitution grants any parish or municipality the option of adopting a home rule charter. These forms of government will be discussed in this part, followed by a discussion of special districts and some recurring issues involving local government.

Parish Government

Most Louisiana parishes are governed by a police jury. The size of a police jury is established by ordinance of the jury itself though, with some exceptions, it must have at least five but not more than 15 members or the number of members authorized for that police jury on or before May 13, 1974, whichever is greater. (R.S. 33:1221)

Generally, a police jury may exercise only those powers authorized by the constitution or by law. However, the constitution authorizes a police jury to exercise any power and perform any function necessary, requisite, or proper for the management of its affairs, not denied by general law, if the exercise of this broad authority is approved by the electors of the parish. (Const. Art. VI, §7)

The legislature over the years has authorized police juries to act on a very long list of matters including: making regulations for its own government; making and repairing roads, bridges, and levees; maintaining banks of rivers and natural drains, drainage ditches, and canals; levying taxes for parish expenses; establishing ferries and toll bridges; and providing support for the poor and those in necessitous circumstances (R.S. 33:1236). The police jury may enact ordinances and provide for their enforcement by imposing fines or imprisonment. Such ordinances may be prosecuted by criminal process of indictment or information. The police jury may also provide for enforcement of ordinances by fine or forfeiture to be collected by civil process before any court of competent jurisdiction. (R.S. 33:1242) However, no police jury or any other local government may define or provide for the punishment of a felony. (Const. Art. VI, §9) (Also see page 3A-4 for a discussion of home rule charters.)

Forms of Parish Government

- Police Jury
- Home Rule

Municipal Government

The procedure for incorporating a new municipality and establishing the form and powers and duties of its government has evolved dramatically since Louisiana became a state. Generally this evolution has been in the direction of greater local autonomy.

Legislative Charters

Prior to 1879, municipalities were created by legislative Act. The 1879 Constitution prohibited the legislature from enacting any local or special law creating corporations or amending their charters, and in 1882, the first general statute was enacted establishing procedures for municipal incorporation. The Constitution of 1898, however, again provided that local or special laws creating municipal corporations could be passed by the legislature provided the municipality had a population of at least 2500 inhabitants. This remained true until 1952 when the 1921 Constitution was amended to prohibit the legislature from passing any further local or special laws creating municipal corporations. The 1952 constitutional amendment did allow the legislature to amend or repeal existing special

Forms of Municipal Government

- Mayor - Board of Aldermen (Lawrason Act)
- Special Legislative Charter
- Home Rule

legislation, and similar provisions have been retained in the 1974 Constitution. (Art. VI, §2)

When the legislature was in the business of creating municipalities, each creating Act served as the municipality's charter and it set forth the form of government as well as the municipality's powers and duties. However, once municipalities were allowed to incorporate independently of the legislature, a general charter was needed to provide for the form of government and the powers and duties of new municipalities. In 1898, the legislature passed the Lawrason Act to provide for such governance. The Lawrason Act provided only one form of government, the mayor-board of aldermen form.

Today in Louisiana, the picture of municipal governance is a complex one. Some of the municipalities created around the turn of the century continue to operate under their special legislative charters. Most small to mid-sized municipalities in the state operate under the Lawrason Act. In addition, several municipalities, especially the larger ones, have adopted their own home rule charters. (See page 3A-4.)

Special Legislative Charter Municipalities¹

Abbeville	Madisonville
Bastrop	Mansfield
Clinton	Marksville
Coushatta	Minden
Evergreen	Mount
	Lebanon
Farmerville	New Roads
Franklinton	Plain Dealing
Greensburg	Plaquemine
Homer	Springfield
Jackson	St. Martinville
Jeanerette	Vienna
Keachi	Zwolle

¹ As of October, 2011

Mayor - Board of Aldermen Form (Lawrason Act)

The officers of a Lawrason Act municipality are a mayor, aldermen, a chief of police, a tax collector, and a clerk. The number of aldermen varies from three to nine, depending upon whether the municipality is a village, town, or city (a classification determined by population). The mayor is elected at large. Aldermen are elected pursuant to statute (according to the number of aldermen, a certain number are elected by districts and a certain number at large) or the board may establish, by ordinance, a different manner of electing aldermen. The Lawrason Act generally provides that the police chief is elected at large, though the legislature has enacted numerous local exceptions. (For further discussion of police chiefs, see "Recurring Issues" beginning on page 3A-6.) Terms of office for municipal elected officials are four years. After each regular municipal election, the mayor and board of aldermen appoint a clerk, tax collector, and all other necessary officers. (R.S. 33:381 et seq.)

The powers of a mayor - board of aldermen municipal government were originally limited to those specified in the act itself. This often hampered local officials in their administration of municipal affairs. In 1985-86, the first comprehensive revision of the Lawrason Act since its enactment in 1898 was undertaken. Among the significant features of this revision are: (1) the grant of authority to municipalities to exercise any power and perform any function necessary, requisite, or proper for the management of their affairs not denied by law; (R.S. 33:361) and (2) delineating the respective powers and duties of the officials of a Lawrason Act municipality, particularly by designating the mayor as the chief executive officer and the board of aldermen as the legislative body of the municipality. (R.S. 33:362)

Home Rule Charters

It is a well-recognized rule of law that local governmental subdivisions (parishes and municipalities) are creatures of the state, may be abolished by the state, and may be vested with such powers and authority as determined by the state. Without constitutional limitations, local governmental subdivisions are at the mercy of the legislature. The Louisiana Constitution, however, grants general authority to any Louisiana municipality or parish to draft, adopt, and amend a home rule charter.

There are several facets of the local autonomy which comes with adopting a home rule charter.

First, through the charter process, the citizens select their own form of government and decide how powers and duties will be distributed in that government. Once the charter is adopted, the legislature is constitutionally prohibited from enacting any law which changes or affects the structure and organization or the particular distribution and redistribution of the powers and functions of the local government. (Const. Art. VI, §6)

Second, a charter may provide the local government with the authority to exercise any power and perform any function necessary, requisite, or proper for the management of its affairs, not denied by general law or inconsistent with the constitution. (Const. Art. VI, §5) This is the reverse of the traditional understanding of local government authority under which local governments have only the power explicitly granted to them.

And third, the constitution grants some degree of protection from legislative interference in the exercise of power. The fact that a charter government can exercise any power not denied by general law means that a power cannot be taken away from a local government by a local law.

Broadly speaking, a home rule charter is prepared by a local charter commission and then submitted to the voters for approval. The constitution authorizes appointment or election of the members of the commission. The local governing authority is required to provide for the election of a commission if it is petitioned by 10 percent or 10,000, whichever is fewer, of the electors of the subdivision.

Home Rule Charters Who has a home rule charter? ¹		
<u>Municipalities</u>		
Alexandria	Hammond	New Iberia
Baker	Jennings	Oak Grove
Berwick	Kenner	Patterson
Bogalusa	Lake Charles	Shreveport
Bossier City	Leesville	Slidell
Covington	Mandeville	Sulphur
Dequincy	Monroe	Thibodaux
DeRidder	Montgomery	Washington
Donaldsonville	Morgan City	West Monroe
Franklin	Natchitoches	Zachary
<u>Parishes</u>		
Ascension	Livingston	St. Landry
Caddo	Plaquemines	St. Martin
Iberia	St. Bernard	St. Mary
Iberville	St. Charles	St. Tammany
Jefferson	St. James	Tangipahoa
Lafourche	St. John the Baptist	Washington
		West Baton Rouge
<u>City-Parishes</u>		
Baton Rouge - East Baton Rouge Parish		
Houma - Terrebonne Parish		
Lafayette - Lafayette Parish		
New Orleans - Orleans Parish		

¹ As of October, 2011

The statutes flesh out the requirements for the selection of a charter commission. (See R.S. 33:1395 et seq.) A charter commission consists of not fewer than seven but not more than 11 members. The commission is required to submit a proposed charter to the governing authority within 18 months of taking office. Members of the commission serve until the charter is finally adopted or rejected by the voters or until the end of the 18-month period. A home rule charter must include a method for amending the charter, but all amendments are subject to voter approval.

The constitution also authorizes consolidation of local governments under a single charter. Constitution Article VI, Section 5(D) provides that two or more local governmental subdivisions located within the boundaries of one parish may adopt a home rule charter subject to voter approval.

A variety of plans of parish, municipal, and consolidated government exists under home rule charters. For example, East Baton Rouge Parish and the city of Baton Rouge have a consolidation of the city and parish government; in Orleans Parish, the parish and city are coterminous and operate under a single governing authority; and in Jefferson Parish, the parish governing body is a parish council.

Special Districts

In addition to municipalities and parishes, Louisiana, like other states, has found it expedient to create other local governing authorities. A special district is one such authority.

The major difference between a special district and a municipality or parish is that a special district is usually created to perform one major function. At one time, districts were usually created to provide some particular service to a rural area; water or fire protection for example. Today there are numerous types of special districts, and they are becoming common in suburbs and inner cities also.

Special districts are most often governed by a commission or board appointed by local or state officials or some combination thereof. The commissioners are charged with executing the function of the particular district and are usually granted some taxing and borrowing authority in order to generate funds for such purpose. The authority of the commission is limited to a specified geographic area, but such area can be a part of a parish or municipality or a multiple parish area.

What is a Political Subdivision?

Many constitutional and statutory provisions are relevant to all units of local government: cities, parishes, and special districts. Other provisions are relevant to both cities and parishes but not to special districts. For the purpose of making this distinction, the constitution includes the following defined terms; these definitions apply generally and unless a term is otherwise defined in a specific instance.

Local governmental subdivision means any parish or municipality.

Political subdivision means a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to perform governmental functions.

Source: Const. Art. VI, §44

Special districts are created through a variety of means. Some are created by the legislature

individually by local legislative acts. Many of the more common types of districts, e.g. fire protection and hospital service districts, are created by parishes or municipalities pursuant to a general law granting such authority. The constitution allows the legislature to grant special districts the power to levy taxes and issue bonds.

Recurring Issues

While the state government is ultimately responsible for all matters of governance left to it by federal law, local governments play a big role in many of the day to day details of maintaining the orderliness and security of the communities in which people live. For example, most police and fire protection is provided by municipal or parish governments or their officials or special service districts. Another important aspect of this role is the web of authority and functions local officials have with regard to immovable property (i.e., land and buildings). Still another aspect of this role is the question of extending the boundaries of a municipality and the impact it may have on parish government. The following discussion presents some of the ways local governments are involved in public safety, housing, and the management, development, and use of property.

Annexation

The legislature has delegated the power of annexation to municipalities and has authorized annexation by petition (R.S. 33:151 et seq.) and ordinance. (R.S. 33:171 et seq.) As municipalities have grown to fill their boundaries they have experienced the need to annex adjacent properties into the municipal limits. Often this is in response to petitions from citizens outside the municipality wanting to avail themselves of amenities such as water, sewer, lighting, streets and, in some instances, gas and electricity.

One area of contention has been over the question of revenue loss to the parish governing authority when municipal annexation occurs which has been even more contentious when the municipal annexation has crossed parish lines. Legislation has been adopted which provides for a sharing of revenue and establishes a procedure for resolution of conflicts by arbitration.

Automated Traffic Enforcement Systems (Red Light / Speed Cameras)

The use of automated traffic enforcement systems (ATES) by local governments has attracted much debate and attention locally and across the country. Local governments argue that ATES protect citizens and generate local revenue at a time when many local governments struggle to mend their financial straits. Opponents argue the use of ATES violate an individual's right of due process as local governments have turned traffic violations, which were previously criminal offenses, into civil matters. In addition, several national organizations have voiced opposition to the use of ATES with the claim that they do not improve safety.

In recent years the legislature has attempted to address the concerns voiced about the use of ATES. Legislation has been introduced to prohibit local governments from authorizing, installing, using, or enforcing electronic vehicle speed enforcement systems to regulate traffic laws. Additional legislation has been introduced to prevent local governing authorities, without voter approval, from imposing or collecting fines for both speed and red light infractions. The attempt at curtailing the use of ATES has not been successful. However, it is apparent that this issue will continue to be in the forefront as local governments continue to seek additional funding mechanisms.

Blighted / Abandoned / Adjudicated Property

Local governments are involved in insuring the security and safety of structures and other property within their respective jurisdictions. Most parishes and municipalities are authorized to require that property be maintained in a safe and sanitary condition. As a result of the failure of many property owners to comply with such requirements, many of these properties have been adjudicated to local governments. However, in recent years local governments have suffered financial burdens as a result of the expenses associated with demolishing or maintaining these properties.

The Louisiana Land Trust (LLT) is a non profit organization formed to manage properties that have been purchased by the state of Louisiana under the Road Home Program as part of the ongoing recovery effort from the damage caused by hurricanes Katrina and Rita in 2005. Funding for the LLT is provided through Community Development Block Grant funds administered by the Office of Community Development.

In recent years the legislature has enacted legislation to expand the laws and constitutional provisions regarding the sale by local governments of tax adjudicated property and to facilitate the involvement of nonprofit housing and historical preservation groups with local governments in the renovation of blighted housing.

Housing

Another public welfare issue for which local governments assume responsibility and which involves them in property matters is housing the residents of their respective communities. The issue of affordable housing has been front and center since as an unprecedented number of persons were displaced from their homes in the aftermath of hurricanes Katrina and Rita. Many public officials as well as residents continue to voice concerns over the lack of affordable housing in the state. Many have also complained that many of the existing agencies and programs are not providing timely service or adequate assistance to the state's needy citizens.

The legislature, in 2011, created the La. Housing Corporation (LHC) to provide access to affordable housing. The LHC replaces the Louisiana Housing Finance Agency (LHFA) and provides that its powers, duties, functions, and responsibilities shall be assumed by the LHC. The LHC is required to administer the La. Housing Trust Fund and administer and manage disaster recovery programs funded by certain federal programs. The LHC is additionally required to establish statewide policy for financing of housing for persons/families of low or moderate income, senior citizens, and persons with disabilities which policy shall apply to all units, divisions, agencies, public corporations, and instrumentalities of the state involved directly or indirectly in financing single or multi-family housing for such persons/families.

Police Chiefs

In many Lawrason Act municipalities it has become very difficult if not impossible to find qualified persons to run for the office of police chief. Since the office is elective, any candidate has to be an elector of the municipality and has to be interested in running for the office, a daunting task to some individuals, and sometimes no one qualifies. Municipalities have argued that if the position were not elective they could appoint qualified non-residents to the position of police chief. The legislature has amended the Lawrason Act to provide for the appointment of the police chief in many individual municipalities.

The Lawrason Act does provide several exceptions to the general rule that the office of police chief is elective. If the board of aldermen receives a petition signed by 25% of the qualified municipal electors, they are required to call an election on the question of authorizing the mayor to appoint the police chief. In municipalities with populations of 5000 or less, the board of aldermen may call an election on the question of authorizing the mayor to appoint the police chief after adopting an ordinance by a two-thirds vote of its membership.

Although these alternatives are available to local governments, many local officials continue to approach legislators with requests to amend the Lawrason Act to provide for the appointment of their respective police chiefs. In addition, the legislature continues to amend civil service laws for certain municipalities to permit the mayor greater latitude in appointing and removing the police chief. As police chiefs and mayors continue to disagree on budget issues and police personnel, these issues will continue to be hot topics in the local government arena.

Smart Growth

The Louisiana Constitution authorizes local governmental subdivisions (parishes and municipalities), subject to uniform procedures established by law, to adopt regulations for land use, zoning, and historic preservation (Const. Art. VI, §17). The Revised Statutes provide general laws regulating zoning and historic preservation. The Revised Statutes also authorize local governmental subdivisions to create planning commissions which are charged with the responsibility of formulating a master plan for the physical development of local governmental subdivisions.

Among the factors which are important in making a community livable is the proximity of various types of activities to each other. In recent years, the issue of creating livable communities has been placed front and center as many local governments across the country are advocating the use of smart growth principles in the planning and development process. Smart growth is an urban planning and transportation theory that advocates concentrated growth in compact walkable urban centers to avoid sprawl and advocates compact, transit-oriented, walkable, bicycle-friendly land use, including neighborhood schools, complete streets, and mixed-use development with a range of housing choices.

While many communities across the country have embraced the idea, many Louisiana communities have been reluctant to do so. Local officials have voiced concerns about the rising costs of infrastructure improvements and the use of tax dollars to promote private development. As smaller Louisiana communities continue to grow, pressure will continue to mount on local officials to implement smart growth principles in the planning and development process.

Tax Increment Financing

Local governmental subdivisions and certain special districts are authorized to use tax increment financing (TIF) as a tool to provide financial incentives to stimulate private investment in a designated area. (R.S. 33:9020 et seq.) TIF amounts to subsidizing current economic development by committing a portion of the projected revenues of the development. The local government freezes the taxes within the district at their pre-TIF level. After completion of the project, the new revenue generated beyond the pre-TIF level is used to pay the developer back for a portion of his costs.

As more local governments have turned toward the use of TIF, the mechanism has come under

attack as being ineffective, inefficient, and inequitable. Some argue that TIF can impose financial burdens on local governments by not only reducing its revenue base but also increasing operating costs (such as fire and police protection) without providing offsetting resources. Others argue that TIF will confer benefits on certain businesses located within the district at the expense of those businesses located outside of the district. The Louisiana Supreme Court has struck down the use of TIF by certain special districts. The court ruled that taxes that have been dedicated by the voters for particular purposes cannot be diverted to other purposes without voter approval.

Expropriation

The state and the political subdivisions of this state have the constitutional authority to take property from its citizens (Const. Art. I, §4 and Art. VI, §23). The authority of a governmental entity to take property is commonly referred to as "eminent domain". The proper term in Louisiana is "expropriation".

The constitutional authority to expropriate comes with two main limitations. The first limitation is that the taking must be for a public purpose. The second limitation is that the governmental entity taking the property is required to reimburse the owner to the full extent of his loss.

While the constitution authorizes and provides primary limitations on expropriation, the procedures for and additional limitations on expropriation are provided by statute. There are two basic procedures for exercising expropriation authority, general and expropriation by a declaration of taking, commonly referred to as "quick take". The primary difference between general and quick take authority is the timing of when title is transferred.

Under general expropriation authority, the expropriating authority (including the state, political subdivisions, public utility companies, etc.) provides the property owner with a statement of the full extent of loss. If the property owner does not agree and the property cannot be acquired amicably, the expropriating authority files a petition in district court. The case is tried by a judge, and the property owner may challenge the validity of the taking on the ground that the property was not expropriated for a public purpose. The property owner also has the right to a jury trial to determine compensation. Title to property does not transfer to the expropriating authority until final judgment, subject to devolutive appeal to appellate court. Although the cases are required to be tried with the greatest dispatch, they can take time particularly if a jury trial is demanded.

Unlike the general expropriation authority, the quick take authority provides for the transfer of title by an ex-parte order prior to trial and final judgment. Under the quick take procedure, the expropriating authority first provides the property owner of an estimate of the owner's loss prior to filing its petition for expropriation. If the expropriating authority cannot acquire property amicably, it files a petition in district court, attaches evidence of its authority to expropriate and an estimate of the full extent of the property owner's loss. Upon presentation of the petition, the court enters an ex parte order directing that the amount of the estimate be deposited in the registry of the court. The court issues a final ex-parte order stating that the property has been taken and the right to just and adequate compensation vests in the property owner. Upon issuance of the ex-parte order, title to the property vests in the expropriating authority. The property owner has 20 days from notice of the ex-parte order to file a motion to dismiss challenging the validity of the taking on the ground that the property was not expropriated for a public purpose or that the petition does not satisfy the procedural provisions of the expropriation statutes. The property owner has 90 days from notice of the

taking to ask for trial to determine compensation when an entire tract, lot, or block is expropriated, and one year if only a portion is expropriated.

R.S. 48:441- 460 provides for quick take authority by DOTD. DOTD's quick take has been determined to be constitutional. *State, Through Dept. of Highways v. Olinkraft, Inc.*, 350 So.2d 865 (La. 1977), certiorari denied 98 S.Ct. 1489, 435 U.S. 924, 55 L.Ed.2d 518. Jurisprudence has consistently held that expropriation is special and exceptional in character in derogation of common rights and must be strictly construed.

The most significant development in the last decade in the area of expropriation came with the case of *Kelo v. City of New London, Conn.*, 545 U.S. 469 (2005). This case involved the expropriation of several blocks of a neighborhood in a generally blighted area in the city of New London, Connecticut. The expropriated property was to be transferred to private owners for economic development purposes. The generation of additional taxes resulting from the economic development was the public purpose for the expropriation. This public purpose was challenged by the property owners whose non-blighted property was included in the generally blighted area that was expropriated.

The U.S. Supreme Court held that, while such a taking for economic purposes is valid under the United States Constitution, each state has the authority to impose tighter legislative limitations on the government's ability to expropriate property. Since Connecticut had not enacted any such restrictions, the Supreme Court upheld the expropriation.

In response to the Kelo case, the Louisiana Legislature enacted Act No. 851 of the 2006 Regular Session, a constitutional amendment which the electors of this state subsequently approved. Act No. 851 prohibited the expropriation of property by the state or a political subdivision of the state for the predominant use by or transfer to a private person under certain circumstances and defined "public purpose" relative to the expropriation of property.

Chapter 3 – Local Government

Part B. Constitutional Offices	3B-1
Sheriff	3B-1
Parish Coroner	3B-1
Tax Assessor	3B-1
Clerk of District Court	3B-1
Registrar of Voters	3B-2
District Attorney	3B-2

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 3 — LOCAL GOVERNMENT

Part B. Constitutional Offices

Separate and apart from local offices which are part of the varying forms of local government, the Louisiana Constitution provides for the parish offices of sheriff, coroner, assessor, clerk of the district court, registrar of voters, and school board members. (See "Chapter 2, Part C: Education" for discussion related to school boards.) These constitutional officers are generally independent of the parish governing authority. The constitution also provides for the office of district attorney for each judicial district, which may be composed of one or more parishes.

Sheriff

The constitution establishes the office of sheriff in each parish, except Orleans Parish. (Const. Art. V, §27) Article V, Section 32 continued the offices of civil sheriff and criminal sheriff in Orleans Parish, subject to change by law. Effective in 2010, the civil and criminal sheriffs in Orleans Parish were consolidated and, like the other parishes, Orleans Parish now has one sheriff. Each sheriff is elected for a term of four years. The sheriff in all parishes is the chief law enforcement officer in the parish and has both criminal and civil jurisdiction. The sheriff is in charge of all criminal investigations and is responsible for executing court orders and process and is the keeper of the public jail in the parish. Except in Orleans Parish, the sheriff is the collector of ad valorem taxes and other taxes and license fees as provided by law; in Orleans Parish the city of New Orleans provides for tax collection.

Parish Coroner

The office of parish coroner is constitutionally established. (Const. Art. V, §29) The coroner is elected for a term of four years and must be a licensed physician unless no licensed physician will accept the office. The coroner is generally considered an officer of the court in that many of his duties relate to law enforcement. His functions include holding inquests, ordering autopsies, and furnishing death certificates after an investigation or autopsy. (R.S. 33:1551 et seq.)

Tax Assessor

A tax assessor is elected for each parish. (Const. Art. VII, §24) The assessor's term of office is four years. The primary duty of the assessors is assessment of property subject to ad valorem taxation.

Clerk of District Court

The constitution also establishes the office of clerk of the district court in each parish, to be elected for a term of four years. (Const. Art. V, §28) The clerk of court serves as an ex officio

notary public and parish recorder of conveyances, mortgages, and other acts. Article V, Section 32, continued the offices of the clerks of the civil and criminal district courts, the register of conveyances, and the recorder of mortgages for Orleans Parish, subject to change by law. The legislature has consolidated these offices in Orleans Parish; however, the consolidation of the offices of the clerks of the civil and criminal district courts in Orleans Parish will not become effective until January 1, 2015.

Registrar of Voters

The governing authority of each parish is required to appoint a registrar of voters. (Const. Art. XI, §5) Subject to the direction of the commissioner of elections and as provided by law, the registrar in each parish is responsible for the registration of voters and for the administration and enforcement of the laws, as well as the rules and regulations of the commissioner, relating to the registration of voters. Each registrar must be a resident and qualified voter of the parish in which he is to perform his duties. He may be removed for certain causes by the State Board of Election Supervisors. Registrars are also responsible for the conduct of absentee voting. (R.S. 18:1301 et seq.)

District Attorney

The district attorney is elected for a term of six years. He must have been admitted to the practice of law for at least five years and must have resided in the district for the two years preceding the election. The district attorney or his designated assistant has charge of criminal prosecution by the state in the district, represents the state before the grand jury, and is the legal advisor to the grand jury.

Chapter 3 – Local Government

Part C. Local Civil Service	3C-1
Local Civil Service Systems Generally	3C-1
Classified and Unclassified Service	3C-2
Civil Service Commission	3C-2
Appointments	3C-3
Political Activity	3C-3
Administration/Rules	3C-3
Department of Civil Service	3C-3
Funding	3C-3
Fire and Police Civil Service	3C-3

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 3 — LOCAL GOVERNMENT

Part C. Local Civil Service

As with all civil service, local civil service in Louisiana is aimed at improving the stability, experience, efficiency, and professionalism of government employees by protecting such employees from the sometimes tumultuous realities of electoral politics. This is done by the creation of local civil service systems. A civil service system consists of the employees of a governmental entity and its agencies, a governing board which sets policy for the system, a department established for the execution of the policies of the board, and a detailed employment plan.

As a rule, fire and police personnel are distinguished from other local government employees, usually participating in different civil service systems. The following discussion will therefore treat these two elements of local government employment separately, noting exceptions to the general rule.

Local Civil Service Systems Generally

The establishment of a civil service system for personnel other than fire and police in cities having a population of less than 400,000 and in parishes is generally a matter of local option. These authorities are permitted to adopt such a system in any manner provided by law. The legislature must establish such a system by law, but the law cannot become effective until approved by ordinance adopted by the parish or municipality. (Const. Art. X, §15) The legislature has provided by general law for a city civil service system for any city having a population over 100,000 (R.S. 33:2391 et seq.) and for certain other cities and parishes by local legislation. (Note: Const. Art. X, Part I specifies that it does not permit including employees included in the unclassified service in Section 2 thereof in a local civil service system. Relative to local government, this excludes employees of sheriffs, coroners, clerks of court, and district attorneys from the classified service.)

Matters Included in Constitution Article X, Part I

- Classified and Unclassified Service
- Civil Service Commission
- Appointments
- Political Activity
- Administration / Rules
- Department of Civil Service
- Funding

For any city with a population of greater than 400,000, (New Orleans was in this category prior to the 2010 census) a civil service system is established and provided for by the constitution (Part I of Article X). Article X, Section 1 provides that a civil service system in such a city includes all persons holding offices and positions of trust or employment employed by the city or by any instrumentality thereof. Thus, the civil service system of New Orleans includes police and fire personnel making it an exception to the general rule stated above. (The constitution

of 1974 authorized the city to hold an election within one year on the question of dividing the city civil service; the electors of the city voted against division.) (Note: Const. Art. X, Part I also applies to the state civil service system.)

In addition to authorizing most local governing authorities to adopt a civil service system, the constitution (Art. X, §14) additionally authorizes each city with a population of between 10,000 and 400,000, each parish, and each city-parish, subject to voter approval, to choose to have its civil service system governed by the provisions of the constitution which apply to civil service in New Orleans (i.e., Part I of Article X).

Classified and Unclassified Service (Const. Art. X, §2)

Just as in the case of the state civil service, a local civil service system created by (New Orleans) or through adoption of the provisions of Part I of Article X of the constitution includes the unclassified and the classified service. In such a civil service system, the following officers and employees are placed in the unclassified civil service by the constitution:

- Elected officials and persons appointed to fill vacancies in elective offices.
- The heads of each principal executive department appointed by the mayor or the governing authority of a city.
- City attorneys.
- Members of city boards, authorities, and commissions.
- One person holding a confidential position and one principal assistant or deputy to any officer, board, commission, or authority above, except city attorneys and civil service departments.
- Bona fide students of schools, colleges, and universities of the state employed by any parochial or municipal agency.
- Employees, deputies, and officers of police juries, school boards, assessors, and of all offices provided for in Article V of the constitution (judicial branch), except the offices of clerk of the municipal and traffic courts in New Orleans.
- Railroad employees whose working conditions and retirement benefits are regulated by federal agencies in accordance with federal law.

The local civil service commission may add positions to the unclassified service and revoke those positions. Classified employees are covered by the civil service protection and prohibitions of the constitution and by regulations of the local civil service commission; unclassified employees are not.

Civil Service Commission (Const. Art. X, §4)

City or parish civil service commissions governed by Article X, Part I (created by or pursuant to Article X §1 or 14) are appointed by local governing authorities from nominees submitted by presidents of institutions of higher learning.

Appointments (Const. Art. X, §§7, 8, 12)

Permanent appointments and promotions in a local classified civil service subject to Part I of Article X may be made only after certification under a general system developed by the commission based upon merit, efficiency, fitness, and length of service. Competitive examinations are required, to the extent practicable. As in the case of state civil service, discrimination against classified employees is prohibited and a permanent classified employee may not be subjected to disciplinary action except for cause. The commission has exclusive power to hear and decide all removal and disciplinary cases, subject to review by the courts of appeal.

Political Activity (Const. Art. X, §9)

Members of civil service commissions and officers and employees in the classified service (if subject to Part I of Article X) are prohibited by the constitution from participating in political activity.

Administration / Rules (Const. Art. X, §10)

The constitution vests each local commission governed by Article X, Part I with broad and general rulemaking and subpoena powers for the administration and regulation of the classified service, including the power to adopt rules for regulating employment, promotion, demotion, suspension, reduction in pay, removal, certification, qualifications, political activities, employment conditions, compensation and disbursements to employees, and other personnel matters and transactions; to adopt a uniform pay and classification plan; to require employee training and safety programs; and generally to accomplish the objectives and purposes of the merit system of civil service.

Any rule or determination by a civil service commission under Part I of Article X affecting wages and hours of employment has the effect of law and becomes effective only after approval by the appropriate governing authority.

Department of Civil Service (Const. Art. X, §6)

For those local systems adopting the constitutional provisions, the constitution provides for a department of civil service, headed by a director of civil service (who is a classified employee) appointed by the commission. Each director shall appoint personnel and exercise powers and duties to the extent prescribed by the commission.

Funding (Const. Art. X, §13)

The constitution requires each local government subject to the Article X, Part I provisions to make adequate annual appropriations to enable its commission and department to implement efficiently and effectively the constitutional civil service provisions.

Fire and Police Civil Service

Part II of Article X of the constitution establishes a classified fire and police civil service system that applies to any municipality which has a population of between 13,000 and 400,000 and which operates regularly paid fire and police departments and to any parish or fire protection district which operates a regularly paid fire department. Policemen and firemen employed by any such entity are expressly excluded from any local civil service system governed by Part I of Article X.

Though this civil service system is established in the constitution, the provisions which govern it are continued from the constitution of 1921. The legislature, by law enacted by two-thirds vote of each house, may amend these provisions, but may not abolish the system or make it inapplicable to any such municipality, parish, or fire protection district. (Const. Art. X, §§16-20).

In addition to the constitutionally established fire and police civil service, statutes require and provide for civil service for paid firemen and policemen in any municipality with a population of not less than 7,000 and not more than 13,000 and in which there is a regularly paid fire or police department.

The issue of seniority continues to be very contentious. Presently promotions within this system are based on seniority within the department. The employees who pass the test for a particular promotion are eligible for promotion in order of the total length of time in the departmental service. Proposals for changing this have included considering only seniority in the current position and schemes to more thoroughly evaluate and consider qualifications. In recent years, the legislature has amended civil service provisions to remove certain positions from the classified service to permit greater latitude to appointing authorities in appointing and removing personnel.

Chapter 3 – Local Government

Part D. Local Government Finance	3D-1
Authority to Tax	3D-1
Ad Valorem Tax	3D-1
Sales Tax	3D-3
Other Taxes	3D-3
Bonded Indebtedness	3D-3
Limitation on Unfunded Mandates	3D-4
State Aid to Local Governments	3D-4

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 3 — LOCAL GOVERNMENT

Part D. Local Government Finance

Authority to Tax

The general taxing power or authority for parish, municipal, and other local public purposes is granted to political subdivisions in Article VI, Section 30 of the Constitution of Louisiana. The legislature by general, local, or special law may create or authorize the creation of special districts, boards, agencies, commissions, and authorities of every type and define their powers, including the power of taxation and the power to incur debt and issue bonds. (Const. Art. VI, §19) Such local governmental functions as fire protection, garbage collection, and sewerage districts have been statutorily authorized under those provisions.

Political subdivisions or political corporations are authorized by the constitution to engage in cooperative endeavors, including financing, for a public purpose with each other, the state, the United States or its agencies, or with any public or private association, corporation, or individual. (Const. Art. VI, §20, Const. Art. VII, §14(C))

Ad Valorem Tax

The ad valorem tax (property tax), the oldest form of taxation presently in use in the nation, traditionally has been the financial mainstay of local governments, and during most of the period prior to World War I, it represented the largest single source of public revenues. Difficulties in administration of this tax have included problems associated with assessment levels applied to different types of property, various tax exemptions on homestead and industrial properties, and the impact of the tax on different classes of taxpayers.

The general alimony or maintenance taxes available to parishes and municipalities (Const. Art. VI, §§26, 27) and all other property tax millages of political subdivisions are levied on the assessed value of properties as listed on the local tax rolls. For the purposes of such taxation, all properties are appraised at fair market value, and the assessed value is then determined as a percentage of such fair market value as follows: land – 10%; improvements for residential purposes – 10%; electric cooperative properties, excluding land – 15%; public service properties, excluding land – 25%; and all other property – 15%. (Const. Art. VII, §18)

Bona fide agricultural, horticultural, marsh, and timber lands are defined by law and are assessed for tax purposes at ten percent of use value rather than fair market value. (Const. Art. VII, §18; R.S. 47:2301 et seq.)

In computing the actual proceeds expected from the imposition of a certain millage, consideration also must be given to the amount of property eligible for the homestead exemption (\$7,500 of assessed value) and other property exemptions listed in the constitution. The homestead exemption does not apply to municipal ad valorem taxes except in Orleans

The Louisiana Tax Commission is a state agency vested with extremely broad authority as to the administration and enforcement of the state property tax and assessment laws. The commission is composed of five members appointed by the governor from the state public service commission districts. The members of the commission serve at the pleasure of the governor. In addition to reviewing and accepting assessment lists from each parish, with the authority to reject or order individual changes, the commission devises and issues all forms used for property tax implementation and prepares and issues rules and regulations which very narrowly prescribe how assessors are to perform their duties and responsibilities.

An important function of the commission is the assessment of public service properties. These properties, such as telephone companies, pipelines, railroads, and other utilities, are actually assessed by the commission staff rather than the individual assessors. The commission forwards this information to the assessors for use in preparing the tax rolls.

Pursuant to the commission's grant of authority to promulgate rules and regulations for the administration of property tax laws, the commission promulgates a new set of real/personal property rules for use by each assessor for purposes of reassessment. This update of applicable rules is performed each time there is a reassessment of property as required by the constitution – at least once every four years. (Const. Art. VII, §18(F))

Of particular importance to taxpayers is the roll-up/roll-back provision of the constitution which mandates millage adjustments in order to prevent the increase or decrease of total taxes collected because of reappraisal or changes in the homestead exemption; taxes realized from increased millages or additional property on the tax rolls are not affected. A taxing authority may choose to collect the additional revenues to be gained from such changes by reinstating all or a portion of the prior year's millage. A reinstatement does not require voter approval, but does require a two-thirds vote of the governing body of the taxing authority at a public hearing. The hearing requires considerable public notice via press release, internet, and newspaper. (Const. Art. VII, §23; R.S. 47:1705)

The constitution authorizes a levee district to impose property taxes without voter approval for purposes incidental to flood protection. The amount of authority varies based on when the district was created. Levee districts created before 2006 may impose up to five mills of property tax without voter approval. These districts may also impose additional property taxes subject to voter approval. Voter approval is required for all property taxes levied by a levee district created after 2005. (Const. Art. VI, §39) With regard to payments required for property which has been used or destroyed for levee purposes, if a levee district has no other funds or resources from which it can make payment, the district is required to levy property taxes sufficient to provide for such payment. (Const. Art. VI, §42)

School boards realize local funds for the support of public elementary and secondary schools from the imposition of an ad valorem maintenance tax not to exceed five mills (thirteen mills in Orleans Parish), which tax is authorized without the necessity of voter approval. For additional support to public schools, any parish or city school board and school or subschool district may levy a property tax for a specific purpose, upon voter approval and subject to limitations provided by law. The legal maximum millage (above the constitutionally authorized maintenance millage) is 70 mills. (Const. Art. VIII, §13(C)) The maximum duration of such taxes is ten years, with the exception of taxes levied solely for maintenance of capital facilities or installation of climate control mechanisms in existing classroom facilities which may be

imposed for 20 years. (R.S. 39:812)

Sales Tax

The other major source of tax revenue for local governments is the sales and use tax (sales tax). The constitution grants sales tax authority to all parishes and municipalities (local governmental subdivisions) and school boards. Imposition of all sales taxes for local government subdivisions and school boards is subject to local voter approval. The constitution authorizes a maximum sales tax rate of three percent in the aggregate for the local governmental subdivisions and the school board within any parish (in addition to the state sales tax). However, the legislature, by general or by local law, may authorize sales taxes for local governmental subdivisions and school boards which are above that limit, subject to voter approval. Additionally, this limitation does not apply to special taxes for works of public improvement and taxes of certain political subdivisions, the approval of which is left solely to the discretion of local voters. Numerous statutory provisions authorize various rates of sales taxes generally and specifically for municipalities, parishes, school boards, special taxing districts, and sheriffs. The constitution requires all sales and use taxes within a parish to be collected by a single collector. (Const. Art. VI, §§29, 30 and 32, and VII, §3(B))

Other Taxes

Additional constitutional provisions authorize financing mechanisms for specific local functions and services. Works of public improvement may be financed by special taxes or assessments. (Const. Art. VI, §§32, 36) In keeping with the general authorization to engage in cooperative endeavors, the legislature may enact laws to enable political subdivisions and their agencies to comply with federal laws and regulations in order to secure federal participation in funding capital improvement projects. (Const. Art. VII, §17)

The constitution prohibits political subdivisions from levying a severance tax, income tax, inheritance tax, tax on motor fuel, or motor vehicle license fee. (Const. Art. VII, §4(C), 5) However, the constitution does authorize municipalities and parishes to impose an occupational license tax not greater than that imposed by the state, unless a greater rate is approved by a two-thirds vote of the legislature. Despite repeal of the state occupational license tax in 1981, this taxing authority with respect to local governments has been continued and in 1986 was the subject of a major legislative revision providing for five consolidated rate schedules and the collection and administration of such taxes. (Const. Art. VI, §28; R.S. 47:341 et seq.)

Municipalities and parishes are authorized by law to collect a license tax on chain stores within their respective boundaries. Notwithstanding the imposition of the tax, each parish or municipality may elect to suspend the effect of the tax. (R.S. 47:10)

Other supplementary revenues may be derived from a local beer tax (R.S. 26:492), requirements for various permits and fees, and the lease of lands and properties to which political subdivisions have title, custody, or possession.

Bonded Indebtedness

Bonded indebtedness has become an increasingly integral aspect of local government financing as pressures arising from population increase and accelerated urbanization have resulted in continuing demand for such governmental facilities as schools, roads and bridges, hospitals, and community centers. Limitations on the bonded indebtedness of political subdivisions are set

forth in R.S. 39:562 et seq. as required by the constitution (Const. Art. VI, §34) and Louisiana has further sought to insure prudent issuance of debt by its political subdivisions through a requirement for prior State Bond Commission approval of all bond and other debt issues. (Const. Art. VII, §8)

Major provisions of the constitution authorize political subdivisions to share in the economic impact of local industrial enterprises through the issuance of industrial bonds; to provide facilities deemed necessary by the electorate in approving propositions for funding by general obligation bonds, subject to statutory limitations; and to issue bonds or other debt obligations to construct, acquire, extend, or improve any revenue-producing public utility or work of public improvement, such obligations to be secured solely by revenues and properties of the facility. (Const. Art. VI, §§21, 33, 34, 37; R.S. 39:551 et seq.) Political subdivisions also may use tax increment financing as a source of funding infrastructure and other needs in securing and expanding economic development projects. (R.S. 33:7602, et seq. 33:9023, et seq., and 47:8001, et seq.)

Statutory provisions additionally authorize the creation of express public trusts to issue obligations and to provide funds for the furtherance and accomplishment of any public purpose or function, such as health, housing, education, transportation, water and sanitation systems, correctional services, educational services, and community development facilities and activities. Creation of any such trust is subject to express approval of a majority of the governing authority of the beneficiary governmental unit and the State Bond Commission. The Louisiana Public Facilities Authority is a trust created under these statutory provisions. (R.S. 9:2341 et seq.)

Limitation on Unfunded Mandates

No law or state executive order, rule, or regulation requiring increased expenditures for any purpose shall become effective within a political subdivision until approved by the governing authority of the political subdivision and then only if the legislature appropriates funds for that purpose or the effected political subdivision or the legislature provides for a local source of revenue therefore. (Const. Art. VI, §14) This provision does not apply to school boards. There are a number of other exceptions to this prohibition against unfunded mandates including legislation requested by the affected political subdivision; legislation defining a new crime or amending an existing crime; legislation enacted to comply with a federal mandate; legislation providing for civil service; minimum wages, working conditions; or legislation providing for retirement benefits, hours, or sick leave of firemen or policemen. A further exception is made for any law enacted by a two-thirds vote of the elected members of each house of the legislature.

State Aid to Local Governments

State aid to major units of local governments – as used herein means parish governing authorities, municipalities, school districts, sheriffs, and district attorneys – may be divided generally into three types of aid allocations: (1) shared aid which is returned to the jurisdiction of origin; (2) categorical aid which is targeted for a specific purpose; and (3) general aid distributed by formula. Financial assistance to local governments is allocated and distributed via state general fund and dedicated fund appropriations in the General Appropriation Bill, Capital Outlay Bill, and other appropriation bills, and constitutional allocations which do not require an appropriation.

Shared aid is comprised of severance tax, royalty funds, the Video Draw Poker Device Fund, and state sales tax dedications to local entities. Severance tax and royalty funds are both

constitutional allocations of funds in which the monies are returned to the jurisdiction of origin. Severance taxes (*Const. Art. VII, §4(D)*) are allocated to the governing authority of the parish from which the resource is severed or production occurs, as follows: 1/3 of tax on sulphur not to exceed \$100,000; 1/3 of the tax on lignite, not to exceed \$100,000; 3/4 of the tax on timber; and 1/5 of the tax on all other natural resources other than sulphur, lignite, and timber, not to exceed a maximum amount of \$850,000. Beginning in 2008, the \$850,000 maximum amount was adjusted annually in accordance with the annual increase in the Consumer Price Index. Furthermore, effective April 1, 2012, this maximum amount may be increased if certain natural resource revenue forecasts are achieved. One-tenth of the royalties from mineral leases on state-owned lands and lake and river beds are allocated to the parish governing authority where severance or production occurs (*Const. Art. VII, §4(E)*). Twenty-five percent of the monies received by the state from fees, fines, and penalties assessed on video draw poker devices are statutorily dedicated (*R.S. 27:312*) for distribution to district attorneys and their assistants for increased compensation and to parishes, municipalities, and sheriffs for enforcement of the video poker codes. All or a portion of the state sales tax on hotel occupancy collected in each parish is appropriated to virtually all of the respective parishes to support tourism, economic development, and other purposes.

Categorical aid is aid which is targeted for specific purposes. Categorical aid falls into four general groupings: education aid, supplemental pays, transportation funds, and miscellaneous.

Educational aid is targeted at elementary and secondary education functions performed by the local school systems. Most of the state money distributed to the local systems is the constitutionally mandated Minimum Foundation Program, MFP (*Const. Art. VIII, §13(B)*). The formula is developed and adopted by the Board of Elementary and Secondary Education and then reviewed and adopted by the legislature in the form of a resolution. The legislature annually appropriates monies sufficient to fund the most recently adopted formula. The constitution also mandates the legislature to appropriate funds to provide free textbooks for the children of the state; this item is now a part of the MFP. (*Const. Art. VIII, §13(A)*) Local school boards also receive the bulk of the investment income of the Education Excellence Fund (EEF), a special fund constitutionally established within the Millennium Trust with a portion of the state's proceeds from the "tobacco settlement" agreement. Interest and other earnings from the EEF may be appropriated to each school system based on the system's proportion of total students and subject to a plan submitted by the school system and approved by the Department of Education and the legislature. (*Const. Art. VII, §10.8 and R.S. 17:3805*) (The MFP and EEF are discussed in more detail in another part of this book.) Annual state general fund appropriations for non-formula, educational functions such as vocational education, adult education, food service, and PIPs, among others, are also made by the legislature to local school districts.

Among the most significant annual legislative appropriations for local government purposes are extra compensation for public safety personnel (generally referred to as supplemental pay). These funds are earmarked for local public safety by supplementing the salaries of municipal police and marshals (*R.S. 33:2218.2*), deputy sheriffs (*R.S. 33:2218.8*), constables and justices of the peace (*R.S. 13:2591*), and firefighters (*R.S. 33:2001 et seq.*). State supplemental pay for municipal police, deputy sheriffs, and firefighters was statutorily increased from \$300 per month to \$425 per month in 2007 and from \$425 per month to \$500 per month in 2008. Constitutional amendments approved by the voters in November 2002 and October 2007 require the state to fully fund the amount of supplemental pay established by law. Reductions may only be made by the governor according to the Act containing the appropriation, and are subject to approval of two-thirds of the members of each house. (*Const. Art. VII, §10(D)(3)*)

Monies targeted at assisting local governments with upgrading and maintaining their road and bridge systems come primarily from the constitutional provisions of the Transportation Trust Fund as they relate to the Parish Transportation Fund. (Const. Art. VII, §27(B) and R.S. 48:756). Under these provisions, no more than 20% of the trust funds may be appropriated for the Parish Transportation Fund, state police for traffic control purposes, ports, and Statewide Flood-Control Program; however, the Parish Transportation Fund is guaranteed a minimum of the avails of one cent of the gasoline and special fuels tax. The first \$34 million is distributed to the parishes on a per capital basis; any appropriation over \$34 million is distributed to the parishes based on parish road mileage. The legislature has also provided funding for mass transit in the larger cities. Additional monies have been provided from time to time for other transportation needs; in recent years. Monies to entities such as levee boards, port commissions, or terminal districts are not reported here.

The largest general formula and distribution is Revenue Sharing (Const. Art. VII, §26), an annual \$90 million state general fund constitutional allocation that is distributed solely on the basis of population and the number of homesteads in each parish. The current formula weights the two factors, population and homesteads, 80% and 20%, respectively, in determining the amount for each parish. The constitution provides that population figures be based on the latest federal decennial census unless otherwise provided by the legislature; the legislature generally uses annually revised parish population estimates.

Local fire departments receive assistance from the proceeds of a two percent tax on the amount of fire insurance premiums collected by every foreign or alien insurer from any business which insures property of any nature or description against loss or damage by fire. All such revenues are credited to a special fund. Monies in the fund are used to pay group insurance and workers' compensation for volunteer firefighters and \$210,000 is allocated to firefighter training programs in the state. The remainder is distributed to each parish governing authority in accordance with rules and regulations established by the state treasurer based on the most recent parish population estimates.