

ACTS OF 2023 LEGISLATURE

Acts 411-446

ACT No. 411

HOUSE BILL NO. 562

BY REPRESENTATIVES SCHEXNAYDER, ADAMS, BAGLEY, BOYD, BRASS, BRYANT, CARPENTER, WILFORD CARTER, CORMIER, DAVIS, DUBUISSON, FISHER, FREEMAN, GAINES, GAROFALO, GLOVER, GREEN, HUGHES, JEFFERSON, JENKINS, TRAVIS JOHNSON, KNOX, LAFLEUR, LANDRY, MARCELLE, MARINO, NEWELL, ROBERT OWEN, PHELPS, PIERRE, SCHLEGEL, STAGNI, VILLIO, AND WILLARD

AN ACT

To amend and reenact R.S. 47:6007(B)(11), (C)(1)(a)(iv) and (4)(h)(iii)(bb), (D)(2)(c)(i) and (d)(i), (I), and (J)(1) and to enact R.S. 47:6007(C)(8) and (K), relative to the motion picture production tax credit; to provide relative to Louisiana promotional graphics requirements for productions; to provide relative to uses of the Louisiana Entertainment Development Dedicated Fund Account; to provide relative to expenditure data collection; to provide for eligibility for the tax credit; to provide with respect to the Department of Economic Development program issuance cap; to remove certain limitations with respect to the issuance cap; to extend the sunset date of the tax credit; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:6007(B)(11), (C)(1)(a)(iv) and (4)(h)(iii)(bb), (D)(2)(c)(i) and (d)(i), (I), and (J)(1) are hereby amended and reenacted and R.S. 47:6007(C)(8) and (K) are hereby enacted to read as follows:

§6007. Motion picture production tax credit

B. Definitions. For the purposes of this Section:

(11) "Louisiana promotional graphic" means a graphical brand or logo for promotion of the state which has been approved by the office: for a production and consists of the following:

(a) Either of the following:

(i) Up to a five-second long static or animated graphic that promotes Louisiana in the end credits before the below-the-line crew crawl for the life of the production.

(ii) Up to a five-second long static or animated embedded graphic that promotes Louisiana during each broadcast worldwide, in the end credits before the below-the-line crew crawl for the life of the production.

(b) An electronic press kit or a customized video for use by the office or an alternative asset as determined by the office.

C. Production tax credit; specific productions and projects.

(1) There is hereby authorized a tax credit against state income tax for Louisiana taxpayers for expenditures related to state-certified productions and qualified entertainment companies. The tax credit shall be earned by a motion picture production company at the time expenditures are certified by the office and the secretary for a motion picture production company in a state-certified production. However, credits cannot be applied against a tax or transferred until the expenditures are certified by the office and the secretary. For state-certified productions, expenditures shall be certified no more than once per production, after project completion. However, if at the time of application for initial certification, the office is notified that post-production activities will take place in Louisiana, a supplemental request for certification of expenditures directly related to such post-production activity may be submitted for consideration by the office. The cost of any verification or audit of such expenditures shall be borne by the motion picture production company. The tax credit shall be calculated as a percentage of the total base investment dollars certified per project, or as otherwise provided in this Paragraph.

(a) Project-based production tax credit. For applications for state-certified productions on or after July 1, 2017:

(iv)(aa) For applications submitted on or after July 1, 2017, and prior to July 1, 2023, as As a condition of receiving tax credits pursuant to this Section, state-certified productions shall be required to acknowledge the financial assistance of the state of Louisiana, either through the inclusion of a Louisiana promotional graphic, or an alternative marketing option, including a donation to a Louisiana nonprofit film grant program as approved by the office.

(bb) For applications submitted on or after July 1, 2023, as a condition of receiving tax credits pursuant to this Section, state-certified productions shall be required to acknowledge the financial assistance of the state of Louisiana through the inclusion of a Louisiana promotional graphic. Commercials,

music videos, or other state-certified productions that are prohibited by federal law or contractual requirements from utilizing the promotional Louisiana graphic may use an alternative marketing option as approved by the office.

(4) Transferability of the credit. Except as provided for in Subparagraph (g) of this Paragraph, motion picture tax credits not previously claimed by any taxpayer against its income tax may be transferred or sold to another Louisiana taxpayer or to the Department of Revenue, subject to the following conditions:

(h)

(iii) The money in the account shall be appropriated by the legislature as follows:

(bb) Seventy-five percent to the Department of Economic Development; ~~office for motion picture and television education development initiatives, matching grants for Louisiana filmmakers, a loan guarantee program, and a deal closing fund.~~ Louisiana workforce development programs, and other motion picture and television related programs as determined by rule.

(8)(a) No credit may be earned by, certified, issued to, transferred by, or used to reduce a Louisiana tax liability by a motion picture production company, irrevocable designee, taxpayer, or claimant if there exists a delinquent federal, state, or local tax obligation, including the filing of returns and remittance of taxes subject to collection. Compliance with this requirement shall be certified by the motion picture production company, irrevocable designee, taxpayer, or claimant before any credit may be certified, transferred, or sold.

(b) The prohibition in Subparagraph (a) of this Paragraph shall not apply to any tax liability which has been properly protested or appealed by the motion picture production company pursuant to R.S. 47:1561 et seq.

(c) The prohibition in Subparagraph (a) of this Paragraph shall remain in effect until all delinquent returns have been filed and delinquent taxes have been paid, and until a Notice of Cancellation or equivalent form is properly filed and recorded to cancel all federal, state, or local tax obligations.

D. Certification and administration.

(2)

(c)(i) In order to protect the integrity of the motion picture investor tax credit program by ensuring that tax credits are certified only for eligible expenditures and to provide for uniformity in expenditure verification reporting, the department shall directly engage and assign an independent certified public accountant, hereinafter referred to as "CPA", to prepare, for the department, the required production expenditure verification report on a tax credit applicant's cost report of expenditures or claims. The applicant shall be responsible for and assessed any production expenditure verification report fee that may be required by law, including any up-front deposit of the fee. For purposes of the report, the applicant shall make all records related to the tax credit application available to the CPA. For applications received on or after July 1, 2023, these records shall include a listing of all Louisiana expenditures detailing the date of the expenditure, the vendor's address including the zip code, and the amount of the expenditure.

(d)(i) Project-based production tax credit. After application review and consideration of all discretionary factors, the office and the secretary shall submit their initial certification or written denial of a project as a state-certified production to investors and to the secretary of the Department of Revenue indicating the total base investment which shall be expended in the state on the state-certified production within sixty days of their receipt of all required information. The initial certification shall include a unique identifying number for each state-certified production ~~and shall provide for a preliminary allocation of tax credits by year.~~

I. No credits shall be allowed pursuant to this Section for applications received on or after July 1, ~~2025~~ 2031.

J. Credit caps, structured pay outs, and project size limitations.

(1) Department of Economic Development program issuance cap.

(a) The department shall by rule establish ~~the method of provisionally allocating available tax credits in initial certification letters, and the method for granting tax credits in final tax credit certification letters, including but not limited to a first-come, first-served system, reservation of tax credits for a specific time period, or other method which the department, in its discretion, may find beneficial to the program.~~

(b) For applications for state-certified productions and qualified entertainment companies submitted on or after July 1, 2017, but prior to July 1, 2023, the total amount of all tax credits granted in a final certification letter by the department in any fiscal year shall not exceed one hundred fifty million dollars. Twenty percent of the annual program cap shall be reserved as follows: five percent for qualified entertainment companies, five percent for Louisiana screenplay productions, and ten percent for independent film productions. If the total amount of credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

(e) (i) If the total amount of credits granted to QECs in any fiscal year is less than the QEC cap, any residual amount of unused credits shall carry forward for use in subsequent years and may be granted in addition to the QEC cap for each year.

(ii) If the total amount of credits granted in any fiscal year to screenplay productions or independent film productions is less than their respective caps, any residual amount may be available for issuance by the department during that fiscal year as established by rule.

(iii) The department shall make reasonable efforts to post a listing of estimated amounts available under the cap on its website.

(c) For applications for state-certified productions and qualified entertainment companies submitted on or after July 1, 2023, the total amount of all tax credits granted in a final certification letter by the department in any fiscal year shall not exceed one hundred fifty million dollars. If the total amount of credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

* * *

K. The office shall develop a new Louisiana promotional graphic which includes a symbol that is easily recognized as representing the state of Louisiana. The promotional graphic shall be submitted to the Joint Legislative Committee on the Budget for approval no later than November 1, 2023.

Approved by the Governor, June 15, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 412

HOUSE BILL NO. 586

BY REPRESENTATIVES STEFANSKI, ADAMS, AMEDEE, BAGLEY,
BUTLER, WILFORD CARTER, CORMIER, DAVIS, EDMONDS, FIRMENT,
GAROFALO, GOUDEAU, HORTON, MIKE JOHNSON, MOORE, ROBERT
OWEN, PIERRE, SCHEXNAYDER, STAGNI, THOMPSON, AND WHITE
AN ACT

To enact R.S. 9:2800.77, relative to civil actions; to provide relative to civil liability for actions related to fentanyl ingestion; to provide relative to fentanyl trafficking or related commercial activity; to provide for attorney fees, expert witness fees and expenses, court costs, and exemplary damages; to provide for burden of proof; to provide for exceptions; to provide relative to comparative fault; to provide relative to prescription; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:2800.77 is hereby enacted to read as follows:

§2800.77. Liability for fentanyl ingestion

A. Any entity or foreign state engaging in or facilitating illicit fentanyl trafficking or its related commercial activity shall be liable for damages for serious bodily injury or death to all persons beginning January 1, 2015, resulting from the unintended ingestion of illicit fentanyl in this state if the entity or foreign state was engaging in or facilitating illicit fentanyl trafficking or its related commercial activity, having a sufficient nexus or substantial contact with the United States and with this state at the time of the ingestion resulting in the injury or death or at a time bearing a rational nexus to the ingestion, whereupon the fault of the entity or foreign state is thereby established by a rebuttable presumption.
B. A plaintiff in an action brought pursuant to this Section shall be entitled to damages, including exemplary damages, expert witness fees and expenses, court costs, and reasonable attorney fees.

C. (1) The defendant in an action for damages arising from illicit fentanyl trafficking or its related commercial activity brought pursuant to this Section may rebut the presumption of fault established in this Section, whereupon in the event the defendant in such an action shall have the burden of proving that the defendant was not engaging in or facilitating illicit fentanyl trafficking or its related commercial activity, directly or through an agent, at the time of ingestion resulting in the injury or death, or at a time bearing a rational nexus to the ingestion, for which damages are sought under this Section.

(2) This Subsection shall not apply to any manufacturer of fentanyl that is registered with the United States Attorney General pursuant to 21 U.S.C. 822.

(3) Credible information or statistical data including publications of information or statistical data provided by the United States government, its agencies, courts, or congress, or publications of information by this state, its agencies, courts, or legislature, of illicit fentanyl trafficking or its related commercial activity by an entity or foreign state, or of the nexus or contact of that trafficking or related commercial activity to the United States or to this state shall be sufficient evidence in order for the plaintiff to establish such trafficking or related commercial activity or the nexus or contact thereof to the United States or to this State to meet the burden of proof in relation thereto for the establishment of an action brought pursuant to this Section.

D. The actions of a person ingesting illicit fentanyl under circumstances whereby it is unlikely that the person had knowledge or awareness of the presence of illicit fentanyl being ingested shall not be attributable as comparative fault as provided by Civil Code Article 2323.

E. An action against an entity or foreign state for damages resulting from the illicit trafficking of fentanyl or its related commercial activity shall be subject to a liberative prescription of thirty years. This prescription

commences to run from the day of the injury.

F. For the purposes of this Section:

(1) "Commercial activity" means any of the following:

(a) Any activity pertaining to commerce relating to illicit fentanyl trafficking.

(b) "Commercial activity" means the same as provided by 28 U.S.C. 1603.

(2) "Entity" means a natural or juridical person and includes any association or entity, including any drug cartel or transnational criminal organization.

(3) "Foreign state" means the same as provided in 28 U.S.C. 1603.

(4) "Illicit fentanyl" means any of the following:

(a) A mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil, or a mixture or substance containing a detectable amount of carfentanil or its analogues, as provided by R.S. 40:967. It shall not include any substance obtained directly or pursuant to a valid prescription or order from a practitioner, as provided in R.S. 40:978, while acting in the course of the practitioner's professional practice.

(b) A mixture or substance containing a detectable amount of fentanyl precursor agents, licit or illicit, that can be used in the production of fentanyl.

(5) "Ingestion" means the taking, absorption, consumption, or exposure to illicit fentanyl.

(6) "Serious bodily injury" means a bodily injury which involves unconsciousness, extreme physical pain, protracted and obvious disfigurement, protracted loss, or impairment of a bodily member, organ, or mental faculty, or a substantial risk of death.

(7) "Trafficking" means any of the following:

(a) Any activity, directly or through an agent, to produce, manufacture, distribute, sell, knowingly finance, or transport illicit fentanyl or to cause or facilitate illicit fentanyl to be placed into the stream of commerce.

(b) Any activity, directly or through an agent to assist, conspire, or collude with any other entity or foreign state to carry out activity described in Subparagraph (a) of this Paragraph.

(c) Any activity by a foreign state, directly or through an agent, to facilitate or allow by silent acquiescence or otherwise the placement of licit or illicit fentanyl precursor agents into the stream of commerce under circumstances whereby the fentanyl precursor agents are likely to be manufactured into illicit fentanyl and transported into the United States or this state.

Section 2. The purpose of this Act is to provide a civil remedy for damages with the broadest possible basis consistent with the Constitution of the United States to persons suffering serious bodily injury or death through the unintended ingestion of illicit fentanyl, and this Act is specifically intended to hold accountable any entity or foreign state engaging in or facilitating illicit fentanyl trafficking or its related commercial activity by creating a rebuttable presumption of fault of such entity or foreign state if engaging in or facilitating illicit fentanyl trafficking or its related commercial activity having a sufficient nexus or substantial contact with this state at the time of the ingestion resulting in the injury or death or at a time bearing a rational nexus to the ingestion, if supported by credible information or statistical data pertaining thereto, in accordance with this Act, or other evidence satisfactory to the court in an action brought pursuant to this Act.

Section 3. This Act shall be known and may be cited as "JaJa's Law".

Approved by the Governor, June 15, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 413

HOUSE BILL NO. 618
BY REPRESENTATIVE WILLARD
AN ACT

To amend and reenact R.S. 47:33 and Section 4 of Act No. 109 of the 2015 Regular Session of the Legislature as amended by Act No. 6 of the 2018 Second Extraordinary Session of the Legislature, relative to income tax credits and deductions; to provide with respect to the income tax credit for taxes paid to other states; to provide with respect to the deduction for taxes paid to other states; to provide for certain requirements and limitations; to repeal certain limitations; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:33 is hereby amended and reenacted to read as follows:

§33. Credit for taxes paid in other states

A. Subject to the following conditions, resident individuals shall be allowed a credit against the taxes imposed by this Chapter for net income taxes imposed by and paid to another state on income taxable under this Chapter, provided that:

(1) The credit shall be allowed only for taxes paid to the other state on income which is taxable under its law irrespective of the residence or domicile of the recipient.

(2) If accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the secretary who shall redetermine the amount of the tax for the year or years affected, and the amount of tax due upon such redetermination, if any, shall be paid by the taxpayer upon notice and demand by the secretary, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of R.S. 47:261 et seq. In the case of such tax accrued but not paid, the secretary as a condition precedent to

the allowance of this credit may require the taxpayer to give a bond with sureties approved by the secretary in such sum as the secretary may require, conditioned upon the payment by the taxpayer of any amount of tax found due upon any such redetermination, and the bonds herein prescribed shall contain such further conditions as the secretary may require.

(3) The credits provided for in this Section shall be allowed only for the same taxable period as that for which the tax liability to the other state arose, irrespective of the method of accounting employed by the taxpayer. No deduction shall be allowed under R.S. 47:55 for any net income taxes paid to another state if any portion of such tax has been claimed as a credit under this Section.

~~(4) The credit shall be allowed only if the other state provides a similar credit for Louisiana income taxes paid on income derived from property located in, or from services rendered in, or from business transacted in Louisiana.~~

~~(5)(a) The credit shall be limited to the amount of Louisiana income tax that would have been imposed if the income earned in the other state had been earned in Louisiana.~~

~~(b) The credit shall not be allowed for tax paid on income that is not subject to tax in Louisiana. The amount of the credit shall not exceed the ratio which shall be determined by multiplying the taxpayer's Louisiana income tax liability before consideration of any credit described in this Section by a fraction, the numerator of which is the taxpayer's Louisiana tax table income attributable to other states to which net income taxes were paid by a resident individual, and the denominator of which is total Louisiana tax table income.~~

~~(6) (5) The credit shall not be allowed for income taxes paid to a state that allows a nonresident a credit against the income taxes imposed by that state for taxes paid or payable to the state of residence.~~

~~(7)(a) (6)(a) For taxes paid on or after January 1, 2018, an individual partner, member, or shareholder that pays another state's entity-level tax that is based solely upon net income included in the entity's federal taxable income without any capital component shall be allowed a deduction equal to their proportionate share of the entity-level tax paid.~~

~~(b) The deduction pursuant to this Paragraph shall be allowed only to the extent that the proportionate share of the related income on the tax paid to the other state is included in the calculation of Louisiana taxable income that is reported on the Louisiana return of the individual partner or member.~~

~~(c) The deduction authorized pursuant to the provisions of this Paragraph shall be in lieu of and not in addition to the credit authorized in this Section.~~

Section 2. Section 4 of Act No. 109 of the 2015 Regular Session of the Legislature as amended by Act No. 6 of the 2018 Second Extraordinary Session of the Legislature is hereby amended and reenacted to read as follows:

* * *

Section 4. The provisions of Sections 1, 3, and 4 and 3 of this Act shall become effective on July 1, 2015, and shall remain effective through June 30, 2023, at which time the provisions of Sections 1 and 3 of this Act shall become null, void, and of no effect. The provisions of Section 4 of this Act shall become effective on July 1, 2015. The provisions of Section 2 of this Act shall become effective on July 1, 2023 not become effective.

Section 3. The provisions of Section 1 of this Act shall be applicable to taxable years beginning on or after January 1, 2023.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 15, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 414

HOUSE BILL NO. 635
BY REPRESENTATIVE HOLLIS
AN ACT

To amend and reenact R.S. 22:831(B), R.S. 26:911(B)(1)(b), and R.S. 47:841(F) and to enact R.S. 26:911(E) and 926 and Subpart Z of Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:100.210, relative to excise tax; to increase the rate of the excise tax levied on vapor products and electronic cigarettes; to dedicate the avails of the tax levied on vapor products and electronic cigarettes; to establish the Department of Wildlife Fisheries, Office of State Fire Marshal, and Louisiana Public Defender Board Compensation Fund; to provide funds to the office of alcohol and tobacco control for the exclusive purpose of enforcement of vapor products and electronic cigarettes; to provide for the deposit and use of the monies in the fund; to provide for certain requirements and limitations; to prohibit retail dealers of electronic cigarette products from purchasing such products from certain sources; to establish a vapor product and alternative nicotine product directory; to authorize the commissioner of the office of alcohol and tobacco control to impose fees and fines under certain circumstances; to provide for criminal penalties for certain violations; to provide for requirements and limitations; to provide for age verification; to provide for an effective date;

THE ADVOCATE
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* As it appears in the enrolled bill

and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:831(B) is hereby amended and reenacted to read as follows:§831. Fire, marine, transportation, casualty, surety, or other insurance

* * *

B. There is hereby created in the state treasury as a special fund the Louisiana State Police Salary Fund, hereafter referred to in this Subsection as the "fund". Monies in the Louisiana State Police Salary Fund fund shall be used in amounts appropriated by the legislature to cover the cost of salary increases and related benefits for members of the state police service and for special law enforcement initiatives. After allocation of money to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the treasurer shall deposit in and credit to the fund amounts received as follows:

(1) Taxes The avails of taxes collected under the provisions of this Section in Fiscal Year 2002-2003 and ensuing fiscal years that are in excess of total collections under the provisions of this Section in Fiscal Year 2000-2001, after first having been credited to the Bond Security and Redemption Fund as required by Article VII, Section 9(B) of the Constitution of Louisiana, shall be deposited into the Louisiana State Police Salary Fund until the amount deposited in each fiscal year is equal to fifteen million six hundred thousand dollars.

(2) The first twenty-two million dollars of the avails of the excise tax levied pursuant to R.S. 47:841(F).

Section 2. R.S. 26:911(B)(1)(b) is hereby amended and reenacted and R.S. 26:911(E) and 926 are hereby enacted to read as follows:

§911. Acts prohibited

* * *

B.(1)

* * *

(b) No vapor retail dealer shall purchase alternative nicotine products, or vapor products, or electronic cigarette products for resale except from a manufacturer of those products or a wholesale dealer operating with a valid unsuspended Louisiana wholesale dealer permit and a valid stamping agent designation permit pursuant to the provisions of R.S. 26:902(2)(a), except as provided for in this Chapter.

* * *

E. No manufacturer shall sell any vapor products, electronic cigarettes, or alternative nicotine products online to any person under the age of twenty-one.

(1) At the time of any online purchase of vapor products, electronic cigarettes, or alternative nicotine products, a manufacturer shall obtain and verify the age of the recipient through the use of a real-time electronic age verification platform that shall be approved by the commissioner and such platform shall be capable of both of the following:

(a) Verifying proof of age through authoritative digitized identification card technology.

(b) Storing the recipient's name, age, date of birth, the expiration date of the identification, and the date and time that the identification was verified.

(2) A manufacturer shall refuse the online purchase of any vapor products, electronic cigarettes, or alternative nicotine products if either:

(a) The recipient does not produce a valid and current form of identification as provided in this Subsection.

(b) There is reason to doubt the authenticity or correctness of the recipient's identification.

(3) At the time of any delivery of any vapor products, electronic cigarettes, or alternative nicotine products purchased online, a third-party delivery agent shall obtain the recipient's signature and verify the age of the recipient through the use of a real-time electronic age verification device that shall be approved by the commissioner and such device shall be capable of the following:

(a) Verifying proof of age through authoritative digitized identification card technology.

(b) Reading a valid state-issued driver's license, a valid state issued identification card, a valid military identification card, or a valid passport.

(c) Storing the recipient's name, age, date of birth, the expiration date of the identification, and the date and time that the identification was scanned.

(4) The third party's delivery agent shall refuse delivery and return the vapor products, electronic cigarettes, or alternative nicotine products to the manufacturer if any of the following occur:

(a) The recipient does not produce a valid and current form of identification as provided in this Section.

(b) There is reason to doubt the authenticity or correctness of the recipient's identification.

(c) The recipient refuses to sign for the receipt of the delivery.

(5) Any violation of this Subsection shall result in a fine of five hundred dollars per offense.

* * *

§926. Vapor product and alternative nicotine product directory

A. Beginning October 1, 2023, every vapor product manufacturer and alternative nicotine product manufacturer whose products are sold in this state, whether directly or through a wholesale dealer, retail dealer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the commissioner, a certification to the commissioner certifying, under penalty of perjury, either of the following:

(1) The product was on the market in the United States as of August 8, 2016,

CODING: Words in struck through type are deletions from existing law; words underlined (House Bills) and underscored and boldfaced (Senate Bills) are additions.

and the manufacturer has applied for a marketing order pursuant to 21 U.S.C. §387j for the vapor product or alternative nicotine product by submitting a premarket tobacco product application on or before September 9, 2020, to the United States Food and Drug Administration, hereinafter referred to in this Section as “FDA” and either of the following is true:

(a) The premarket tobacco product application for the vapor product or alternative nicotine product remains under review by the FDA.

(b) The FDA has issued a no marketing order for the vapor product or alternative nicotine product, but the agency or a federal court has issued a stay order or injunction during the pendency of the manufacturer’s appeal of the no marketing order, or the order has been appealed either to the FDA or a challenge to the order filed with a federal court and the appeal or challenge is still pending.

(2) The manufacturer has received a marketing order or other authorization under 21 U.S.C. 387j for the vapor product or alternative nicotine product from the FDA.

B. In addition to the requirements of Subsection A of this Section, each manufacturer shall provide a copy of the cover page of the premarket tobacco application with evidence of receipt of the application by the FDA or a copy of the cover page of the marketing order or other authorization issued pursuant to 21 U.S.C. 387j, whichever is applicable.

C. Any manufacturer submitting a certification pursuant to Subsection A of this Section shall notify the commissioner within thirty days of any material change to the certification, including issuance by the FDA of any of the following:

(1) A market order or other authorization pursuant to 21 U.S.C. 387j.

(2) An order requiring a manufacturer to remove a product from the market either temporarily or permanently.

(3) Any notice of action taken by the FDA affecting the ability of the new product to be introduced or delivered into interstate commerce for commercial distribution.

(4) Any change in policy that results in a product no longer being exempt from federal enforcement oversight.

D. The commissioner shall develop and maintain a directory listing all vapor product manufacturers and alternative nicotine product manufacturers that have provided certifications that comply with Subsection A of this Section and all products that are listed in those certifications.

E. The commissioner shall do all of the following:

(1) Make the directory available for public inspection on its website by November 1, 2023.

(2) Update the directory as necessary in order to correct mistakes and to add or remove vapor product manufacturers and alternative nicotine product manufacturers or products manufactured by those manufacturers.

(3) Send monthly notifications to each wholesale dealer, retail dealer, or manufacturer of vapor products and manufacturer of alternative nicotine products that have qualified or registered with the commissioner, by electronic communication, containing a list of all changes that have been made to the directory in the previous month. In lieu of sending monthly notifications, the commissioner may make the information available in a prominent place on the office of alcohol and tobacco control’s public website.

F. Notwithstanding Subsection A of this Section, if a vapor product manufacturer or alternative nicotine product manufacturer can demonstrate to the commissioner that the FDA has issued a rule, guidance, or any other formal statement that temporarily exempts a vapor product or alternative nicotine product from the federal premarket tobacco application requirements, the vapor product or alternative product may be added to the directory upon request by the manufacturer if the manufacturer provides sufficient evidence that the vapor product or alternative nicotine product is compliant with the federal rule, guidance, or other formal statement, as applicable.

G. Each certifying vapor product manufacturer or alternative nicotine product manufacturer shall pay an initial fee of one hundred dollars per product stock keeping unit or SKU to offset the costs incurred by the commissioner for processing the certifications and operating the directory. The commissioner shall collect an annual renewal fee of one hundred dollars per product stock keeping unit or SKU to offset the costs associated with maintaining the directory and satisfying the requirements of this Section. The fees received pursuant to this Section by the commissioner shall be used by the office of alcohol and tobacco control exclusively for processing the certifications and operating and maintaining the directory.

H. Beginning November 1, 2023, or on the date that the commissioner first makes the directory available for public inspection on its website as provided in Subsection E of this Section, whichever is later, a vapor product manufacturer or alternative nicotine product manufacturer who offers for sale a vapor product or alternative nicotine product not listed on the directory is subject to a one thousand dollars daily fine for each vapor product or alternative nicotine product offered for sale in violation of this Section until the offending product is removed from the market or until the offending product is properly listed on the directory.

I. No wholesale dealer or retail dealer shall be permitted to remit tax with respect to a vapor product or alternative nicotine product unless such vapor product or alternative nicotine product is listed on the directory, and the sale, possession, or transportation of such vapor products or alternative nicotine products by any person, including a permitted wholesale dealer or retail dealer, shall be subject to provisions of R.S. 47:858, 859, and 860 as if such wholesale dealer or retail dealer did not possess a valid permit.

J. Any other violation of this Section shall result in a fine of five hundred dollars per offense.

K. The commissioner shall adopt rules for the implementation and enforcement of this Section.

Section 3. Subpart Z of Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.210, is hereby enacted to read as follows:

SUBPART Z. THE DEPARTMENT OF WILDLIFE AND FISHERIES, OFFICE OF STATE FIRE MARSHAL, AND THE LOUISIANA PUBLIC DEFENDER BOARD COMPENSATION FUND

§100.210. Department of Wildlife and Fisheries, Office of State Fire Marshal, and Louisiana Public Defender Board Compensation Fund

A. There is hereby created, as a special fund in the state treasury, the Department of Wildlife and Fisheries, Office of State Fire Marshal, and Louisiana Public Defender Board Compensation Fund, hereafter referred to in this Section as the “fund”.

B.(1) Notwithstanding any provision of law to the contrary, after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and Redemption Fund, and after a sufficient amount is allocated from that fund to pay all of the obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, after the first twenty-two million dollars of the avails of the tax levied pursuant to the provisions of R.S. 47:841(F) is deposited into the Louisiana State Police Salary Fund pursuant to the provisions of R.S. 22:831(B)(2), the treasurer shall deposit the next six million dollars of the avails of the tax levied pursuant to the provisions of R.S. 47:841(F) into the fund. Monies in the fund shall be used solely as provided for in Subsection C of this Section.

(2) Monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund and interest earned on investment of such monies shall be credited to the fund. Unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

C. Monies in the fund shall only be withdrawn subject to an appropriation by the legislature and shall be distributed as follows:

(1) The first distribution to the office of alcohol and tobacco control shall be six hundred thousand dollars. These funds shall be expended exclusively for the purposes of the enforcement of vapor products and electronic cigarettes.

(2) The remaining funds shall be distributed and shared equally among the following governmental units:

(a) The funds distributed to the Department of Wildlife and Fisheries shall be used exclusively to cover the cost of salary increases and related benefits for enforcement agents.

(b) The funds distributed to the Office of the State Fire Marshal shall be used exclusively cover the cost of salary increases and related benefits for its employees.

(c) The funds distributed to the Louisiana Public Defender Board shall be used exclusively cover the cost of salary increases and related benefits for its employees.

Section 4. R.S. 47:841(F) is hereby amended and reenacted to read as follows: §841. Imposition of tax

* * *

F. Vapor products and electronic cigarettes. Upon vapor products and electronic cigarettes, a tax of five fifteen cents per milliliter of consumable nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.

* * *

Section 5. This Act shall become effective on July 1, 2023; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2023, or on the day following such approval by the legislature, whichever is later.

Approved by the Governor, June 15, 2023.

A true copy:

R. Kyle Adoin
Secretary of State

ACT No. 415

HOUSE BILL NO. 636

BY REPRESENTATIVE SCHEXNAYDER AND SENATORS ABRAHAM,
BARROW, BOUDREAUX, CLOUD, FESI, HARRIS, HENRY, TARVER,
AND WHITE
AN ACT

To appropriate funds for Fiscal Year 2023-2024 to defray the expenses of the Louisiana Legislature, including the expenses of the House of Representatives and the Senate, of legislative service agencies, and of the Louisiana State Law Institute; to provide for the salary, expenses, and allowances of members, officers, staff, and agencies of the Legislature; to provide with respect to the appropriations and allocations herein made; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The sum of Eighty-Seven Million Two Hundred Ninety-Six Thousand Five Hundred Sixty-Six and No/100 (\$87,296,566.00) Dollars, or so much thereof as may be necessary, is hereby appropriated out of the state general fund, the sum of Twenty-Three Million Seven Hundred Eighty Thousand Six Hundred Forty-Nine and No/100 (\$23,780,649.00) Dollars is

hereby appropriated out of self-generated funds and the sum of Six Million and No/100 (\$6,000,000.00) Dollars is hereby appropriated by statutory dedications out the Legislative Capitol Technology Enhancement Fund to the Legislative Budgetary Control Council to defray the expenses of the legislature, including the House of Representatives and the Senate, the staffs of the House of Representatives and of the Senate, the Legislative Auditor, the Legislative Fiscal Office, the Legislative Budgetary Control Council, and the Louisiana State Law Institute.

Section 2.(A)(1) Out of the total amount herein appropriated from the state general fund, Fifty-Seven Million Four Hundred Fifteen Thousand Eight Hundred Eleven and No/100 (\$57,415,811.00) Dollars is hereby allocated to provide the salary and allowances of members, officers, and staff of the House of Representatives, and the salary and allowances for the speaker of the House of Representatives and for expenses of his office, including reimbursement for actual expenses as presiding officer and for his service to or for the benefit of the House of Representatives, the legislature, the legislative branch of government, or the state, as determined by the speaker; and to provide the salary and allowances of members, officers, and staff of the Senate, and the salary and allowances for the president of the Senate and for expenses of his office, including reimbursement for actual expenses as presiding officer and for his service to or for the benefit of the Senate, the legislature, the legislative branch of government, or the state, as determined by the president of the Senate. These funds shall also be used to pay mileage and per diem of the members of the legislature and mileage and per diem expenses of committees; salaries and/or expense allowances of officers and employees of the legislature; costs of renovations, maintenance, repairs, and necessary additions to the House and/or Senate chambers and other legislative rooms; audio-visual systems, information networks, technological enhancements, and technical support; printing the bills, journals, and calendars; computer equipment and services; library services; provision of accessibility services for persons with disabilities during sessions of the legislature and during the interim; and for all other expenses of the legislature. Notwithstanding any other provision of law to the contrary, any and all monies paid to an employee of the legislature shall be used to determine full-time status and for the eligibility and calculation of all benefits, including but not limited to, retirement and insurance. This provision shall be remedial in nature and shall not eliminate or reduce any current benefits of a legislative employee. In addition to the amounts and limitations provided in R.S. 24:31.5, these funds shall also be used to provide an additional two hundred seventy-five dollars per month to the total amount available to each legislator for the salary of his legislative assistants which shall be obtained and disbursed as hereinafter provided.

(2) Notwithstanding the provisions of R.S. 24:31.5, any legislative assistant employed on or before December 1, 2007, may retain the salary they were earning on December 1, 2007.

(B) Of the sum above allocated to the two houses of the legislature, Thirty Million Nine Hundred Ninety-Eight Thousand Three Hundred and No/100 (\$30,998,300.00) Dollars is hereby set aside and allocated for the use of the House of Representatives and Twenty-Six Million Four Hundred Seventeen Thousand Five Hundred Eleven and No/100 (\$26,417,511.00) Dollars for the use of the Senate.

(C) The presiding officer of each house shall warrant on the state treasurer in favor of the House of Representatives or the Senate, as the case may be, for the allocation herein provided, or for so much thereof as may be necessary. The aforesaid warrants shall be paid out of the state general fund, and the state treasurer shall pay said warrants by preference over all other warrants, except warrants for the salaries of constitutional officers of the state, which shall be concurrent with the warrants provided for by this Act.

(D)(1) The funds drawn as provided herein shall be deposited in the name of the House of Representatives or the Senate, as the case may be, in an approved bank located in this state selected by the presiding officer of each house. Payment of per diem and mileage, salaries of the members, officers, and employees, and other expenses of the legislature shall be made by individual check, payable to the person or firm entitled thereto, signed by the presiding officer of the House of Representatives as to disbursements by the House, and as to disbursements by the Senate, signed by the president of the Senate. Facsimile or electronic signatures may be used; such payment also may be made by electronic funds transfer through the automated clearing house and deposited into the account of the person or firm entitled to such payment.

(2) Copies of legislative documents of the Senate and the House shall be provided at fees according to policy and schedules adopted by the secretary of the Senate and clerk of the House, jointly, and approved by the president of the Senate and the speaker of the House, jointly. Funds derived from the sale of legislative documents of the Senate and the House during legislative sessions shall be used to offset the cost of printing the journals and calendars.

(3) The legislature is hereby expressly authorized to receive and expend any monies received as a result of any grants or donations or other forms of assistance as provided for in Article VII, Section 9(A)(1) of the Louisiana Constitution of 1974.

(E) Any portion of the funds herein allocated to the two houses, any portion of the funds previously appropriated or interest earnings on such appropriations and any self-generated revenues that are not required for the expenses of the 2023 Regular Session of the Legislature, including printing and all expenses in connection therewith, are hereby appropriated and may be used to pay the mileage, per diem, expenses of committees, and any other

expenses of the legislature during the 2023-2024 Fiscal Year; however, all funds remaining unexpended and/or unencumbered shall be returnable to the state general fund on or before October 1, 2024.

Section 3.(A) The sum of Thirteen Million Three Hundred Fifty Thousand and No/100 (\$13,350,000.00) Dollars is hereby allocated out of the total appropriation from the state general fund made in Section 1 of this Act to the legislative auditor, to pay the expenses of his office, including the salaries and expenses of his employees, the costs of equipment, and all other expenses incurred by that office in connection with the operation thereof during the 2023-2024 Fiscal Year.

(B)(1) The sum of Three Hundred Fifty Thousand and No/100 (\$350,000.00) Dollars is hereby appropriated, payable from the state general fund, to establish an agency working capital fund to be known as the Legislative Auditor Ancillary Enterprise Fund. Of the funds available in the ancillary enterprise fund, the sum of Twenty-Three Million Seven Hundred Eighty Thousand Six Hundred Forty-Nine and No/100 (\$23,780,649.00) Dollars is authorized to be used by the legislative auditor, in addition to the amount allocated in Section 3.(A) hereof, to pay the expenses of his office, including the salaries and expenses of his employees, the costs of equipment, and all other expenses incurred by that office in connection with the operations thereof during the 2023-2024 Fiscal Year.

(2) The legislative auditor, in addition to the authority contained in R.S. 24:517.1, shall be authorized to receive reimbursement of actual expenses of audits performed on federally funded programs, both direct and indirect, and regulatory boards funded primarily from fees and self-generated revenues and self-supported enterprise functions for the purpose of generating revenue to pay expenses as provided in Section 3.(B)(1) of this Act. Reimbursement for audits performed on federally funded programs shall be limited to reimbursement authorized by federal laws and regulations.

(3) Notwithstanding any provision of law to the contrary, including the General Appropriation Act, in addition to the authority contained in R.S. 24:517.1 and 517.3, the legislative auditor is authorized to allocate and collect from each auditee included in the state's Comprehensive Annual Financial Report, exclusive of those auditees audited by independent certified public accountants, such amounts as may be reasonably necessary to compensate the legislative auditor for services rendered and costs incurred in connection with the audit of each auditee. In the collection of such amounts, the legislative auditor shall, on or after the first day of July of each year, notify and warrant, without any other approval, the state treasurer of the amount allocated to each auditee. The state treasurer, upon receipt of said notice and warrant, shall transfer forthwith the amounts allocated to each auditee from monies accruing or available to the auditee to the Legislative Auditor Ancillary Enterprise Fund. Notwithstanding the foregoing, the sum of all amounts allocated to all such auditees shall not exceed the amount appropriated to the legislative auditor from the Legislative Auditor Ancillary Enterprise Fund in accordance with Section 3.(B)(1) herein.

(C) In the conduct of such functions all receipts of self-generated revenues shall be deposited in the state treasury to the credit of the Legislative Auditor Ancillary Enterprise Fund and disbursements made by the state treasurer to the extent of the amounts deposited to the credit of such fund in accordance with provisions of law governing expenditures. All monies from self-generated revenue of the legislative auditor's office shall be paid to the Legislative Auditor Ancillary Enterprise Fund and shall be deemed to be available for expenditure in the amount herein appropriated, and any increase in self-generated revenue over the amount herein appropriated shall be available for expenditure by the legislative auditor only on approval by the co-chairmen of the Legislative Budgetary Control Council.

(D) The legislative auditor shall warrant on the state treasurer for the monies allocated by this Section, and the warrant shall be paid by the state treasurer out of the state general fund. The funds so drawn shall be disbursed only in accordance with budgeted amounts provided herein and such amendments as may be approved by the Legislative Budgetary Control Council.

(E) In addition to any portion of the funds herein allocated in this Section to the legislative auditor, any portion of the funds previously appropriated to the legislative auditor, and all other revenue and funds of the legislative auditor, or interest earnings, are hereby appropriated and may be used to defray the expenses of the legislative auditor. These funds shall be subject to warrant by the legislative auditor on the state treasurer, in an amount not to exceed the total balance remaining at the end of the previous fiscal year; however, all funds remaining unexpended and/or unencumbered shall be returnable to the state general fund on or before October 1, 2024.

Section 4.(A) The sum of Three Million Five Hundred Sixteen Thousand Eight Hundred Fifty-Four and No/100 (\$3,516,854.00) Dollars is hereby allocated out of the total appropriation from the state general fund made in Section 1 of this Act to the Joint Legislative Committee on the Budget, to be used solely for the operations of the Legislative Fiscal Office and in particular to pay the expenses thereof, including the salaries and expenses of its employees, the cost of equipment, and all other expenses incurred by said office in connection with the operation thereof during the 2023-2024 Fiscal Year. The operations and functions of the Legislative Fiscal Office shall be under the direction and supervision of the Joint Legislative Committee on the Budget. Any contracts for consultant services shall be approved by the Legislative Budgetary Control Council and the Joint Legislative Committee on the Budget.

(B) The legislative fiscal officer shall warrant on the state treasurer for the allocation provided by this Section, and the warrant shall be paid by the

state treasurer out of the state general fund. The funds so drawn shall be disbursed only in accordance with a budget approved by the Joint Legislative Committee on the Budget and the Legislative Budgetary Control Council.

(C) Any portion of the funds herein allocated to the Legislative Fiscal Office, any portion of the funds previously appropriated or interest earnings on such appropriations and any self-generated revenues that are not required for the expenses of the 2023 Regular Session of the Legislature, including printing and all expenses in connection therewith, are hereby appropriated and may be used to pay expenses of the Legislative Fiscal Office during the 2023-2024 Fiscal Year; however, all funds remaining unexpended and/or unencumbered shall be returnable to the state general fund on or before October 1, 2024.

Section 5.(A) The sum of One Million One Hundred Ninety-Eight Thousand Nine Hundred One and No/100 (\$1,198,901.00) Dollars is hereby allocated out of the total appropriation from the state general fund made in Section 1 of this Act to the Louisiana State Law Institute, to pay the expenses thereof, including the salaries and expenses of its employees, the cost of equipment, and all other expenses incurred by said office in connection with the operation thereof during the 2023-2024 Fiscal Year.(B) The executive director of the Louisiana State Law Institute shall warrant on the state treasurer for the allocation provided by this Section, and the warrant shall be paid by the state treasurer out of the state general fund. The funds so drawn shall be disbursed only in accordance with a budget approved by the Legislative Budgetary Control Council and subject to the budgetary control of said council.

(C) Any portion of the funds herein allocated to the Louisiana State Law Institute, any portion of the funds previously appropriated or interest earnings on such appropriations and any self-generated revenues may be used to pay expenses of the Louisiana State Law Institute during the 2023-2024 Fiscal Year; however, all funds remaining unexpended and/or unencumbered shall be returnable to the state general fund on or before October 1, 2024.

Section 6.(A) The sum of Eleven Million Eight Hundred Fifteen Thousand and No/100 (\$11,815,000.00) Dollars is hereby allocated out of the total appropriation from the state general fund made in Section 1 of this Act and the balance on July 2, 2023, of the fund created pursuant to Section 13 of Act 513 of the 2008 Regular Session is hereby appropriated to the Legislative Budgetary Control Council, all of which may be used to pay the expenses thereof, including salaries and expenses of certain legislative employees, expenses of the Huey P. Long Memorial Law Library, the David R. Poynter Legislative Research Library, contracts for professional services, mileage and per diem expenses of the interim activities of joint legislative committees created by statute or by the presiding officers of the Senate and the House of Representatives to which no specific allocation of funds is made in this Act, as approved by the council or, jointly, by the co-chairmen of the council, the cost of construction, maintenance, repair, improvements, renovations, and access to the capitol building, capitol annex building, building for legislative use, pentagon courts, and arsenal building, and adjacent grounds, and purchase, maintenance, and repair of furniture and equipment, audio-visual systems, security systems, information networks, technological enhancements, technical support, and computer equipment and services, as jointly approved by the president of the Senate and the speaker of the House of Representatives, the cost of equipment, dues to legislative associations, to pay costs to maintain actuarial integrity of the state retirement system affected by the inclusion of certain legislative employees, and all other expenses incurred by said council in connection with the operation thereof during the 2023-2024 Fiscal Year.

(B) The co-chairmen of the Legislative Budgetary Control Council shall jointly warrant on the state treasurer for the monies appropriated and allocated by this Section, and the state treasurer shall pay their warrants by preference over all other warrants, except warrants for the salaries of constitutional officers of the state, which shall be concurrent with warrants provided for by this Act.

(C) The funds drawn as provided herein shall be deposited in the name of the Legislative Budgetary Control Council in an approved bank located in this state selected by the presiding co-chairmen of the council. Payment of per diem and mileage, salaries of the officers and employees, and other expenses of the Legislative Budgetary Control Council shall be made by individual check, payable to the person or firm entitled thereto, signed by the presiding co-chairmen of the council. Facsimile or electronic signatures may be used; such payment also may be made by electronic funds transfer through the automated clearing house and deposited into the account of the person or firm entitled to such payment.

(D) Any portion of the funds herein allocated to the Legislative Budgetary Control Council, any portion of the funds previously appropriated, or interest earnings on any such appropriations, and self-generated revenues are hereby appropriated and may be used to pay any expenses of the Legislative Budgetary Control Council during the 2023-2024 Fiscal Year; however, all funds remaining unexpended and/or unencumbered shall be returnable to the state general fund on or before October 1, 2024.

Section 7. Notwithstanding the provisions of R.S. 24:31(B) to the contrary, the compensation of members of the legislature shall be equal to the rate allowable for per diem deduction under 26 U.S.C. 162 (h)(1)(B)(ii) for the location of the state capitol during their attendance on that body.

Section 8. In accordance with R.S. 39:51(D), a comparative statement of the existing operating budget for FY 2022-2023 and the appropriation for FY 2023-2024 from the state general fund is as follows:

Entity	FY 2022-2023	FY 2023-2024
--------	--------------	--------------

(Act No. 198 of 22 RS)

House of Representatives	\$ 30,998,300	\$ 30,998,300
Senate	\$ 25,694,294	\$ 26,417,511
Legislative Auditor	\$ 12,500,000	\$ 13,350,000
Legislative Fiscal Office	\$ 3,638,849	\$ 3,516,854
La. State Law Institute	\$ 1,131,401	\$ 1,198,901
Legislative Budgetary Control Council	\$ 11,815,000	\$ 11,815,000
Total state general fund	\$ 85,297,444	\$ 87,296,566

The Legislative Auditor for FY 2022-2023 was appropriated self-generated funds in the amount of \$23,564,434 and for FY 2023-2024 is appropriated self-generated funds in the amount of \$23,780,649. The Legislative Budgetary Control Council for FY 2022-2023 was appropriated the balance of the technology fund on July 2, 2022, and for FY 2023-2024 is appropriated the balance on July 2, 2023, including the \$6,000,000 balance of federal American Rescue Plan Act funds, of said fund.

Section 9. This Act shall become effective on July 1, 2023; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2023, or on the day following such approval by the legislature, whichever is later.

Approved by the Governor, June 15, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 416

SENATE BILL NO. 94

BY SENATOR KLEINPETER

Prefiled Pursuant to Article III, Section 2(A)(4)(b)(i)
of the Constitution of Louisiana.

AN ACT

To enact R.S. 14:91.10 and Chapter 5-G of Title 40, to be comprised of R.S. 40:1300.51 through 1300.53, and to repeal Act No. 231 of the 2019 Regular Session of the Legislature, relative to the Uniform Controlled Dangerous Substances Law; to provide relative to mitragynine speciosa; to prohibit the sale or distribution of mitragynine speciosa to persons under the age of twenty-one; to provide relative to local ordinances with respect to mitragynine speciosa; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:91.10 is hereby enacted to read as follows:

§91.10. Unlawful sale or distribution of mitragynine speciosa to persons under age twenty-one; penalty

A. No person shall sell or distribute or cause to be sold or distributed a product containing mitragynine speciosa to any person under the age of twenty-one.

B. For purposes of this Section, "mitragynine speciosa" means a product containing either or both of the following:

(a) Mitragynine.

(b) 7-Hydroxy-mitragynine.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

Section 2. Part VI of Chapter 5-G of Title 40, comprised of R.S. 40:1300.51 through 1300.53, is hereby enacted to read as follows:

PART VI. LOCAL OPTION FOR CONTROL OF MITRAGYNINE SPECIOSA

§1300.51. Short title

This Part shall be known and may be cited as the "Local Option for Mitragynine Speciosa".

§1300.52. Definitions

As used in this Part, the following terms have the following meanings ascribed to them unless the context clearly indicates otherwise:

(1) "Local government" means a parish or municipality, as provided pursuant to Article VI, Part I, Sections 1 and 2 of the Constitution of Louisiana.

(2) "Mitragynine speciosa" shall have the same meaning as defined in R.S. 14:91.10.

§1300.53. Local government prohibition or regulation

Notwithstanding any other provision of law to the contrary, a local government may enact an ordinance to prohibit the sale or distribution of mitragynine speciosa products or to regulate the sale or distribution of mitragynine speciosa products in a manner that is more restrictive than provided for in R.S. 14:91.10.

Section 3. Act No. 231 of the 2019 Regular Session of the Legislature is hereby repealed in its entirety.

Approved by the Governor, June 26, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 417

HOUSE BILL NO. 16

BY REPRESENTATIVES SCHLEGEL, GAROFALO, AND VILLIO

AN ACT

To amend and reenact R.S. 14:62(B)(1) and to enact R.S. 14:62(B)(3), relative

to simple burglary; to provide for an additional penalty; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:62(B)(1) is hereby amended and reenacted and R.S. 14:62(B)(3) is hereby enacted to read as follows:

§62. Simple burglary

B.(1) Except as provided in ~~Paragraph (2)~~ Paragraphs (2) and (3) of this Subsection, whoever commits the crime of simple burglary shall be fined not more than two thousand dollars, imprisoned with or without hard labor for not more than twelve years, or both.

* * *

(3) If the offender commits multiple simple burglaries as a part of a continuous sequence of events, the offender shall be imprisoned with or without hard labor for not less than one nor more than twelve years. At least one year of the sentence of imprisonment shall be imposed without benefit of probation or suspension of sentence.

Approved by the Governor, June 26, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 418

HOUSE BILL NO. 54
BY REPRESENTATIVES SCHLEGEL AND HILFERTY
AN ACT

To amend and reenact Children's Code Article 305(A)(2) and (B)(3), relative to criminal court jurisdiction over children; to provide relative to the discretion of the district attorney to prosecute a juvenile as an adult for certain offenses; to provide relative to the failure to initiate prosecution; to provide relative to time limitations for prosecution; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Article 305(A)(2) and (B)(3) are hereby amended and reenacted to read as follows:

Art. 305. Divestiture of juvenile court jurisdiction; original criminal court jurisdiction over children

A.

* * *

(2)(a) The district attorney shall have the discretion to file a petition alleging any of the offenses listed in Subparagraph (1) of this Paragraph in the juvenile court or, alternatively, to obtain an indictment. If the child is being held in detention, the district attorney shall file the petition or indictment in the appropriate court within ~~thirty~~ thirty six calendar days after the child's arrest, unless the child waives this right.

(b) Failure to institute prosecution as provided in this Subparagraph shall result in release of the child if, after a contradictory hearing with the district attorney, just cause for the failure is not shown. If just cause is shown, the court shall reconsider bail for the child. Failure to institute prosecution as provided in this Subparagraph shall result in the release of the bail obligation if, after a contradictory hearing with the district attorney, just cause for the delay is not shown.(c) When the juvenile court holds a continued custody hearing pursuant to Articles 819 and 820 and finds probable cause that the child committed one of the offenses listed in Subparagraph (1) of this Paragraph, the time limitations contained in this Code are inapplicable and the time period for filing an indictment after arrest shall be governed by Code of Criminal Procedure Article 701.

* * *

B.

* * *

(3)(a) The district attorney shall have the discretion to file a petition alleging any of the offenses listed in Subparagraph (2) of this Paragraph in the juvenile court or, alternatively, to obtain an indictment or file a bill of information. If the child is being held in detention, the district attorney shall file the indictment, bill of information, or petition in the appropriate court within ~~thirty~~ thirty six calendar days after the child's arrest, unless the child waives this right.

(b) Failure to institute prosecution as provided in this Subparagraph shall result in release of the child if, after a contradictory hearing with the district attorney, just cause for the failure is not shown. If just cause is shown, the court shall reconsider bail for the child. Failure to institute prosecution as provided in this Subparagraph shall result in the release of the bail obligation if, after a contradictory hearing with the district attorney, just cause for the delay is not shown.

* * *

Section 2. The provisions of this Act shall be cited and referred to as "The Juvenile Transfer Act".

Approved by the Governor, June 26, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 419

HOUSE BILL NO. 65
BY REPRESENTATIVE VILLIO
AN ACT

To enact R.S. 14:2(B)(60), relative to crimes of violence; to designate the crime of simple burglary of an inhabited dwelling as a crime of violence when a person is present in the dwelling, house, apartment, or other structure; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:2(B)(60) is hereby enacted to read as follows:

§2. Definitions

* * *

B. In this Code, "crime of violence" means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon. The following enumerated offenses and attempts to commit any of them are included as "crimes of violence":

* * *

(60) Simple burglary of an inhabited dwelling when a person is present in the dwelling, house, apartment, or other structure.

* * *

Approved by the Governor, June 26, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 420

HOUSE BILL NO. 84
BY REPRESENTATIVE SCHLEGEL
AN ACT

To amend and reenact Children's Code Article 897.1(C) and (D), relative to juvenile justice; to provide for disposition of juvenile offenders adjudicated delinquent for carjacking; to provide relative to modification of disposition; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Article 897.1(C) and (D) are hereby amended and reenacted to read as follows:

Art. 897.1. Disposition after adjudication of certain felony-grade delinquent acts

* * *

C. After adjudication of a felony-grade delinquent act based upon a violation of R.S. 14:64, armed robbery, or R.S. 14:64.2, carjacking, the court shall commit the child who is fourteen years of age or older at the time of the commission of the offense to the custody of the Department of Public Safety and Corrections to be confined in secure placement without benefit of probation or suspension of imposition or execution of sentence.

D. Juveniles in secure care for an adjudication for a violation of R.S. 14:42 or 44 shall be eligible for modification after serving thirty-six months of the disposition. Juveniles in secure care for an adjudication for a violation of R.S. 14:64 or 64.2 shall be eligible for modification after serving thirty-six months of the disposition or, if the disposition is less than thirty-six months, two-thirds of the disposition.

* * *

Approved by the Governor, June 26, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 421

HOUSE BILL NO. 220
BY REPRESENTATIVE PRESSLY
(On Recommendation of the Louisiana State Law Institute)
AN ACT

To amend and reenact Civil Code Articles 531 and 3440 and Code of Civil Procedure Articles 1061, 3651, 3653 through 3655, 3656(A), 3657 through 3662, and 3669, relative to actions to determine ownership or possession; to provide with respect to petitory actions, possessory actions, actions for declaratory judgments to determine ownership, and similar proceedings; to provide for proof of ownership of immovables; to provide with respect to precarious possession; to provide for reconventional demands; to provide with respect to cumulation of actions; to provide with respect to disturbances in fact and in law; to provide with respect to possession and admissibility of title; to provide for relief and appeals; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Articles 531 and 3440 are hereby amended and reenacted to read as follows:

Art. 531. Proof of ownership of immovable.

One who claims claiming the ownership of an immovable against another who has been in possession of the immovable for one year after having commenced possession in good faith and with just title or who has been

in possession of the immovable for ten years must shall prove that he has acquired ownership from a previous owner or by acquisitive prescription. ~~If neither party is in possession~~ In all other cases, he need only prove a better title. Revision Comments - 2023

(a) The 2023 revision of this Article changes substantially the burden of proof imposed upon a person claiming the ownership of an immovable against another who is in possession. Prior to the revision, this Article provided that in such cases, the claimant's burden of proof was to prove that he had acquired ownership from a prior owner or by acquisitive prescription. This burden of proof, which has often been characterized as the requirement of proving "title good against the world," applied even when the defendant was a usurper who had no title at all. See *Pure Oil Co. v. Skinner*, 294 So. 2d 797 (La. 1974). Application of that rule could lead to obvious inequities by allowing a usurper who was in possession for only one year to prevail against a party who might have been in possession for many years previously under a title that suffered from only minor defects. See *Pure Oil Co. v. Skinner*, 294 So. 2d 797, 799 (La. 1974) (Summers, J., dissenting).

(b) The 2023 revision narrows the circumstances in which the person claiming ownership must prove that he acquired ownership from a prior owner or by acquisitive prescription. As revised, the Article provides that this onerous burden of proof applies only when the defendant has been in possession for one year after having commenced possession in good faith and with just title or when the defendant has been in possession for ten years, regardless of whether in good faith or with just title. Where neither of these circumstances applies, the burden imposed upon the claimant is merely to prove a better title than that of the defendant.

(c) The good faith and just title mentioned in this Article are identical to the good faith and just title necessary to start the running of the acquisitive prescription of ten years under Article 3475. "Good faith" is used in this Article with the meaning given in Articles 3480 and 3481. By the express wording of this Article, the defendant's good faith is measured only at the commencement of his possession. This is analogous to the rule that applies under Article 3482 for purposes of the accrual of the acquisitive prescription of ten years.

(d) The 2023 revision does not change the rule that a common author in title is presumed to be the previous owner. See Article 532; *Weaver v. Hailey*, 416 So. 2d 311 (La. App. 3 Cir. 1982). The presumption is rebuttable. See Article 532, comment (b).

* * *

Art. 3440. Protection of precarious possession

Where there is a disturbance of possession, the possessory action is available to a precarious possessor, such as a lessee ~~or a depositary~~, against anyone except the person for whom he possesses.

Section 2. Code of Civil Procedure Articles 1061, 3651, 3653 through 3655, 3656(A), 3657 through 3662, and 3669 are hereby amended and reenacted to read as follows:

Art. 1061. Actions pleaded in reconventional demand; compulsory

A. The defendant in the principal action may assert in a reconventional demand any causes of action ~~which he that the defendant~~ may have against the plaintiff in the principal action, even if these two parties are domiciled in the same parish and regardless of connexity between the principal and reconventional demands.

B. ~~The defendant in the principal action~~, Except as otherwise provided in Article 3657, and except in an action for divorce under Civil Code Article 102 or 103 or in an action under Civil Code Article 186, the defendant in the principal action shall assert in a reconventional demand all causes of action that ~~he the defendant~~ may have against the plaintiff that arise out of the transaction or occurrence that is the subject matter of the principal action.

* * *

Art. 3651. Petitory action

The petitory action is one brought by a person who claims the ownership of, but who is ~~not in possession~~ does not have the right to possess, of immovable property or of a real right therein, against another who is in possession or who claims the ownership thereof adversely, to obtain judgment recognizing the plaintiff's ownership.

Comments - 2023

According to the Civil Code, possession is a matter of fact, but the right to possess arises from possession for over a year and, once acquired, is lost if the possessor is evicted and does not recover possession within one year of the eviction. Civil Code Articles 3422 and 3434. For purposes of this Chapter, Code of Civil Procedure Article 3660 defines "possession" as possession in fact, rather than the right to possess, but this Article, among others, used the term "in possession" where the right to possess, rather than factual possession, was intended. The 2023 revision of this Article clarifies that a petitory action is brought by one who does not have the right to possess. A person who still has the right to possess even though he might have lost actual possession within the past year should bring a possessory action against the person who evicted him, rather than a petitory action under this Article.

* * *

Art. 3653. Same; proof of title; immovable

A. To obtain a judgment recognizing his ownership of immovable property or real right therein, the plaintiff in a petitory action shall:

(1) Prove that he has acquired ownership from a previous owner or by acquisitive prescription, if the court finds that the defendant ~~is has been~~ in possession thereof, or for one year after having commenced possession in good faith and with just title or that the defendant has been in possession for

ten years.

(2) Prove a better title thereto than the defendant, ~~if the court finds that the latter is not in possession thereof in all other cases.~~

B. When the titles of the parties are traced to a common author, ~~he the common author~~ is presumed to be the previous owner.

Comments - 2023

(a) The 2023 revision of this Article changes substantially the burden of proof imposed upon the plaintiff in a petitory action when the defendant has the right to possess. Prior to the revision, this Article provided that, if the defendant in a petitory action was in possession, the plaintiff's burden of proof was to prove that he had acquired ownership from a prior owner or by acquisitive prescription. This burden of proof, which has often been characterized as the requirement of proving "title good against the world," applied even when the defendant was a usurper who had no title at all. See *Pure Oil Co. v. Skinner*, 294 So. 2d 797 (La. 1974). Application of that rule could lead to obvious inequities by allowing a usurper who was in possession for only one year to prevail in a petitory action against a party who might have been in possession for many years previously under a title that suffered from only minor defects. See *Pure Oil Co. v. Skinner*, 294 So. 2d 797, 799 (La. 1974) (Summers, J., dissenting).

(b) The 2023 revision narrows the circumstances in which the plaintiff in a petitory action must prove that he acquired ownership from a prior owner or by acquisitive prescription. As revised, the Article provides that this onerous burden of proof applies only when the defendant has been in possession for one year after having commenced possession in good faith and with just title or when the defendant has been in possession for ten years, regardless of whether in good faith or with just title. Where neither of these circumstances applies, the plaintiff's burden in the petitory action is merely to prove a better title than that of the defendant.

(c) The good faith and just title mentioned in this Article are identical to the good faith and just title necessary to start the running of the acquisitive prescription of ten years under Civil Code Article 3475. "Good faith" is used in this Article with the meaning given in Civil Code Articles 3480 and 3481. By the express wording of this Article, the defendant's good faith is measured only at the commencement of his possession. This is analogous to the rule that applies under Civil Code Article 3482 for purposes of the accrual of the acquisitive prescription of ten years.

(d) The 2023 revision does not change the rule that a common author in title is presumed to be the previous owner. See Civil Code Article 532; *Weaver v. Hailey*, 416 So. 2d 311 (La. App. 3 Cir. 1982). The presumption is rebuttable. See Civil Code Article 532, comment (b).

(e) Prior to its 2023 revision, this Article contained another example of the use of the term "possession" with a meaning different from that given to the term in Article 3660. See, e.g., *Griffin v. Daigle*, 769 So. 2d 720 (La. App. 1 Cir. 2000) (explaining that the words "in possession" as formerly used in this Article required that the defendant have had corporeal possession for at least one year or civil possession for the same period of time preceded by corporeal possession). This inconsistency in terminology was eliminated in the 2023 revision.

Art. 3654. Proof of title in action for declaratory judgment, concursus, expropriation, or similar proceeding

When the issue of ownership of immovable property or of a real right therein is presented in an action for a declaratory judgment, or in a concursus, expropriation, or similar proceeding, or when the issue of the ownership of funds that are deposited in the registry of the court and which that belong to the owner of the immovable property or of the real right therein is so presented, the court shall render judgment ~~in favor of the party as follows:~~

(1) ~~Who~~ If the party who would be entitled to the possession of the immovable property or real right therein in a possessory action has been in possession for one year after having commenced possession in good faith and with just title or has been in possession for ten years, the court shall render judgment in favor of that party, unless the adverse party proves that he ~~has acquired ownership from a previous owner or by acquisitive prescription; or would be entitled to a judgment recognizing his ownership in a petitory action under Article 3653(A)(1).~~

(2) ~~Who~~ In all other cases, the court shall render judgment in favor of the party who proves better title to the immovable property or real right therein; ~~when neither party would be entitled to the possession of the immovable property or real right therein in a possessory action.~~

Comments - 2023

The 2023 revisions to this Article are intended to conform the burden of proof in a declaratory judgment action or other proceeding in which ownership is at issue to the burden of proof that applies under revised Article 3653 in a petitory action. As with a petitory action, if one party has been in possession for one year after having commenced possession in good faith and with just title or has been in possession for ten years, even in the absence of good faith or just title, that party will prevail, unless the adverse party proves that he acquired ownership from a prior owner or by acquisitive prescription.

Art. 3655. Possessory action

The possessory action is one brought by the possessor or precarious possessor of immovable property or of a real right therein to be maintained in his possession of the property or enjoyment of the right when he has been disturbed, or to be restored to the possession or enjoyment thereof when he has been evicted.

Comments - 2023

The 2023 revision of this Article recognizes and complements a previous

amendment to the Civil Code granting a precarious possessor, such as a lessee, the right to bring a possessory action against anyone other than the person for whom the precarious possessor possesses. See Civil Code Article 3440.

Art. 3656. Same; parties; venue

A. A ~~plaintiff in a~~ possessory action ~~shall~~ may be brought by one who possesses for himself. A person entitled to the use or usufruct of immovable property, and one who owns a real right therein, possesses for himself. A predial-lessee possessory action may also be brought by a precarious possessor against anyone except the person for whom he possesses for and in the name of his lessor, and not for himself.

* * *

Comments - 2023

(a) The 2023 revision of this Article recognizes and complements a previous amendment to the Civil Code granting a precarious possessor, such as a lessee, the right to bring a possessory action against anyone other than the person for whom the precarious possessor possesses. See Civil Code Article 3440.

(b) The statement in this Article that a usufructuary possesses for himself means that the usufructuary has standing to bring a possessory action and does not imply that a usufructuary can prescribe against the naked owner without taking the steps required to terminate precarious possession under Civil Code Articles 3439 and 3478.

Art. 3657. Same; cumulation with petitory action ~~prohibited or declaratory judgment action; conversion into or separate petitory action by defendant reconventional demand or separate suit asserting ownership or title~~

A. The plaintiff ~~may~~ shall not cumulate the possessory action with either the petitory and the possessory actions in the same suit or plead them in the alternative, and when he does so he waives the possessory action or a declaratory judgment action to determine ownership. If the plaintiff brings does so, the possessory action, and without dismissing it and prior to judgment therein institutes the petitory action, the possessory action is abated does not abate, but the defendant may object to the cumulation by asserting a dilatory exception. If, before executory judgment in the possessory action, the plaintiff institutes the petitory action or a declaratory judgment action in a separate suit, the possessory action abates.

B. When, ~~except as provided in Article 3661(1)-(3),~~ the defendant in a possessory action asserts title in himself, in the alternative or otherwise, ~~he the defendant does not thereby converts the suit convert the possessory action into a petitory action, and judicially confesses or judicially confess the possession of the plaintiff in the possessory action, but the defendant's assertions of title shall be considered in defense of the possessory action only for the purposes stated in Article 3661(B).~~

C. ~~Unless the plaintiff in the possessory action seeks an adjudication of his ownership, the defendant shall not file a reconventional demand asserting a petitory action or declaratory judgment action to determine ownership. If, before executory judgment in a possessory action, the defendant therein institutes a petitory action or a declaratory judgment action to determine ownership in a separate suit he files against the plaintiff in the possessory action, the plaintiff defendant in the petitory possessory action judicially confesses the possession of the defendant therein plaintiff in the possessory action.~~

Comments - 2023

(a) The 2023 amendment of this Article preserves the rule of noncumulation of the possessory and petitory actions and expands the rule to prohibit cumulation of the possessory action with a declaratory judgment action to determine ownership. At the same time, the amendment lessens the consequences for the plaintiff of an improper cumulation and eliminates the judicial confession of the plaintiff's possession that previously arose from the defendant's assertions of title in a possessory action.

(b) Prior to the 2023 amendment of this Article, if the plaintiff cumulated the possessory action with the petitory action, the possessory action simply abated. Under the revised Article, when the plaintiff cumulates the possessory action with a petitory action or with a declaratory judgment action to determine ownership, the possessory action does not abate, but the defendant has the right to object to the improper cumulation by filing a dilatory exception. See Article 926(A)(7). Upon sustaining the exception, the court may order separate trials or may order the plaintiff to elect which action he desires to pursue, as provided in Articles 464 and 465. If not raised through a timely dilatory exception, the objection of improper cumulation is waived. See Article 926(B).

(c) If, rather than cumulating the possessory action with a petitory or declaratory judgment action, the plaintiff in the possessory action files a separate action to determine ownership while the possessory action is pending, the possessory action abates, but the plaintiff by doing so makes no confession of the defendant's possession.

(d) Prior to the 2023 revision, the consequences for a defendant who asserted title in himself in response to a possessory action were grave. Not only did his assertions of title convert the possessory action into a petitory action in which he became the plaintiff, but they also constituted a judicial confession of the other party's possession, thus triggering the onerous burden under Article 3653 of proving title good against the world. This harsh penalty has been removed. The defendant's assertions of title in a possessory action no longer convert the action into a petitory action or constitute a judicial confession of the plaintiff's possession; however, the defendant's assertions of title are considered in defense of the possessory action only for the limited purposes specified in Article 3661(B)(1) through (3). Thus, the defendant

cannot divert the focus of a possessory action from the issue of possession to the often more complicated issue of ownership through the simple expedient of injecting issues of ownership in his pleadings.

(e) Unless the plaintiff in a possessory action has sought an adjudication of his ownership, the defendant is not permitted to assert a claim of ownership by reconvention. If the defendant asserts ownership by instituting a separate suit before judgment in the possessory action becomes executory, he judicially confesses the possession of the plaintiff in the possessory action. This judicial confession does not arise, however, if it is the plaintiff in the possessory action who institutes the separate suit to determine ownership while the possessory action is pending and the defendant reconvenes in that separate suit to assert his own claim of ownership.

Art. 3658. Same; requisites

To maintain the possessory action the ~~possessor must~~ plaintiff shall allege and prove ~~that all of the following:~~

(1) ~~He The plaintiff~~ had possession or precarious possession of the immovable property or real right therein at the time the disturbance occurred;

(2) ~~He The plaintiff~~ and his ancestors in title, or the person for whom the plaintiff possesses precariously and that person's ancestors in title, had such possession quietly and without interruption for more than a year immediately prior to the disturbance, unless evicted by force or fraud;

(3) The disturbance was one in fact or in law, as defined in Article 3659; ~~and,~~

(4) The possessory action was instituted within a year of the disturbance.

Comments - 2023

The 2023 amendments to this Article recognize that a precarious possessor may bring a possessory action. The precarious possessor himself need not have exercised his precarious possession for a full year prior to the disturbance; it suffices if the person for whom he possesses precariously, or that person's ancestors in title, have had possession for a year.

Art. 3659. Same; disturbance in fact and in law defined

A. Disturbances of possession ~~which~~ that give rise to the possessory action are of two kinds: disturbance in fact and disturbance in law.

B. A disturbance in fact is an eviction, or any other physical act ~~which that~~ prevents the possessor of immovable property or of a real right therein from enjoying his possession quietly, or ~~which that~~ throws any obstacle in the way of that enjoyment.

C. A disturbance in law is the occurrence or existence of any of the following adversely to the possessor of immovable property or a real right therein:

(1) ~~The execution, recordation, or registry, or continuing existence of record after the possessor or his ancestors in title acquired the right to possess, of any instrument which that asserts or implies a right of ownership or right to the possession of the immovable property or of a real right therein, or any.~~

(2) ~~The continuing existence of record of any instrument that asserts or implies a right of ownership or right to the possession of the immovable property or a real right therein, unless the instrument was recorded before the possessor and his ancestors in title commenced possession.~~

(3) ~~Any other claim or pretension of ownership or right to the possession thereof of the immovable property or a real right therein, whether written or oral, except when asserted in an action or proceeding, adversely to the possessor of such property or right.~~

Comments - 2023

(a) The 2023 amendments to this Article clarify when a disturbance in law must arise, in relation to the time that the plaintiff enters into possession or acquires the right to possess, in order for the disturbance to form the basis of a possessory action.

(b) Under Subparagraph (C)(1) of this Article, the plaintiff in a possessory action or his ancestors in title must have acquired the right to possess before the execution, recordation, or registry of an instrument that is claimed to constitute a disturbance in law. Thus, the plaintiff cannot complain that a previously recorded instrument, such as a prior conveyance in favor of the defendant, constitutes a disturbance in law of his possession. Similarly, under Subparagraph (C)(2), the continuing existence of record of an adverse instrument does not constitute a disturbance in law if the instrument was recorded before the possessor and his ancestors in title commenced possession.

(c) The temporal difference between Subparagraph (C)(1) (which refers to the time the plaintiff acquired the right to possess) and Subparagraph (C)(2) (which refers to the earlier point in time at which the plaintiff commenced possession) is intentional. Until the plaintiff has been in possession for one year, he is not entitled to complain of any kind of disturbance in law. After the one-year period has accrued, the plaintiff is entitled to complain of the execution and recordation of new adverse instruments, as Subparagraph (C) (1) provides, and may also complain of the continuing existence of record of instruments that were recorded during that one-year period and that, on account of their continuing existence of record after the accrual of the one-year period, constitute a continuing disturbance of his possession. In no event is the plaintiff permitted to claim that an instrument recorded before he commenced possession is a disturbance of his possession.

(d) The reason that the continuing existence of record of an adverse instrument constitutes a distinct disturbance in law is to prevent a possessor from losing the right to complain of an instrument that was recorded after he commenced possession but more than one year before he brings the possessory action. Without such a rule, his right to bring the possessory action would be lost under Article 3658(4) for failure to institute the action within one year of the recordation of the instrument, even though he may have had no reason to suspect that an adverse instrument had been recorded. Because

the continuing existence of record is a continuing disturbance, the one-year prescriptive period under Article 3658(4) for bringing a possessory action complaining of this disturbance in law effectively does not commence to run under these circumstances. See Roy O. Martin Lumber Co., Inc. v. Lemoine, 381 So. 2d 915 (La. App. 3 Cir. 1980). See also Ree Corp. v. Shaffer, 260 So. 2d 307, 313 (La. 1972) (Tate, J., concurring).

Art. 3660. Same; possession

A. A person is in possession of immovable property or of a real right therein, within the intendment of the articles of this Chapter, when ~~he~~ the person has the corporeal possession thereof, or civil possession thereof preceded by corporeal possession by him or his ancestors in title, and possesses for himself or precariously for another, whether in good or bad faith, or even as a usurper.

B. Subject to the provisions of Articles 3656 and 3664, a person who claims the ownership of immovable property or of a real right therein possesses through his lessee, through another who occupies the property or enjoys the right under an agreement with him or his lessee, or through a person who has the use or usufruct thereof to which his right of ownership is subject.

Comments - 2023

The 2023 amendment of this Article retains the rule that, for purposes of this Chapter, "possession" means possession in fact, rather than the right to possess, except where the right to possess is expressly stated. Consistent with the changes made to Articles 3655, 3656, and 3658, the amended Article recognizes that precarious possession for another person constitutes possession for purposes of this Chapter.

Art. 3661. Same; title not at issue; limited admissibility of evidence of title

A. In the possessory action, the ownership or title of the parties to the immovable property or real right therein is not at issue.

B. No evidence of ownership or title to the immovable property or real right therein shall be admitted except to prove any of the following:

- (1) The possession thereof by a party as owner;
- (2) The extent of the possession thereof by a party; ~~or~~ and his ancestors in title.
- (3) The length of time in which a party and his ancestors in title have had possession thereof.

Comments - 2023

The 2023 amendment to this Article clarifies that a person is entitled to use evidence of ownership for purposes of proving not only the extent of his own possession, but also the extent of possession of his ancestors in title. See Civil Code Article 3442.

Art. 3662. Same; relief ~~which that~~ may be granted successful plaintiff in judgment; appeal

A. A judgment rendered for the plaintiff in a possessory action shall:

- (1) Recognize ~~his the~~ plaintiff's right to the possession of the immovable property or real right therein, and restore him to possession thereof if he has been evicted, or maintain him in possession thereof if the disturbance has not been an eviction;
- (2) Order the defendant to assert his adverse claim of ownership of the immovable property or real right therein in a petitory action to be filed ~~within a delay to be fixed by the court not to exceed~~ sixty days after the date the judgment becomes executory, or be precluded thereafter from asserting the ownership thereof, if the plaintiff has prayed for such this relief and this relief is not precluded by Paragraph B of this Article; ~~and~~
- (3) Award ~~him the~~ plaintiff the damages to which he is entitled and for which he has prayed for.

B. A judgment in a possessory action shall not grant the relief described in Subparagraph (A)(2) of this Article against the state or against a defendant who appeared in the action only through an attorney appointed to represent him under Article 5091.

C. A suspensive appeal from the judgment rendered in a possessory action may be taken within the delay provided in Article 2123, and a devolutive appeal may be taken from ~~such the~~ judgment only within thirty days of the applicable date provided in Article 2087(A).

Comments - 2023

(a) Among the substantive changes made to this Article by the 2023 revision, Subparagraph (A)(2) provides that the delay within which the losing defendant can be ordered to file a petitory action, where that relief was prayed for by the prevailing plaintiff, is fixed in all cases at sixty days. This relief is not available against a defendant who appeared in the action only through an attorney appointed to represent him under Article 5091. Nevertheless, the prevailing plaintiff is not without a remedy to obtain a determination of ownership when the defendant has appeared in the possessory action in that manner; the plaintiff can institute his own declaratory judgment action against the defendant and, depending on the circumstances, may be entitled to have an attorney again appointed to defend the absentee defendant in the declaratory judgment action.

(b) The 2023 revision removes the constitutional infirmity in this Article noted by the Supreme Court in Todd v. State, through Dept. of Natural Resources, 456 So. 2d 1340 (La. 1983), amended 474 So. 2d 430 (La. 1985), in which the court held that, although a possessory action can be brought against the state, the relief allowed under Subparagraph (A)(2) of this Article is a form of liberative prescription that cannot run against the state under Article XII, Section 13 of the Constitution of Louisiana.

(c) A judgment rendered in violation of Paragraph B of this Article is subject to annulment under Article 204.

* * *

Art. 3669. Possessory action unavailable between owner of mineral servitude and owner of dependent mineral royalty

In the event of a dispute between the owner of a mineral servitude and the owner of a mineral royalty burdening or alleged to burden the servitude in question, the possessory action is unavailable to either party, and the only available real action is the petitory action. The burden of proof on the plaintiff in ~~such an the~~ petitory action is that which must be borne by the plaintiff in a petitory action when neither party is in possession to prove a better title than that of the defendant.

Comments - 2023

Prior to its revision in 2023, this Article provided that the plaintiff's burden of proof in a petitory action contemplated by this Article was that which applies when neither party is in possession. Rather than following this indirect approach, the 2023 revision states more plainly and directly what the burden of proof is in such an action: it is to prove a better title.

Approved by the Governor, June 26, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 422

HOUSE BILL NO. 12

BY REPRESENTATIVES NELSON, ADAMS, AMEDEE, BACALA, BEAULLIEU, BUTLER, CARRIER, COUSSAN, DESHOTEL, DEVILLIER, DUBUISSON, ECHOLS, EDMONDS, EDMONSTON, EMERSON, FIRMENT, FREEMAN, FREIBERG, FRIEMAN, GADBERRY, GAROFALO, GLOVER, HARRIS, HILFERTY, HUGHES, ILLG, MIKE JOHNSON, MCKNIGHT, MCMAHEN, MIGUEZ, ORGERON, CHARLES OWEN, ROBERT OWEN, ROMERO, SCHAMERHORN, SCHLEGEL, SELDERS, STAGNI, THOMAS, THOMPSON, VILLIO, WHITE, WRIGHT, AND ZERINGUE AND SENATORS MCMATH, ROBERT MILLS, AND MIZELL

AN ACT

To enact R.S. 17:24.11, relative to pupil progression; to prohibit the promotion of certain third graders with reading deficiencies to the fourth grade; to require certain instructional services for retained students; to provide exceptions for students who meet certain criteria; to require certain instructional services for students granted an exception; to require the State Board of Elementary and Secondary Education to adopt rules; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:24.11 is hereby enacted to read as follows:

§24.11. Early literacy: promotion to fourth grade

A. If a student has a reading deficiency that is not remedied by the end of the third grade as demonstrated by the student scoring at the lowest achievement level in reading on the literacy screener administered pursuant to R.S. 17:24.9, the student shall be given, prior to the beginning of the subsequent school year, two additional opportunities to score a higher achievement level on the literacy screener. If after three opportunities, the student has not scored above the lowest achievement level in reading on the literacy screener, the student shall not be promoted to the fourth grade; however, prior to retention in the third grade, the student shall be screened for dyslexia as defined in R.S. 17:7(11) and if determined to have dyslexia may be promoted as provided in Subsection C of this Section.

B.(1) Each public school governing authority shall provide a student who is retained in the third grade under these circumstances with the following:

(a) Intensive instructional services, progress monitoring measures, and supports to remediate the identified areas of reading deficiency, which shall be outlined in an individual reading plan and include a minimum of ninety minutes during regular school hours of daily, evidence-based, scientifically researched reading instruction that includes phonological awareness, phonics, decoding, fluency, and comprehension and other strategies prescribed by the governing authority, which may include:

(i) Small group instruction.

(ii) Reduced teacher-student ratios.

(iii) Tutoring in evidence-based, scientifically researched reading services in addition to the regular school day.

(iv) The option of transition classes.

(v) Extended school day, week, or year.

(vi) Summer reading camps.

(b) A highly effective teacher, as determined by student performance data, particularly related to student growth in reading, performance appraisals, and specific training relevant to literacy instruction.

(2) The parent or legal guardian of each third grade student who has not met the reading proficiency level required for promotion shall be provided:

(a) Written notification that shall include a description of proposed interventions and supports that will be provided to the child to remediate the identified areas of reading deficiency, as outlined in the student's individual reading plan.

(b) A plan for reading at home outlined in a parental contract, including participation in regular parent-guided home reading.C.(1) Notwithstanding Subsection B of this Section, a third grade student who does not meet the literacy criteria for promotion may be promoted to the fourth grade for good cause. A student shall meet at least one of the following criteria to receive a good-cause promotion:

(a) He is a Limited English Proficient student who has had fewer than two years of instruction in an English Language Learner program.

(b) He is a student with a disability whose Individualized Education Program indicates that the screener or assessments provided for in Subsection A of this Section are not appropriate for the student.

(c) He is a student with a disability who participates in such screener or assessments and his Individualized Education Program or Section 504 Plan of The Rehabilitation Act of 1973, Public Law No. 93-112 reflects that he has received intensive remediation in reading for two years but still demonstrates a deficiency or he was previously retained in kindergarten, first, second, or third grade.

(d) He is a student who received intensive intervention in reading for two or more years but still demonstrates a deficiency in reading and who was previously retained in kindergarten, first, second, or third grade for a total of two years and has not met exceptional education criteria.

(e) He demonstrates an acceptable level of reading proficiency on an alternative standardized assessment approved by the State Board of Elementary and Secondary Education.

(f) He has been diagnosed with dyslexia.

(2) A determination relative to promotion to fourth grade under the criteria provided in Paragraph (1) of this Subsection shall be made in the following manner:

(a) The student's teacher shall submit documentation to the principal that indicates that the promotion of the student is appropriate. The documentation shall clearly demonstrate that the student meets at least one of the criteria listed in Subparagraphs (1)(a) through (f) of this Subsection.

(b) The principal shall review and discuss the recommendation with the teacher and parents and make a determination as to whether or not the student should be promoted. If the principal determines that the student should be promoted, the principal shall make the recommendation in writing to the superintendent, who, in writing, may accept or reject the recommendation.

(3) The parent shall have the option to have the child retained in third grade even if the principal and superintendent determine otherwise.

(4) A student who is promoted to fourth grade under the provisions of this Subsection shall be provided an individual reading plan, which shall outline intensive reading instruction and intervention informed by specialized diagnostic information and delivered through specific reading strategies to meet his needs. The school district shall assist schools and teachers in implementing reading strategies that research has shown to be successful in improving reading among students with persistent reading difficulties.

D. The State Board of Elementary and Secondary Education shall adopt rules in accordance with the Administrative Procedure Act to implement the provisions of this Section.

Section 2. The provisions of R.S. 17:24.11 as enacted by this Act shall be implemented beginning with the 2024-2025 school year.

Approved by the Governor, June 27, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 423

HOUSE BILL NO. 32
BY REPRESENTATIVES SCHLEGEL AND GAROFALO
AN ACT

To amend and reenact R.S. 47:297.10(A), 297.11(A), and 297.12(B)(1), relative to deductions from individual income taxes; to increase the amount of the deduction for elementary and secondary school tuition; to increase the amount of the deduction for educational expenses for home-schooled children; to increase the amount of the deduction for certain educational expenses for a quality public education; to provide for applicability; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:297.10(A), 297.11(A), and 297.12(B)(1) are hereby amended and reenacted to read as follows:

§297.10. Tax deduction; elementary and secondary school tuition

A. There shall be allowed a deduction from tax table income for the sum of amounts paid during the taxable year by a taxpayer for tuition and fees required for a student's enrollment in a nonpublic elementary or secondary school which complies with the criteria set forth in *Brumfield, et al. v. Dodd*, et al. 425 F. Supp. 528 and Section 501(c)(3) of the Internal Revenue Code, or to any public elementary or secondary laboratory school which is operated by a public college or university, if the student qualifies as a dependency exemption on the taxpayer's Louisiana income tax return. The deduction authorized by this Section shall be equal to the actual amount of tuition and fees paid by the taxpayer per child, but no more than five six thousand dollars of deduction per child may be allowed to one or more taxpayers if the child qualifies as a dependency exemption on the taxpayer's Louisiana income tax return for either the taxable year or the prior taxable year. The amount of the deduction authorized in this Section shall not exceed the total taxable income of the individual.

* * *

§297.11. Tax deduction; educational expenses for home-schooled children

A. There shall be allowed a deduction from tax table income for educational expenses paid during the taxable year by a taxpayer for home-schooling of

a child, if the child qualifies as a dependency exemption on the taxpayer's Louisiana income tax return. The deduction authorized by this Section shall be equal to fifty percent of the actual amount of qualified educational expenses paid by the taxpayer for the home-schooling of each child, but no more than five six thousand dollars of deduction per child may be allowed to one or more taxpayers if the child qualifies as a dependency exemption on the taxpayer's Louisiana income tax return for either the taxable year or the prior taxable year. For purposes of this Section, qualified educational expenses shall include amounts expended for the purchase of textbooks and curricula necessary for home-schooling of each child. The amount of the deduction authorized by this Section shall not exceed the total taxable income of the individual.

* * *

§297.12. Tax deduction; fees and other educational expenses for a quality public education

* * *

B.(1) The deduction authorized by this Section shall be equal to fifty percent of the actual amount paid by the taxpayer per student, but no more than five six thousand dollars of deduction per student may be allowed to one or more taxpayers if the child qualifies as a dependency exemption on the taxpayer's Louisiana income tax return for either the taxable year or the prior taxable year.

* * *

Section 2. The provisions of this Act shall be applicable to amounts paid on and after January 1, 2024. Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 27, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 424

HOUSE BILL NO. 155
BY REPRESENTATIVES BUTLER, BACALA, CARPENTER, CREWS,
EDMONDS, KERNER, LYONS, MCFARLAND, ROMERO, THOMPSON,
AND WHEAT
AN ACT

To enact Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:462.1 through 462.8, and R.S. 39:1367(E) (2)(b)(x), relative to the funding and financing of certain capital projects; to provide a funding source for certain capital expenditures by local governments; to establish the Louisiana Rural Infrastructure Revolving Loan Program; to provide for the administration, investment, and disposition of certain monies; to establish eligibility criteria; to provide for requirements and limitations; to authorize the State Bond Commission to incur debt and issue bonds, notes, or other evidences of indebtedness and to guarantee the debt of certain other entities; to authorize loans from the commission for certain eligible infrastructure projects; to provide procedures for local governments to enter into indebtedness and provide for repayment of indebtedness; to exempt interest on such indebtedness from taxation; to establish the Louisiana Rural Infrastructure Revolving Loan Program Fund; to provide for the deposit, use, and investment of monies into the fund; to authorize the legislative auditor to review certain applications; to require certain reports; to provide relative to implementation; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:462.1 through 462.8, and R.S. 39:1367(E) (2)(b)(x) are hereby enacted to read as follows:

**CHAPTER 3-C. LOUISIANA RURAL INFRASTRUCTURE
REVOLVING LOAN PROGRAM**

§462.1. Louisiana Rural Infrastructure Revolving Loan Program; purposes

A. The legislature finds that:

(1) State government has assisted in funding many local capital outlay projects that are necessary to provide local facilities, but the choice involved with this state funding is to either reduce the amount of funding available for state programs and services or ignore the need for assistance to local governments.

(2) Even with established state and federal government programs to assist local governments with needed and necessary funding for infrastructure projects, including those for clean water and sewerage projects, local governments encounter financial challenges in meeting local contributions required by the existing state capital outlay program and other infrastructure programs.

(3) The most effective way of accomplishing the goal of providing for local infrastructure project financing and for preservation of the state fisc over the long term is to establish a low-interest-rate revolving loan fund to be available for local infrastructure projects to provide an alternative means to fund appropriate local infrastructure projects that would otherwise compete with scarce state funding for state projects.

B. To continue to provide required funding for the planning, design, construction, and maintenance connected with needed infrastructure projects, it is the purpose of this Chapter to provide for the establishment and administration of a program to make loans from a revolving loan fund to assist eligible local governments in funding eligible infrastructure projects, and enter into cooperative endeavor agreements and interstate compacts as may be necessary and proper to fulfill the purposes of this Chapter.

§462.2. Louisiana Rural Infrastructure Revolving Loan Program; definitions
The following terms as used in this Chapter shall have the following meanings:

(1) "Approved infrastructure program" means a program through which an eligible infrastructure project may be funded including but not limited to the following programs:

(a) State Capital Outlay Budget Program as provided in R.S. 39:101 et seq., administered by the division of administration, office of facility planning and control.

(b) Clean Water State Revolving Fund established pursuant to R.S. 30:2301 et seq.

(c) Drinking Water Revolving Loan Fund established pursuant to R.S. 40:2821 et seq.

(2) "Commission" means the State Bond Commission.

(3) "Certifying department" means a state department or agency with authority to administer and approve an eligible infrastructure project in accordance with laws and regulations governing the respective approved infrastructure program. The State Bond Commission is the certifying department for emergency requests.

(4) "Department" means the Department of the Treasury.

(5) "Eligible infrastructure project" or "project" means a plan or proposal approved by the respective certifying department which would require or use a local match or other required local contribution, or require funding for eligible infrastructure project costs that can be provided by the commission. "Eligible infrastructure project" includes an emergency request.

(6) "Emergency request" means a project request submitted by a local government to a certifying department between legislative sessions that is essential to alleviate conditions that are hazardous to life, health, or property. "Emergency request" includes but is not limited to funding for a project that has an anticipated useful life of less than twenty years and a value or cost of less than fifty thousand dollars and that would not otherwise qualify for funding in an approved infrastructure program.

(7) "Loan" means the loan from the commission to the local government evidenced by a bond, note, or other evidence of indebtedness as provided in this Chapter. The maximum amount of a loan that may be funded through the revolving loan fund is one million five hundred thousand dollars.

(8) "Local" or "local government" for purposes of this Chapter means a political subdivision as defined in Article VI, Section 44 of the Constitution of Louisiana which has a population of less than fifteen thousand according to the latest federal decennial census. A local government shall be limited to one loan from the revolving loan fund until the loan is paid in full.

(9) "Revolving loan fund" means the Louisiana Rural Infrastructure Revolving Loan Program Fund established in R.S. 39:462.3.

§462.3. Louisiana Rural Infrastructure Revolving Loan Program Fund

A. There is hereby established a revolving loan fund in the state treasury to be known as the "Louisiana Rural Infrastructure Revolving Loan Program Fund", hereinafter referred to in this Chapter as the "fund", which shall be maintained and operated by the department. The source of monies deposited in and credited to the fund shall be all grants, gifts, and donations received by the state for the purpose of funding the fund; any money appropriated by the legislature to the fund; the repayment of principal of and interest on loans and other obligations made to local governments financed from the fund; administrative fees; and other revenues as may be provided by law.

B. Money in the fund shall be invested by the state treasurer in the same manner as money in the state general fund. Interest earned on the investment of the money in the fund shall be credited to the fund after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund. All unexpended and unencumbered money in the fund at the end of a fiscal year shall remain in the fund.

C. The repayment of principal of and interest on loans and other obligations made to local governments financed from the fund shall be deposited into the fund and may be used to finance loans and obligations for projects of other local governments if reserves for expenditures for the administration of the fund that the department deems necessary and prudent are retained in the fund.

D. The department may, by suit, action, mandamus, or other proceedings, protect and enforce any covenant relating to and the security provided in connection with any indebtedness issued pursuant to this Chapter, and may, by suit, action, mandamus, or other proceedings enforce and compel performance of all duties required to be performed by the governing body and officials of any borrower and in any proceedings authorizing the issuance of bonds or other evidences of indebtedness.

E. The department shall promulgate rules and regulations in accordance with the Administrative Procedure Act, as are necessary, for the following:

(1) To adopt a schedule of reasonable fees and charges to pay for the costs of administering the fund.

(2) To respond to emergency requests and to consider loan applications for eligible emergency projects that have an anticipated useful life of less than

twenty years and a value or cost of less than fifty thousand dollars.

(3) To implement the provisions of this Chapter.

F. The department may enter into contracts and other agreements in connection with the operation of the fund.

§462.4. Revolving loan fund; eligibility requirements; loans for eligible infrastructure projects; authorizing and issuing debt; security; interest rates; tax exemption

A.(1) Notwithstanding any provision of law to the contrary, and in addition to the authority to lend or borrow money or incur or guarantee indebtedness provided by any other provision of law, sums on deposit in and credited to the fund may be loaned to local governments for use in connection with eligible infrastructure projects. However, this Section shall not be deemed to be the exclusive authority under which a local government may borrow money or incur indebtedness.

(2) In order for a local government to be eligible for a loan pursuant to the provisions of this Chapter, the local government shall comply with all of the following:

(a) The local government shall demonstrate it has financial resources and a financial strategy for the duration of the lifecycle of the project to ensure the project is sufficiently funded, maintained, and replaced as needed.

(b) The local government shall be in good-standing and comply with the audit requirements provided for in R.S. 24:513 at the time the local government applies for and receives the loan as well as during the duration of the term of the loan.

(3) A local government is limited to one loan from the revolving loan fund; however, once all of the principal, interest, and any other fees and obligations due under the loan agreement are paid in full, the local government may apply for a new loan from the revolving loan fund.

(4) No loan shall be made nor debt evidencing the loan be issued or incurred without the approval of the commission.

B. All bonds, notes, or other evidences of indebtedness of any local government issued to represent a loan shall be authorized and issued pursuant to a resolution or ordinance of the governing authority of that entity, hereinafter referred to collectively as "resolution". The resolution shall prescribe the form and details thereof, including the terms, security for, manner of execution, repayment schedule, and redemption features thereof, and the resolution may provide that an officer of the entity may execute in connection with the obligation any related contract, including but not limited to a credit enhancement device, indenture of trust, loan agreement, pledge agreement, or other agreement or contract needed to accomplish the purposes for which the evidence of indebtedness is given, in substantially the form referenced in the resolution, but which final executed credit enhancement device, indenture of trust, loan agreement, pledge agreement, or other contract or agreement may contain changes, additions, and deletions as shall in the sole opinion of the executing officer be appropriate under the circumstances. The resolution shall include a statement as to the maximum principal amount of any obligation, the maximum interest rate to be incurred or borne by the obligation or guaranteed by the obligation, the maximum redemption premium, if any, and the maximum term in years for the obligation, guarantee, or pledge.

C. Notwithstanding any other provision of law to the contrary, a local government, upon entering into a loan as provided in this Chapter, may dedicate and pledge a portion of any revenues it has available to be pledged and dedicated, including but not limited to revenues from the general revenue fund, sales taxes, sewer user fees, assessments, parcel fees, or ad valorem property taxes, for a sufficient term to repay the principal of, interest on, and any premium, administrative fee or other fee or cost incurred, in connection with the loan.

D. Any evidence of indebtedness authorized pursuant to this Chapter shall bear a rate or rates of interest that shall not exceed the rate or rates set forth in the resolution authorizing and providing for the issuance thereof. Any rate or rates of interest may be fixed, variable, or adjustable rates.

E. The general laws of the state governing fully registered securities of public entities shall be applicable to the bonds, notes, or other evidences of indebtedness issued pursuant to this Chapter.

F. A resolution authorizing a loan pursuant to this Section shall be published once in the official journal or a newspaper of general circulation in the parish or local government entity incurring the loan. It shall not be necessary to publish exhibits to the resolution, but the exhibits shall be made available for public inspection at the offices of the governing authority of the parish, municipality, or other political subdivision at reasonable times, and notice of the availability of these documents shall be stated in the publication within the official journal or newspaper of general circulation in the parish or local government entity incurring the loan. For a period of thirty days after the date of publication, any person in interest may contest the legality of the resolution authorizing the evidence of indebtedness or other loan and any provision thereof made for the security and payment of the debt. After the thirty-day period, no one shall have any cause or right of action to contest the regularity, formality, legality, or effectiveness of the resolution and the provisions thereof or of the bonds, notes, or other evidences of indebtedness or other loan, or to provide for the payment of the debt, or the legality thereof, and all of the provisions of the resolution and evidence of indebtedness shall be conclusively presumed valid, and no court shall have authority or jurisdiction to inquire into the matter.

G. Interest on bonds, notes, or other evidences of indebtedness issued for any loan entered into under the authority of this Chapter shall be exempt

from all state taxation pursuant to the provisions of R.S. 39:511 and R.S. 47:48. The bonds, notes, or other evidences of indebtedness or loans may be used for deposit with any officer, board, municipality, or other political subdivision of the state in any case where, by present or future laws, deposit of security is required for state funds. Additionally, the proceeds of bonds, notes, or other evidences of indebtedness or loans issued pursuant to the provisions of this Chapter may be used for costs associated with the issuance of bonds, notes, or other evidences of indebtedness.

§462.5. General power to issue and incur debt; guarantees of the debt of other entities

A. The commission, on behalf of the state, may issue, incur, and deliver debt evidenced by bonds, notes, or other evidences of indebtedness, payable from or secured by sums deposited in, credited to, or to be received by the commission in order to provide monies for deposit into the fund. The commission may undertake and issue and deliver evidences of its guarantee of the debt of other entities and may enter into and execute pledges of the sums deposited in, credited to, or to be received by the commission, including payments pursuant to letters of credit, to secure the debt or performance of obligations of a local government for a project. Bonds, notes, or other evidences of indebtedness, guarantees, and pledges issued and delivered pursuant to this authority shall constitute special and limited obligations of the commission and shall not be secured by the full faith and credit of the state or any source of revenue of the state other than those sums on deposit in or credited to the revolving loan fund, or to be received by the commission, including payments to be made pursuant to letters of credit. Debt issued pursuant to the provisions of this Chapter shall be deemed to be in compliance with the provisions of Article VII, Section 14 of the Constitution of Louisiana.

B. In no event shall any bond, note, or other evidence of indebtedness, or guarantee, pledge, or other obligation of any type whatsoever entered into by the commission constitute net state tax supported debt within the meaning of Article VII, Section 6(F) of the Constitution of Louisiana.

C. Any withdrawal of monies from the revolving loan fund to pay debt service on any bond, note, or other evidence of indebtedness, obligation of guarantee of any debt, pledge to secure any debt, or fees and associated costs to administer a loan shall not constitute and shall not be subject to appropriation by the legislature as provided by Article III, Section 16 of the Constitution of Louisiana.

§462.6. Duties of the legislative auditor

The legislative auditor may review all loan applications for compliance with the provisions of this Chapter. The state treasurer and the loan applicant shall be responsible for providing the legislative auditor with all claims and necessary documentation to carry out his reviews.

§462.7. Reports to the legislature

Beginning January 1, 2026, and every two years thereafter, the commission shall issue a report to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs which includes information on the number of loans approved by the commission, outstanding loan balances, including principal and interest, the status of any debt sold to provide monies for the fund, costs incurred by the commission to administer the fund, and the status of rules adopted by the commission.

§462.8. Subject to Appropriation

The implementation of this Chapter shall be subject to the appropriation of funds by the legislature for this purpose.

* * *
§1367. State debt; limitations

* * *

E. As used in this Section, the following terms shall have the following meanings ascribed to them unless the context clearly indicates otherwise:

* * *

(2) * * *

(b) "Net state tax supported debt" shall not mean:

* * *

(x) Any bond, note, certificate, warrant, reimbursement obligation, guarantee, credit enhancement, pledge, assistance, or other evidence of indebtedness issued pursuant to R.S. 39:462.1 et seq.

Section 2. This Act shall become effective on July 1, 2023; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2023, or on the day following such approval by the legislature, whichever is later.

Approved by the Governor, June 27, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 425

HOUSE BILL NO. 330
BY REPRESENTATIVES MIKE JOHNSON AND THOMPSON
AN ACT

To amend and reenact R.S. 47:337.9(D)(35), to enact R.S. 47:305.79, 321(P)(120), 321.1(D)(120), 331(V)(120), and 337.9(D)(36), and to repeal R.S. 47:305.77, relative to sales and use tax exemptions and rebates; to repeal provisions establishing a state sales and use tax rebate for the purchase of certain items by commercial farmers; to provide for a state and local sales and use

tax exemption for the purchase of certain items by commercial farmers; to exempt from state and local sales and use tax certain agricultural fencing materials purchased by commercial farmers; to provide for a limitation associated with the exemption; to provide for definitions; to provide for applicability; to authorize administrative rulemaking; to provide for effective dates; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:337.9(D)(35) is hereby amended and reenacted and R.S. 47:305.79, 321(P)(120), 321.1(D)(120), 331(V)(120), and 337.9(D)(36) are hereby enacted to read as follows:

§305.79. Exemptions; certain agricultural fencing materials

A. The sales and use tax imposed by the state of Louisiana pursuant to R.S. 47:321, 321.1, and 331 and R.S. 51:1286 or any political subdivision of the state shall not apply to the purchase by commercial farmers of agricultural fencing materials. However, no exemption shall be granted for any purchase for which a rebate was issued in accordance with R.S. 47:305.77.

B. For purposes of this Section, the following terms shall have the meanings ascribed to them in this Subsection: (1) "Agricultural fencing materials" means gates, hog wire fencing, barbed wire fencing, lumber or steel used as posts or rails, nails, screws, hinges, and concrete consisting of premixed dry mortar used for the purpose of fencing agricultural livestock. The term "agricultural fencing materials" also means electric fence wire, insulated posts, power sources, grounding systems, warning signs, and other components of electric agricultural fencing.

(2) "Commercial farmer" has the same meaning as provided in R.S. 47:301.

C. The secretary of the Department of Revenue may promulgate rules in accordance with the Administrative Procedure Act as are necessary to implement the provisions of this Section.

D. The exemption authorized by this Section shall not apply to any taxable period after June 30, 2029.

* * *

§321. Imposition of tax

* * *

P. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, beginning July 1, 2018, through June 30, 2025, there shall be no exemptions and no exclusions to the tax levied pursuant to the provisions of this Section, except for the retail sale, use, consumption, distribution, or storage for use or consumption of the following:

* * *

(120) Agricultural fencing materials purchased by commercial farmers as provided in R.S. 47:305.79.

* * *

§321.1. Imposition of tax

* * *

I. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, beginning July 1, 2018, through June 30, 2025, there shall be no exemptions and no exclusions to the tax levied pursuant to the provisions of this Section, except for the retail sale, use, consumption, distribution, or storage for use or consumption of the following:

* * *

(120) Agricultural fencing materials purchased by commercial farmers as provided in R.S. 47:305.79.

* * *

§331. Imposition of tax

* * *

V. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, beginning July 1, 2018, through June 30, 2025, there shall be no exemptions and no exclusions to the tax levied pursuant to the provisions of this Section, except for the retail sale, use, consumption, distribution, or storage for use or consumption of the following:

* * *

(120) Agricultural fencing materials purchased by commercial farmers as provided in R.S. 47:305.79.

* * *

§337.9. Exemptions applicable to local tax in Chapters 2, 2-A, and 2-B; other exemptions applicable

* * *

D.

* * *

(35) R.S. 47:305.79, "key words": purchase of agricultural fencing materials by commercial farmers.

(36) R.S. 47:6040, "key words": antique motor vehicles.

* * *

Section 2. R.S. 47:305.77 is hereby repealed in its entirety.

Section 3. The provisions of Section 1 of this Act shall apply to taxable periods beginning on or after August 1, 2023.

Section 4.(A) This Section and Sections 1 and 3 of this Act shall become effective on August 1, 2023.

(B) Section 2 of this Act shall become effective on August 1, 2024.

Approved by the Governor, June 27, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 426

HOUSE BILL NO. 483
BY REPRESENTATIVES MAGEE AND KNOX
AN ACT

To amend and reenact R.S. 47:6019(A)(1)(a), (B)(1)(introductory paragraph), and (C) and to enact R.S. 47:6019(B)(1)(d) and (e), relative to credits against income and corporation franchise tax; to provide relative to the tax credit for rehabilitation of historic structures; to extend the duration of the rehabilitation of historic structures tax credit program; to expand eligibility for tax credits through the program to encompass additional historic structures; to provide for the amount of the credit for rehabilitation of certain historic structures; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:6019(A)(1)(a), (B)(1)(introductory paragraph), and (C) are hereby amended and reenacted and R.S. 47:6019(B)(1)(d) and (e) are hereby enacted to read as follows:

§6019. Tax credit; rehabilitation of historic structures

A.(1)(a)(i) There shall be a credit against income and corporation franchise tax for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development district, ~~or located in a cultural district, or contributing to the National Register of Historic Places.~~ The amount of the credit shall equal twenty-five percent of the eligible costs and expenses of the rehabilitation incurred prior to January 1, 2018, regardless of the year in which the property is placed in service. The amount of the credit shall equal twenty percent of the eligible costs and expenses of the rehabilitation incurred on or after January 1, 2018, and before January 1, ~~2026~~ 2023, regardless of the year in which the property is placed in service. ~~The amount of the credit shall equal twenty-five percent of the eligible costs and expenses of the rehabilitation incurred on or after January 1, 2023, and before January 1, 2029, regardless of the year in which the property is placed in service.~~ No credit is authorized pursuant to this Section for expenses incurred on or after January 1, ~~2026~~ 2029.

(i) For the rehabilitation of a historic structure that meets the requirements of Item (i) of this Subparagraph and is located in a rural area, the amount of the credit shall equal thirty-five percent of the eligible costs and expenses of the rehabilitation incurred on or after January 1, 2023, and before January 1, 2029.

* * *

B.(1) For purposes of this Section, the following words and phrases shall have the meanings ascribed to them in this ~~Subsection~~ Paragraph:

* * *

(d) “Contributing to the National Register of Historic Places” means listed or deemed as a contributing element within a National Register Historic District as determined by the National Park Service.

(e) “Rural area” means any of the following:

(i) A parish of this state with a population of less than one hundred thousand according to the most recent federal decennial census.

(ii) A municipality of this state with a population of less than thirty-five thousand according to the most recent federal decennial census.

(iii) An unincorporated area of a parish of this state, which parish has a population of one hundred thousand or more according to the most recent federal decennial census.

* * *

C. The provisions of this Section shall be effective for the taxable years ending prior to January 1, ~~2026~~ 2029.

Approved by the Governor, June 27, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 427

HOUSE BILL NO. 502
BY REPRESENTATIVES MCFARLAND AND SEABAUGH
AN ACT

To amend and reenact R.S. 47:301(30), relative to reporting requirements applicable to commercial farmers; to provide for the definition of commercial farmer; to remove certain reporting requirements applicable to those persons and entities seeking to qualify as commercial farmers for tax purposes; to authorize the promulgation of rules; to provide for certain limitations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:301(30) is hereby amended and reenacted to read as follows:

§301. Definitions

As used in this Chapter, the following words, terms, and phrases have the meanings ascribed to them in this Section, unless the context clearly indicates a different meaning:

* * *

(30)(a) ~~Except as provided in Subparagraph (b) of this Paragraph, the term “commercial farmer” shall mean only those persons means either of the~~

THE ADVOCATE
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* As it appears in the enrolled bill

following:

(i) ~~A person regularly and occupationally engaged in producing the commercial production of food or, agricultural commodities, or agricultural products for sale. These terms are limited to those persons, partnerships, or corporations regularly engaged in the commercial production for sale of vegetables, fruits, crops, livestock, poultry, and other food or agricultural products that report farm income and expenses on a federal Schedule F or similar federal tax form, including but not limited to 1065, 1120, and 1120S filed by a person assigned a North American Industry Classification System (NAICS) Code beginning with 11.~~ (ii) ~~A lessor landowner who leases an immovable for agricultural use to a person described in Item (i) of this Subparagraph and maintains a joint venture contractual relationship with the person.~~

(b) ~~The secretary of the Department of Revenue, in consultation with the Department of Agriculture and Forestry, shall develop and promulgate rules in accordance with the Administrative Procedure Act as are necessary for the administration of exemptions available to commercial farmers and the registration of commercial farmers to determine who meets this definition no later than January 1, 2019. Notwithstanding any contrary provision of this Paragraph, the Department of Revenue shall honor existing farmer exemption certificates issued by the department until July 1, 2019.~~

(b) ~~Notwithstanding the provisions of Subparagraph (a) of this Paragraph, the term “commercial farmer” may include a landowner who is a party of a joint venture and who leases land to a commercial farmer as defined in Subparagraph (a) of this Paragraph. In order to qualify as a commercial farmer, the lessee landowner shall submit documentation of the joint venture arrangement or a report of farm income and expenses, including proof of lease income, from the joint venture on a federal Schedule F form or similar federal tax form to the Department of Revenue in order for the secretary of the department to make a determination that the taxpayer is a commercial farmer.~~

(c) ~~No state sales and use tax exemption available to a commercial farmer shall be allowed or claimed for or related to an “activity not engaged in for profit” as that term is defined by 26 U.S.C 183, as amended.~~

* * *

Approved by the Governor, June 27, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 428

HOUSE BILL NO. 513
BY REPRESENTATIVE MAGEE
AN ACT

To amend and reenact R.S. 22:836, relative to insurance premium tax credits; to authorize an insurance premium tax credit under certain circumstances; to provide for the amount of the credit; to provide for a carry forward period for the credit; to provide for a fiscal year cap for the credit; to authorize the transfer of certain credits; to authorize the promulgation of rules; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:836 is hereby amended and reenacted to read as follows:
§836. Retaliatory taxes and fees; insurance premium tax credits for retaliatory taxes paid by certain domestic insurers

A. When, by the laws of any other state, any taxes, fines, penalties, licenses, deposits, or other obligations or prohibitions, additional to or in excess of those imposed by the laws of this state upon insurers organized under the laws of other states, are imposed or would be imposed on insurers of this state, the same taxes, fines, penalties, licenses, deposits, and other obligations or prohibitions shall be imposed upon all insurers of such state as long as such laws remain in force. Every insurer organized under the laws of any other state and admitted to transact business in this state shall pay the same fees to the commissioner of insurance of this state as such other state may require of any similar insurer incorporated by or organized under the laws of this state. Alien insurers shall pay the same fees as are imposed in the state where the deposit is made ~~under of R.S. 22:333(C).~~ Assessments by insurance guaranty associations or similar organizations are not considered in determining retaliatory taxation.

B. A Louisiana domestic insurer that is authorized to write and does write insurance in Louisiana on an admitted basis and in at least one other state on an admitted basis as of July 1, 2023, shall be allowed a refundable credit, subject to the limitation set forth in Paragraph (6) of this Subsection. The refundable credit shall offset insurance premiums taxes due on the Annual Premium Tax Return due March first each year.

(1) The amount of the credit shall be equal to the amount of any retaliatory tax paid to any other state as a result of the laws of such state, for the period in which the retaliatory tax was paid.

(2) The credit shall be applied against the domestic insurer’s state premium tax liability as defined in R.S. 47:6016.1(B)(12), and any credit amount in excess of its premium tax liability shall be refunded to the domestic admitted insurer, subject to the limitations of Paragraph (6) of this Subsection.

(3) Any unused amounts of the credit that are unused because the total amount of refundable credits for retaliatory tax paid claimed by all domestic admitted insurers exceeds the limitation set forth in Paragraph (6) of this

CODING: Words in struck through type are deletions from existing law; words underlined (House Bills) and underscored and boldfaced (Senate Bills) are additions.

Subsection may be carried forward for a period not to exceed ten years.

(4) Any credits not previously claimed by a domestic admitted insurer against premium tax liability may also be transferred to a domestic admitted insurer within the same insurance holding company subject to the following limitations:

(a) A single transfer may involve one or more transferees.

(b) Transferors and transferees shall submit to the Department of Insurance, in writing, a notification of any transfer of tax credits within thirty days after the transfer of such tax credits. The notice shall contain the amount of the remaining tax credit balance after transfer, all tax identification numbers for both transferor and transferee, the date of the transfer, the amount transferred, the price paid by the transferee to the transferor, and any other information required by the Department of Insurance. Failure to comply with the provisions of this Subparagraph will result in the disallowance of the refundable tax credit until the taxpayers are in full compliance.

(c) The transfer of the credit shall not extend the time in which the credit may be used.

(d) To the extent that the transferor did not have rights to claim or use the refundable credit at the time of the transfer, the Department of Insurance shall either disallow the credit claimed by the transferee or recapture the credit from the transferee.

(5) The refundable credit for the payment of retaliatory taxes established pursuant to the provisions of this Subsection shall be administered by the commissioner of insurance.

(a) Domestic admitted insurers who have paid retaliatory tax in the preceding year shall provide evidence of the payment of same by the date and in such form as prescribed by the commissioner by rule.

(b) Domestic admitted insurers claiming a credit for retaliatory taxes paid that have provided evidence of the payment of retaliatory taxes shall be issued a refund by the commissioner for the amounts of retaliatory tax paid within sixty days of the filing of the evidence of the payment of retaliatory taxes for the applicable period.

(c) The commissioner of insurance shall promulgate rules in accordance with the Administrative Procedure Act as are necessary to implement the provisions of this Subsection subject to oversight by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

(6) The maximum amount of credits authorized by this Subsection shall not exceed nine million dollars in any fiscal year.

(7) In the event that there are credits claimed for retaliatory taxes paid by domestic admitted insurers that are in excess of nine million dollars in any fiscal year, the commissioner shall make refunds on a pro rata basis to the eligible domestic admitted insurers, based upon the proportion of the total amount of retaliatory tax paid by each domestic admitted insurer for the relevant time period. (8) A domestic admitted insurer which receives a credit for premium taxes paid shall certify to the commissioner that it will utilize such monies exclusively for Louisiana-specific purposes including:

(a) Investments within Louisiana which are otherwise permissible investments for a domestic insurer.

(b) Community activities or grants to Louisiana non-profit enterprises or Louisiana charitable foundations.

(c) Personnel expense for employees based in Louisiana.

(d) Ownership and leasehold expenses and improvements to or for its facilities and equipment utilized in the domestic insurer's Louisiana operations.

(e) Any other Louisiana-specific purpose that is an otherwise lawful expenditure for a domestic insurer.

(9) No credit authorized pursuant to the provisions of this Subsection shall be granted for retaliatory taxes based upon insurance premiums written in other states after December 31, 2029.

Section 2.(A) This Act shall become effective if Senate Concurrent Resolution No. 3 of the 2023 Regular Session of the Legislature is adopted and concurred in by a favorable vote of at least two-thirds of the elected members of each house.

(B) The provisions of this Act shall be applicable to retaliatory taxes based upon insurance premiums written in other states on or after January 1, 2024.

Approved by the Governor, June 27, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 429

HOUSE BILL NO. 619
BY REPRESENTATIVE LANDRY
AN ACT

To amend and reenact R.S. 47:301(14)(b)(i)(aa), relative to sales tax; to provide relative to the definition of "sales of services" for purposes of sales taxes imposed by taxing authorities; to include sales of admissions to certain museums within the definition of "sales of services"; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:301(14)(b)(i)(aa) is hereby amended and reenacted to read as follows:

§301. Definitions

As used in this Chapter, the following words, terms, and phrases have the

meanings ascribed to them in this Section, unless the context clearly indicates a different meaning:

* * *

(14) "Sales of services" means and includes the following:

* * *

(b)(i)(aa) The sale of admissions to places of amusement, to athletic entertainment other than that of schools, colleges, and universities, and recreational events, and the furnishing, for dues, fees, or other consideration of the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic, or recreational facilities. Notwithstanding any provision of this Subparagraph to the contrary, the term "sales of services" shall include the sale of admissions to any museum that has as its primary purpose the showcasing of Louisiana music and which opened to the public on or after January 1, 2026.

* * *

Approved by the Governor, June 27, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 430

HOUSE BILL NO. 631
BY REPRESENTATIVE NELSON
AN ACT

To amend and reenact R.S. 47:287.95(L)(1) and to repeal R.S. 47:287.95(M), relative to corporate income tax; to provide for determination of the sales factor for purposes of calculating Louisiana income; to provide for the sourcing of certain sales; to exclude certain sales from the calculation of the sales factor; to provide for applicability; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:287.95(L)(1) is hereby amended and reenacted to read as follows:

§287.95. Determination of Louisiana apportionment percent

* * *

L. Sourcing of certain sales.

(1) Sales other than sales of tangible personal property are to be sourced to this state if the taxpayer's market for the sale is in this state. The taxpayer's market for a sale is in this state and the sale is assigned to the state for the purpose of this Section as follows:

(a) In the case of sale, rental, lease, or license of immovable property, if and to the extent the property is located in the state.

(b) In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in the state.

(c) In the case of sale of a service, if and to the extent the service is delivered to a location in the state. The delivery of a tangible medium representing the output of a service does not control the sourcing of receipts from the underlying service. (d) In the case of lease or license of intangible property, including a sale or exchange of such intangible property where the receipts from the sale or exchange derive from payments that are contingent on the productivity, use, or disposition of the property, if and to the extent the intangible property is used in the state.

(e) (d) In the case of the sale of intangible property, other than as provided in Subparagraph (c) of this Paragraph, where the property sold is a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area, if and to the extent that the intangible property is used in or otherwise associated with the state; provided, however, that any sale of intangible property, not otherwise described in this Subparagraph and Subparagraph (d) of this Paragraph, shall be excluded from the numerator and the denominator of the sales factor.

* * *

Section 2. R.S. 47:287.95(M) is hereby repealed in its entirety.

Section 3. The provisions of this Act shall be applicable to tax years beginning on or after January 1, 2024.

Section 4. This Act shall become effective on January 1, 2024.

Approved by the Governor, June 27, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 431

HOUSE BILL NO. 634
BY REPRESENTATIVES MCFARLAND, BAGLEY, FIRMENT, HORTON,
CHARLES OWEN, SCHAMERHORN, AND THOMPSON
AN ACT

To amend and reenact R.S. 47:633(9)(d)(v), relative to severance tax; to provide with respect to a severance tax exemption for production of oil and gas from wells drilled to a certain depth; to provide for eligibility for the exemption; to provide with respect to certain applications for well status determination filed with the Department of Natural Resources; to provide for the application of certain laws; to provide for an effective date; and to

provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:633(9)(d)(v) is hereby amended and reenacted to read as follows:

§633. Rates of tax

The taxes on natural resources severed from the soil or water levied by R.S. 47:631 shall be predicated on the quantity or value of the products or resources severed and shall be paid at the following rates:

- (9) * * *
- (d) * * *

(v) Production of natural gas, gas condensate, and oil from any well drilled to a true vertical depth of more than fifteen thousand feet, where production commences after July 31, 1994, shall be exempt from severance tax, from the date commercial production begins, for twenty-four months or until payout of the well cost, whichever comes first. For the purpose of this exemption, the date commercial production begins shall be the first day the well produces into the permanent production equipment and the facilities have been constructed to process and deliver natural gas, gas condensate, or oil to a sales point. The date of a drill-stem test, production test, or any other related production shall not be considered, construed, or deemed the date commercial production begins regardless of whether such activities are classified as active production by the office of conservation of the Department of Natural Resources. The date commercial production begins may be a date subsequent to the well completion date.

Section 2. The provisions of this Act shall apply to each Application for Well Status Determination (Deep Well) filed with the office of conservation of the Department of Natural Resources on or after January 1, 2023. Each applicant who filed such an application on or after January 1, 2023, and prior to the effective date of this Act shall be permitted to amend its application to conform with the provisions of this Act.

Section 3. The provisions of this Act are procedural and interpretive.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 27, 2023.

A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 432

SENATE BILL NO. 9
BY SENATOR FOIL
AN ACT

To amend and reenact the introductory paragraph of R.S. 47:601(C)(1) and R.S. 47:601(C)(1)(c), relative to exemptions from the corporation franchise tax for limited liability companies that file as real estate investment trusts for federal income tax purposes; to exempt these companies filing as a real estate investment trust for federal income tax purposes when one hundred percent of the company's shares of common stock are owned by a tax-exempt organization; to provide for limitations; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 47:601(C)(1) and R.S. 47:601(C)(1)(c) are hereby amended and reenacted to read as follows:

§601. Imposition of tax
* * *
C.(1) As used herein in this Chapter the term "domestic corporation" shall mean and include any of the following:
* * *

(c) Nothing in this Subsection shall extend franchise tax liability to any The term "domestic corporation" shall not include either:

(i) A limited liability company qualified and eligible to make an election to be taxed in accordance with the provisions of 26 U.S.C. Subtitle A, Chapter 1, Subchapter S on the first day of its fiscal or annual year or to any other entity that was acquired before January 1, 2014, but not earlier than January 1, 2012, by an entity that was taxed pursuant to 26 U.S.C., Subtitle A, Chapter 1, Subchapter S.

(ii) A limited liability company filing as a real estate investment trust for federal income tax purposes in which one hundred percent of the limited liability company's shares of common stock are owned by a tax-exempt organization and the limited liability company met these requirements on or before July 1, 2023.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on

the day following such approval.

Section 3. The provisions of this Act shall apply to all franchise taxable periods beginning on and after January 1, 2024.

Approved by the Governor, June 27, 2023.

A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 433

SENATE BILL NO. 151
BY SENATOR REESE AND REPRESENTATIVE KNOX
Prefiled Pursuant to Article III, Section 2(A)(4)(b)(i)
of the Constitution of Louisiana.

AN ACT

To amend and reenact R.S. 47:6016.1(B)(6), (7), and (10)(b), (E)(5)(c), (F)(3) and (4), (H)(1)(b), and (J)(1) and to enact R.S. 47:6016.1(E)(5)(d) and (F)(5), relative to the Louisiana New Markets Jobs Tax Credit; to provide relative to eligibility; to provide for an additional allocation of qualified equity investment authority; to provide for terms, conditions, and definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:6016.1(B)(6), (7), and (10)(b), (E)(5)(c), (F)(3) and (4), (H)(1)(b), and (J)(1) are hereby amended and reenacted and R.S. 47:6016.1(E)(5)(d) and (F)(5) are hereby enacted to read as follows:

§6016.1. Louisiana New Markets Jobs Act; premium tax credit

B. As used in this Section, the following words, terms, and phrases have the meaning ascribed to them unless a different meaning is clearly indicated by the context:

(6) "Recovery zone" means any parish for which the Federal Emergency Management Agency of the United States Department of Homeland Security has made a determination that the parish is eligible for both individual and public assistance under the declaration of major disaster for the state of Louisiana ~~Docket Number FEMA-4559-DR~~ for the duration of that declaration. Follow-on investments in a qualified active low-income community business that was qualified by its location in a recovery zone at the time of the initial qualified low-income community investment in that business shall be considered qualified low-income community investments even if made after the end of the declaration, subject to other provisions of this Section.

(7) "Rural parish" means ~~a parish with a population less than one hundred thousand as of the July 1, 2019, census estimate by the United States Census Bureau~~ the following:

(a) With respect to qualified equity investments issued before August 1, 2023, a parish with a population less than one hundred thousand as of the July 1, 2019 census estimate by the United States Census Bureau.

(b) With respect to qualified equity investments issued after August 1, 2023, a parish with a population less than one hundred thousand as of the most recent federal decennial census.

(10) "Qualified equity investment" means any equity investment in a qualified community development entity that meets each of the following criteria:

(b) Has at least one hundred percent of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state by the first anniversary of the initial credit allowance date with respect to qualified equity investments issued prior to August 1, 2020, and after August 1, 2023, and within nine months of the initial credit allowance date with respect to qualified equity investments issued on or after August 1, 2020, and before August 1, 2023.

E.(1) * * *

(5)(a) * * *

(c) A total of one hundred fifty million dollars of qualified equity investment authority shall be available for certification and allocation for applications beginning August 1, 2023. The department shall accept applications beginning on August 1, 2023, for allocation and certification of up to one hundred fifty million dollars of qualified equity investments.

(d) If a pending request cannot be fully certified due to these limits of qualified equity investment authority, the department shall certify the portion of qualified equity investment authority that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

F. The Department of Insurance shall recapture, from the entity that claimed the credit on a return, the tax credit allowed pursuant to this Section if any of the following occur:

(3) With respect to qualified equity investments issued on or after August 1, 2020, but before August 1, 2023, the issuer fails to invest an amount equal to

one hundred percent of the purchase price of the qualified equity investment in qualified low-income community investments in Louisiana within nine months of the issuance of the qualified equity investment with at least fifty percent of the purchase price invested in qualified low-income community investments in impact businesses.

(4) With respect to qualified equity investments issued on or after August 1, 2023, the issuer fails to invest an amount equal to one hundred percent of the purchase price of the qualified equity investment in qualified low-income community investments in Louisiana within twelve months of the issuance of the qualified equity investment with at least fifty percent of the purchase price invested in qualified low-income community investments in impact businesses.

(5) The issuer fails to maintain such the levels of investment set forth in Paragraphs (2) and (3), (3), and (4) of this Subsection in qualified low-income community investments in Louisiana until the last credit allowance date for the qualified equity investment. For purposes of this Section, an investment shall be considered held by an issuer even if the investment has been sold or repaid if the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within twelve months of the receipt of the capital. Periodic amounts received during a calendar year as repayment of principal on a loan that is a qualified low-income community investment shall be treated as continuously invested in a qualified low-income community investment if the amounts are reinvested in another qualified low-income community investment by the end of the following calendar year as set forth in 26 CFR 1.45D-1. An issuer shall not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance.

* * *

H.(1) A qualified community development entity that seeks to have an equity investment designated as a qualified equity investment and eligible for tax credits pursuant to this Section shall pay a deposit in the amount of five hundred thousand dollars payable to the department. The entity shall forfeit the deposit in its entirety if either:

* * *

(b) The qualified community development entity or any transferee pursuant to Paragraph (E)(6) of this Section that issues a qualified equity investment certified pursuant to this Section fails to meet the investment requirement under Paragraph (F)(2) of this Section by the second credit allowance date of such benefit of the six-month cure period established pursuant to Subsection G of this Section or Paragraph (F)(3) of this Section by the nine-month anniversary of the initial credit allowance date without the benefit of the three-month cure period established pursuant to Subsection G of this Section or Paragraph (F)(4) of this Section by the twelve-month anniversary of the initial credit allowance date without the benefit of the three-month cure period established pursuant to Subsection G of this Section.

* * *

J.(1)(a) Qualified community development entities that issue qualified equity investments before August 1, 2020, **and after August 1, 2023,** shall submit a report to the department within the first five business days after the first anniversary of the initial credit allowance date that provides documentation as to the investment of one hundred percent of the purchase price in qualified low-income community investments in qualified active low-income community businesses, **including qualified low-income community investments made in satisfaction of Paragraph (F)(4) of this Section,** located in Louisiana. The report shall include:

(i) A bank statement of the qualified community development entity evidencing each qualified low-income community investment.

(ii) Evidence that the business was a qualified active low-income community business **or impact business** at the time of such qualified low-income community investment.

(b) Qualified community development entities that issue qualified equity investments on or after August 1, 2020, **but before August 1, 2023,** shall submit a report to the department within the first five business days after the nine-month anniversary of the initial credit allowance date that provides documentation as to the investment of one hundred percent of the purchase price in qualified low-income community investments in qualified active low-income community businesses, including qualified low-income community investments made in satisfaction of Paragraph (F)(3) of this Section, located in Louisiana. The report shall include:

(i) A bank statement of the qualified community development entity evidencing each qualified low-income community investment.

(ii) Evidence that the business was a qualified active low-income community business or impact business at the time of such qualified low-income community investment.

* * *

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 27, 2023.

A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 434

SENATE BILL NO. 230
BY SENATORS ALLAIN AND SMITH
AN ACT

To enact R.S. 47:293.1, relative to the definition of federal income tax liability for individual income taxpayers; to provide relief for taxpayers using the federal standard deduction; to include taxpayers affected by Hurricane Ida; to clarify the applicability of the relief provided; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:293.1 is hereby enacted to read as follows:

§293.1. Deduction for federal income tax for Hurricane Ida
For taxable periods beginning on January 1, 2020, through December 31, 2021, federal income tax liability shall be increased by the amount by which an individual's federal income tax due to the United States for the taxable period was decreased as a result of claiming the increased federal standard deduction or the federal itemized deduction for certain net disaster losses attributable to Hurricane Ida.

Section 2. The provisions of this Act shall be given prospective and retroactive application.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 27, 2023.

A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 435

SENATE BILL NO. 3
BY SENATOR ALLAIN Pursuant to Article III, Section 2(A)(4)(b)(i)
of the Constitution of Louisiana.
AN ACT

To amend and reenact R.S. 47:32.1(A)(1) and 601.2(A)(1), relative to personal income tax and corporation franchise tax automatic rate reductions; to change the month for the annual determination of the automatic rate reductions; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:32.1(A)(1) and 601.2(A)(1) are hereby amended and reenacted to read as follows:

§32.1. Individual income tax rate reduction; trigger

A.(1) Beginning ~~April~~ **January** 1, 2024, and each ~~April~~ **January** first through 2034, if the prior fiscal year's actual individual income tax collections as reported in the state's accounting system exceed the actual individual income tax collections for the fiscal year ending June 30, 2019, as reported in the state's accounting system, adjusted annually by the growth factor provided for in Article VII, Section 10(C) of the Constitution of Louisiana, the individual income tax rate in R.S. 47:32 for the tax year beginning the following January first shall be reduced as provided in Paragraph (2) of this Subsection.

* * *

§601.2. Automatic rate reduction

A.(1) Beginning ~~April~~ **January** 1, 2024, and each ~~April~~ **January** first thereafter, if the prior fiscal year's actual corporation income and franchise tax collections as reported in the state's accounting system exceed the actual corporation income and franchise tax collections for the fiscal year ending June 30, 2019, as reported in the state's accounting system, adjusted annually by the growth factor provided for in Article VII, Section 10(C) of the Constitution of Louisiana, the corporation franchise tax rate in R.S. 47:601 for the tax year beginning the following January first shall be reduced as provided in Paragraph (2) of this Subsection.

* * *

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 28, 2023.

A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 436

SENATE BILL NO. 7

BY SENATOR CLOUD AND REPRESENTATIVES AMEDEE, EMERSON, GAROFALO, GEYMAN, CHARLES OWEN AND TARVER Prefiled Pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AN ACT

To enact R.S. 25:225, relative to libraries; to provide relative to the adoption of certain library policies; to provide relative to a minor's access to sexually explicit materials; to provide for immunity; to provide relative to payments of certain expenses by governing authorities and consideration of certain applications by the State Bond Commission; to provide for definitions, terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 25:225 is hereby enacted to read as follows:

§225. Library policy; definitions; minor's access to sexually explicit materials; immunity; penalties

A. The legislature recognizes the fundamental right of parents to make decisions as to the care, custody, and control of their children. This fundamental right includes the right to decide the upbringing and education of children under their control. Parents have the right to guide and direct the reading, listening, and viewing choices of their minor children. Many libraries lack adequate policies addressing the access of minors to sexually explicit materials. In furtherance of this fundamental right, it is the intent of the legislature to require libraries to adopt and implement policy language to limit the access of minors to sexually explicit materials.

B. As used in this Section, the following terms shall have the following meanings:

(1) "Digital content" means any book, e-book, audiobook, video book, essay, newspaper, magazine, film, or any other library material that is provided in a digital format.

(2) "Library patron" means a person residing in the parish in which the parish or municipal library is located who has reached the age of majority and who holds a library card from the library.

(3) "Sexual conduct" means any of the following:

(a) Masturbation or lewd exhibition, actual, simulated, or animated, of the genitals, pubic hair, anus, vulva, or female breast nipples.

(b) Sadomasochistic abuse, meaning actual, simulated, or animated, flagellation, or torture by or upon a person who is nude or clad in undergarments or in a costume that reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or in the condition of being fettered, bound, or otherwise physically restrained, on the part of one so clothed.

(c) Actual, simulated, or animated touching, caressing, or fondling of, or other similar physical contact with a pubic area, anus, female breast nipple, covered or exposed, whether alone or between humans, animals, or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification.

(d) Actual, simulated, or animated stimulation of a human genital organ by any device whether or not the device is designed, manufactured, or marketed for that purpose.

(e) Actual, simulated, or animated ultimate sexual acts, whether between human beings, animals, or a human being and an animal.

(4) "Sexually explicit material" means textual, visual, or audio material, produced in any medium, that depicts or describes sexual conduct.

C.(1) No later than January 1, 2024, each library established pursuant to the provisions of this Part or pursuant to the authority of a home rule charter as provided in Article VI, Section 5 of the Constitution of Louisiana shall adopt a policy to limit the access of minors to sexually explicit material. No later than June 1, 2024, each library shall implement the adopted policy.

(2) The policy shall include, at a minimum, all of the following:

(a) A requirement that community standards for the population served by the library be considered when acquiring library material that would be accessible to a minor through donation or purchase. However, nothing in this Section shall limit the acquisition of material by a library that implements the system provided for in Subparagraph (b) of this Paragraph.

(b) A library card system that requires a minor's parent or guardian to select whether the minor is permitted to check out sexually explicit material physically available in the library. The provision of this Subparagraph shall be satisfied by either of the following:

(i) A library card that restricts a minor from checking out any library material in a collection that the library board of control has, through majority vote in an open meeting, identified as containing sexually explicit material pursuant to a request for reconsideration.

(ii) A library card that restricts a minor from checking out any library material that the library board of control has, through majority vote in an open meeting, identified as sexually explicit material pursuant to a request for reconsideration.

(c) A library card system that requires a minor's parent or guardian to select whether the minor is permitted to check out digital content. The library shall list in the library's policy each digital content source accessible by a minor that contains library material accessible for checkout that the library board of control has, through majority vote in an open meeting, identified as sexually explicit material pursuant to a request for reconsideration.

(d) A procedure that allows a library patron to request the reconsideration of whether a library material should be included in a library collection accessible to a minor. The procedure shall, at a minimum, include all of the following items:

(i) A process to review a reconsideration request made by a library patron. The review process shall include but is not limited to a written determination approving or denying the request, notification to the library patron making the request of the written determination, and the process to appeal the determination to the library board of control.

(ii) A requirement that a request for reconsideration of a library material that may include sexually explicit material be reviewed by the library board of control. The library board of control shall determine whether the library material meets the definition of sexually explicit material by majority vote in an open meeting.

(3) The adoption of the policy required by this Subsection may be by amendment to an existing library policy. The policy required by this Subsection may adopt the definitions in Subsection B of this Section by reference.

D. Nothing in this Section shall be construed to impose liability on an employee or agent of a library or a member of the library board of control.

E. (1) The governing authority of a parish or municipality with a library that fails to adopt and implement a policy required by Subsection C of this Section may withhold, during the period of noncompliance, the payments required by R.S. 25:220. The governing authority shall provide the library board of control sixty days' written notice prior to withholding any payments pursuant to this Paragraph.

(2) The State Bond Commission shall not consider any application authorizing the incurrence of debt or any application authorizing the levy of any tax where the proceeds of the debt or tax directly benefit a library that fails to adopt and implement the policy required by Subsection C of this Section until the library adopts and implements the policy.

Approved by the Governor, June 28, 2023.

A true copy:

R. Kyle Ardoin

Secretary of State

ACT No. 437

SENATE BILL NO. 41

BY SENATOR MIZELL AND REPRESENTATIVE EDMONSTON

AN ACT

To enact Chapter 2-A of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 47:6111 through 6116, relative to tax credits; to establish a tax credit for qualified donations made to an eligible maternal wellness center; to provide for the amount of the credit; to provide for definitions; to provide for a registry of maternal wellness centers; to provide for certain requirements and limitations; to provide for the recapture of credits; to authorize the Louisiana Department of Health to promulgate rules; to require the Department of Revenue to promulgate rules; to provide for applicability; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 2-A of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:6111 through 6116, is hereby enacted to read as follows:

CHAPTER 2-A. MATERNAL WELLNESS CENTER TAX CREDITS

§6111. Purpose

The legislature hereby determines that quality pre-natal and post-natal care and support ensures healthy outcomes for Louisiana mothers and their children. Maternal wellness centers assist mothers with essential services such as pre-natal and parenting classes, counseling, medical resources, and assistance with material needs. It is the intent of this Chapter to provide incentives for entities and individuals to donate to eligible maternal wellness centers that improve the quality of life for Louisiana mothers and families.

§6112. Definitions

For purposes of this Chapter, the following terms shall be defined as follows:
(1)(a) "Eligible maternal wellness center" means an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and:

(i) Is located in Louisiana.

(ii) Is registered with the Louisiana Department of Health and included on the list of registered eligible maternal wellness centers published on the Louisiana Department of Health website pursuant to the provisions of this Chapter.

(iii) Provides services primarily and exclusively intended to meet the pre-natal and post-natal needs of mothers and children including pre-natal, infant care, breastfeeding, and parenting education, peer or professional counseling, and pregnancy tests administered by a registered nurse.

(iv) Provides resources including a list of locations where pregnant women can apply for Medicaid and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and a list of local obstetrics and gynecology doctors that accept Medicaid.

(v) Provides adoption education and referrals and a comprehensive list of community resources addressing the ancillary needs of women and children.

(vi) Provides material needs through direct assistance and referrals throughout pregnancy and for a minimum of two years after delivery such as infant supplies and clothing, maternity clothing, housing assistance, food, utilities, and transportation.

(vii) Is affiliated with at least one national organization for pregnancy centers including Heartbeat International, Care Net, or the National Institute of Family and Life Advocates.

(b) “Eligible maternal wellness center” shall not include any organization involved in, or associated with counseling for, or referrals to, abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising.

(2) “Qualified donation” shall mean a donation made to an eligible maternal wellness center to assist mothers with essential services and material needs.

§6113. Tax credits for donations made to eligible maternal wellness centers

A. There shall be a credit against any Louisiana income tax for qualified donations made to an eligible maternal wellness center. The credit shall be an amount equal to fifty percent of the donation. Any credit shall be taken as a credit against the income tax for the taxable year in which the donation is made. The total amount of the credits taken by any taxpayer during any taxable year shall not exceed fifty percent of the taxpayer’s tax liability.

B.(1) The total amount of the tax credits granted by the Department of Revenue pursuant to this Chapter in any calendar year shall not exceed five million dollars.

(2) The granting of credits under this Chapter shall be on a first-come, first-served basis, with no more than twenty percent of the total tax credits available allocated for contributions to a single maternal wellness center, as further provided by rules promulgated by the Department of Revenue.

(3) If the total amount of credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year. If the total amount of credits granted in any fiscal year is less than the amount available to be granted, any residual credit remaining shall be available to be granted in subsequent fiscal years.

C. No credit shall be granted pursuant to this Chapter for donations made to eligible maternal wellness centers before January 1, 2025, or after December 31, 2030.

§6114. Registry of maternal wellness centers

A. The Louisiana Department of Health shall establish and maintain, in accordance with the provisions of this Chapter, a voluntary registry of maternal wellness centers. The purpose of the registry shall be to function as a single database of eligible maternal wellness centers located in Louisiana. The Louisiana Department of Health shall publish and make the registry available to the public on its website. The Louisiana Department of Health shall have no regulatory authority over registered eligible maternal wellness centers.

B. The registry shall not include any organization involved in, or associated with counseling for, or referrals to, abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising.

C.(1) Any organization seeking to be included in the registry shall provide the Louisiana Department of Health with an affidavit that it meets the following criteria:

(a) Verification that the organization is located in Louisiana.

(b) Verification that the organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(c) A statement that the organization meets the definition requirements of an eligible maternal wellness center as provided in R.S. 47:6112.

(d) Any other information that the Louisiana Department of Health requires by rule.

(2) The affidavit shall be signed by an officer of the organization under penalty of perjury.

(3) The organization shall notify the Louisiana Department of Health of any changes that may affect eligibility under this Section.

D. The Louisiana Department of Health shall review each affidavit and determine whether the organization meets the criteria to be included in the registry. The Louisiana Department of Health shall send notice to the applicant organization and to the secretary of the Department of Revenue of its determination.

E. Registered eligible maternal wellness centers shall complete an annual form and provide the form to the Louisiana Department of Health no later than February first of each year in order to verify that the organization continues to meet the criteria of a maternal wellness center.

§6115. Recapture of credits

A. If the Department of Revenue finds that a taxpayer has knowingly obtained a tax credit in violation of the provisions of this Chapter, including but not limited to fraud or misrepresentation, then the taxpayer’s state income tax for such taxable period shall be increased by such amount necessary for the recapture of the tax credit provided for in this Chapter.

B. Credits granted to a taxpayer, but later disallowed, may be recovered by the secretary of the Department of Revenue through any collection remedy authorized by and in accordance with R.S. 47:1561.3.

§6116. Rules and regulations

A.(1) The Department of Revenue shall promulgate rules and regulations necessary for the purpose of administering the tax credit pursuant to this Chapter in accordance with the provisions of the Administrative Procedure Act.

(2) Rules promulgated by the Department of Revenue pursuant to this Chapter shall be subject to oversight by the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means in accordance with the Administrative Procedure Act.

B.(1) The Louisiana Department of Health may promulgate rules and regulations necessary for the implementation of this Chapter in accordance with the provisions of the Administrative Procedure Act.

(2) Rules promulgated by the Louisiana Department of Health pursuant to the provisions of this Chapter shall be subject to oversight by the Senate Committee on Health and Welfare and the House Committee on Health and Welfare in accordance with the Administrative Procedure Act.

Section 2. The provisions of this Act shall apply to income taxable periods beginning on or after January 1, 2025.

Approved by the Governor, June 28, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 438

SENATE BILL NO. 54

BY SENATOR MORRIS AND REPRESENTATIVE ECHOLS
Prefiled Pursuant to Article III, Section 2(A)(4)(b)(i)
of the Constitution of Louisiana.

AN ACT

To amend and reenact Code of Criminal Procedure Art. 211(A)(1), (B)(1), and (E), relative to summons by officer instead of arrest and booking; to remove the requirement of the issuance of a summons in lieu of arrest for certain offenses; to provide relative to officer discretion to make an arrest under certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 211(A)(1), (B)(1), and (E) are hereby amended and reenacted to read as follows:

Art. 211. Summons by officer instead of arrest and booking

A.(1) When it is lawful for a peace officer to arrest a person without a warrant for a misdemeanor, or for a felony charge of theft ~~as defined by R.S. 14:67~~ or illegal possession of stolen things ~~when the thing of value is five hundred dollars or more but less than one thousand dollars as provided in R.S. 14:69(B)~~ **(4)**, he shall ~~may~~ issue a written summons instead of making an arrest ~~unless one or more if all~~ of the following conditions exist:

(a) The officer has reasonable grounds to believe that the person will ~~not~~ appear upon summons.

(b) The officer has ~~no~~ reasonable grounds to believe that the person will cause injury to himself or another or damage to property or will continue in the same or a similar offense unless immediately arrested and booked.

(c) There is a ~~no~~ necessity to book the person to comply with routine identification procedures.

(d) The If an officer issues a summons for a felony described in this Paragraph, the officer issuing the summons has ascertained that the person has two or more no prior felony criminal convictions.

* * *

B.(1) When a peace officer has reasonable grounds to believe a person has committed the offense of issuing worthless checks as defined by R.S. 14:71, he shall ~~may~~ issue a written summons instead of making an arrest ~~unless either if both~~ of the following conditions exist:

(a) He has reasonable grounds to believe that the person will ~~not~~ appear upon summons.

(b) He has ~~no~~ reasonable grounds to believe that the person will cause injury to himself or another or damage to property unless immediately arrested.

* * *

~~E. The provisions of this Article shall not apply when~~ **When** the officer has reasonable grounds to believe a person committed the offense of domestic abuse battery, battery of a dating partner, violation of a protective order, stalking, or any other offense involving the use or threatened use of force or a deadly weapon upon the defendant’s family members, as defined in R.S. 46:2132, upon the defendant’s household member, as defined in R.S. 14:35.3, or upon the defendant’s dating partner, as defined in R.S. 46:2151, **the officer shall make a custodial arrest.**

Approved by the Governor, June 28, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 439

HOUSE BILL NO. 5

BY REPRESENTATIVES FRIEMAN, AMEDEE, BACALA, CREWS,
EDMONDS, EMERSON, GAROFALO, HARRIS, HILFERTY, HORTON,
JEFFERSON, KNOX, LAFLEUR, MACK, MCFARLAND, SEABAUGH,
STAGNI, THOMAS, AND WHITE

AN ACT

To amend and reenact the heading of Part 1-B of Chapter 1 of Code Title VII of Book I of Title 9 of the Louisiana Revised Statutes of 1950 and to enact R.S. 9:399.2, relative to paternal obligations; to provide relative to pregnancy-related medical expenses; to provide relative to evidence of paternity; to provide for peremption; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The heading of Part 1-B of Chapter 1 of Code Title VII of Book I of Title 9 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted and R.S. 9:399.2 is hereby enacted to read as follows:

PART I-B. ESTABLISHMENT OF CHILD SUPPORT
IN PATERNITY PROCEEDING

* * *

§399.2. Effect of paternity on pregnancy-related medical expenses

A. The biological mother of a child may institute an action against the

biological father of the child to recover fifty percent of documented out-of-pocket pregnancy-related medical expenses. The biological mother may institute the action if the father has executed an authentic act of acknowledgment or after the paternity of the child has been proven upon proof by clear and convincing evidence as provided in Part I-A of this Title.

B. Only the following out-of-pocket pregnancy-related medical expenses may be recovered by the biological mother from the biological father: (1) Actual medical expenses, including hospital, testing, nursing, pharmaceutical, travel, or other expenses, incurred by the biological mother for prenatal care and those medical expenses incurred by the biological mother and child incident to birth.

(2) Any additional expense authorized by order of the court upon a specific finding that the expense is reasonable and necessary.

C. The action to prove paternity for reimbursement of pregnancy-related expenses by the biological mother shall be instituted within a peremptive period of two years from the day of the birth of the child.

Approved by the Governor, June 28, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 440

HOUSE BILL NO. 61

BY REPRESENTATIVES SCHLEGEL, AMEDEE, BUTLER, CARRIER,
DAVIS, EDMONSTON, EMERSON, FIRMENT, FISHER, FONTENOT,
HODGES, HORTON, MIKE JOHNSON, KNOX, LARVADAIN, MACK,
MOORE, CHARLES OWEN, SCHAMERHORN, THOMPSON, VILLIO, AND
WHITE
AN ACT

To enact R.S. 9:2717.1, relative to contracts with minors; to provide relative to interactive computer services; to provide for consent by a legal representative; to provide for exceptions; to provide for nullity; to provide for definitions; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:2717.1 is hereby enacted to read as follows:

§2717.1. Legal representative consent in contracts between a minor and an interactive computer service

A.(1) No interactive computer service shall enter into a contract or other agreement, including the creation of an online account, with a minor without obtaining the consent of the legal representative of the minor.

(2) The interactive computer service may rely on the consent of the legal representative of the minor to enter into a contract or agreement, including the creation of an online account, with a minor unless the interactive computer service knows or reasonably should know that the legal representative is no longer authorized to represent the minor. B. Any contract or agreement entered into between a minor and an interactive computer service without the consent of the legal representative of the minor shall be a relative nullity.

C. Nothing in this Section shall bar the use of third parties to obtain the consent of the legal representative, including the consent of the legal representative as to multiple minors and multiple interactive computer services.

D. This Section applies only to minors who are domiciled in this state as provided by Civil Code Article 41.

E. Nothing in this Section shall supersede or modify the provisions relative to contracts made pursuant to Civil Code Article 1923.

F. For the purposes of this Section:

(1) "Account" means any website, application, or similar electronic means by which users are able to create and share information, ideas, personal messages, and other content, including texts, photos, and videos, or to participate in social networking, gaming, or a similar online service.

(2) "Consent" means having the written authority of a legal representative of a minor to permit the minor to enter into a contract or other agreement with the interactive computer service.

(3) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

(4) "Legal representative" means any of the following:

(a) A parent with legal authority over a minor.

(b) The tutor of the minor as confirmed or appointed by the court.

(5) "Minor" means any person under the age of eighteen who is not emancipated.

Section 2. The Louisiana State Law Institute is directed to do all of the following:

(1) Study and report to the Legislature by March 1, 2024, as to the impact this Act is expected to have on the relevant Civil Code Articles regarding contracts and consent as they relate to minors.

(2) Make recommendations to address any discrepancies or ambiguities associated with the matters contained in this Act.

(3) Review similar legislation enacted in other states regarding best practices and compatibility with the Louisiana Civil Code.

Section 3. Section 1 of this Act shall become effective on August 1, 2024.

Approved by the Governor, June 28, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 441

HOUSE BILL NO. 540
BY REPRESENTATIVE MIGUEZ
AN ACT

To enact R.S. 34:1603.2, relative to port and harbor police; to provide for appointment, salary, and appointee requirements; to require a bond be furnished by port and harbor police conditioned on performance of duties; to provide for authority, arrests, warrants, and no limitation on sheriffs; to provide for jurisdiction of police to ensure a parish with a specific outlined population maintains its jurisdiction; to provide an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 34:1603.2 is hereby enacted to read as follows:

§1603.2. Port and harbor police

A. For purposes of this Section, the board of commissioners for any port district whose territory includes a parish with a population of sixty-eight thousand to seventy-three thousand according to the latest federal decennial census and a parish with a population of fifty-seven thousand to fifty-seven thousand four hundred according to the latest federal decennial census may, in its discretion, appoint, fix salaries of, and pay port and harbor police. The port and harbor police may consist of any number of people of good character and citizens of the state who have completed a course certified by the Council on Peace Officer Standards and Training; however, no member shall be under eighteen years of age.

B. Each of the port and harbor police so appointed shall furnish bond in a sum to be fixed by the commission at not less than one hundred dollars, conditioned on the faithful performance of his duties, and any person injured or damaged by any port or harbor police may sue upon that bond.

C. The port and harbor police provided for in this Section shall have, under the direction and control of the commission, the same power to make arrests, in and upon the property within the jurisdiction of the commission and approaches thereto, and to execute and return all criminal warrants and processes, as sheriffs of this state have, and shall under the same direction and authority, have all the powers of sheriffs as peace officers in all places and on all premises under the jurisdiction and control of the commission, and the streets and approaches thereto.

D. Any persons arrested by officers of the commission meeting the requirements of Subsection A of this Section and the return of all warrants or processes served by these officers shall be surrendered or delivered to the criminal sheriff of the parish in which the arrest occurred as determined by location of arrest; provided this shall in no way deprive the sheriff or deputy sheriff in a parish with a population of sixty-eight thousand to seventy-three thousand or fifty-seven thousand to fifty-seven thousand four hundred from making arrests or from serving warrants or process of court in any such place or on any such premises.

E. A commission that meets the requirements of Subsection A of this Section shall adopt rules and regulations for the conduct, management, and control of the port and harbor police, and shall, from time to time, enlarge, modify, or change such rules and regulations in its discretion.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 28, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 442

HOUSE BILL NO. 221
BY REPRESENTATIVES WRIGHT AND GAROFALO
AN ACT

To enact R.S. 49:966(O), relative to the Administrative Procedure Act; to provide relative to legislative oversight of rules; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 49:966(O) is hereby enacted to read as follows:

§966. Review of agency rules; fees

* * *

O. Each presiding officer of the legislature may establish a select committee on oversight for his house of the legislature. If established, the select committee on oversight of that house of the legislature may exercise the same power and authority granted under the provisions of this Section to a standing committee of that house of the legislature or to an oversight subcommittee of a standing committee of that house of the legislature if the

chairman of the standing committee or oversight subcommittee notifies the select committee no later than the seventh day of the committee's oversight period that his committee will not hold a hearing on the proposal.

Section 2. This Act shall become effective on January 8, 2024.

Approved by the Governor, June 28, 2023.

A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 443

HOUSE BILL NO. 489
BY REPRESENTATIVE HUVAL AND SENATOR TALBOT
AN ACT

To amend and reenact R.S. 22:1451(C) and to enact R.S. 22:1451(G), relative to insurers and rate service organizations; to provide for rate filing approval and disapproval; to provide for notification; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1451(C) is hereby amended and reenacted and R.S. 22:1451(G) is hereby enacted to read as follows:

§1451. Systems for ratemaking

* * *

C.(1) Subject to the exception specified in Subsection D of this Section, each filing submitted to the commissioner shall be on file for a waiting period of forty-five days before it becomes effective. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period. ~~A filing shall be deemed to meet the requirements of this Subpart unless disapproved in writing by the commissioner within the forty-five day waiting period. At the expiration of the forty-five day waiting period, the filing shall be deemed approved unless prior to day forty-five the filing has been affirmatively approved or disapproved by order of the commissioner. Approval of any such filing by the commissioner shall constitute a waiver of any unexpired portion of this waiting period.~~ The commissioner may by rule, regulation, or order reduce or eliminate the waiting period specified in this Subsection. For any filing that is disapproved, the insurer may appeal such disapproval to the Nineteenth Judicial District Court within fifteen days from the receipt of written notice of disapproval.(2) Unless notified by the commissioner that a filing is incomplete, or that the filing is disapproved pursuant to this Subpart, the insurer or rating organization may commence use of the filed rates upon expiration of forty-five days from the date of receipt by the commissioner.

* * *

G. The commissioner shall not disapprove a filing that is in compliance with Subsection C of this Section on the basis of time that has elapsed since the most recent rate approval by the commissioner.

Approved by the Governor, June 28, 2023.

A true copy:
R. Kyle Ardoin
Secretary of State

ACT No. 444

HOUSE BILL NO. 511
BY REPRESENTATIVE ILLG
AN ACT

To amend and reenact R.S. 22:2055(6)(b)(introductory paragraph) and (i), 2056(C)(2)(introductory paragraph), (c), and (d), 2058(A)(introductory paragraph), (1)(b)(iii) and (d), (3)(a)(ii) and (iv) and (b) and (c), and (B) (introductory paragraph) and (6)(a), and 2061.1(A) and (D), to enact R.S. 22:2056(C)(2)(g) and 2062(E), and to repeal R.S. 22:2062(A)(2)(c), relative to the Louisiana Insurance Guaranty Association; to provide for the coverage, confidentiality, and payment of claims by the Louisiana Insurance Guaranty Association; to provide for clarification of definitions; to broaden the subject matter for discussion during an executive session; to provide for a maximum assessment percentage; to provide for a minimum and maximum amount that the Louisiana Insurance Guaranty Association may pay on a claim; to clarify the calculation of premiums; to create policies and procedures for insolvent insurers; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:2055(6)(b)(introductory paragraph) and (i), 2056(C)(2) (introductory paragraph), (c), and (d), 2058(A)(introductory paragraph), (1)(b) (iii) and (d), (3)(a)(ii) and (iv) and (b) and (c), and (B)(introductory paragraph) and (6)(a), and 2061.1(A) and (D) are hereby amended and reenacted and R.S. 22:2056(C)(2)(g) and 2062(E) are hereby enacted to read as follows:

§2055. Definitions

As used in this Part:

* * *

(6) "Covered claim" means the following:

* * *

(b) "Covered claim" ~~shall~~ **does not include the following:**

(i) Any amount awarded as penalties; or punitive or exemplary damages,

including but not limited to those in the provisions of R.S. 22:1892 and R.S. 22:1973.

* * *

§2056. Creation of the association

* * *

C.

* * *

(2) The association may hold an executive session pursuant to R.S. 42:16 for discussion of one or more of the following, and R.S. 44:1 through 44:2 shall not apply to any documents as enumerated in R.S. 44:1(A)(2) which relate to one or more of the following:

* * *

(c) Matters with respect to claims, groups of similar claims, or claim files, except documents contained in those files which are otherwise deemed public records.

(d) Prospective litigation against the association after formal written demand, prospective litigation by the association after referral to counsel for review, ~~or~~ pending litigation by or against the association, or discussion of litigation strategy or settlement issues.

* * *

(g) A document or information protected from disclosure by any of the exceptions provided for in this Section is not subject to discovery, subpoena, or other disclosure, unless the association is compelled by a valid and final court order issued in a proceeding to which the association was provided with notice and an opportunity to object to the disclosure of the document or information.

* * *

§2058. Powers and duties of the association

A. The association shall do all of the following:

(1)

* * *

(b) Satisfy such obligation by paying to the claimant an amount as follows:

* * *

(iii) An amount which ~~is in excess of one hundred dollars and~~ is less than five hundred thousand dollars, per claim, subject to a minimum limit of one hundred and one dollars and a maximum limit of five hundred thousand dollars per accident or occurrence for all other covered claims.

* * *

(d) Have no obligation to defend an insured upon the association's payment or tender of an amount equal to the lesser of the association's covered claim obligation limit or the applicable policy limit, or written notice of extinguishment of the obligation due to application of a credit. The association is entitled to conduct confidential discovery to determine whether credits exist to extinguish its defense obligation during the pendency of litigation, subject to maintaining the confidentiality of any information.

* * *

(3)(a)

* * *

(i) No member insurer may be assessed in any year an amount greater than ~~one~~ two percent of that member insurer's net direct written premiums for the preceding calendar year. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available.

* * *

(iv) ~~Up to one-half of the~~ The amount of the maximum assessment shall be offset in the same manner that an offset is provided against the premium tax liability in Item (3)(b)(ii) of this Subsection, against the assessment levied by R.S. 22:1476, if such offset shall not be applied against any portion of the assessments to be deposited to the credit of the Municipal Police Employees' Retirement System, the Sheriffs' Pension and Relief Fund, and the Firefighters' Retirement System. To qualify for this offset, the payer shall file a sworn statement with the annual report required by R.S. 22:791 et seq., 821 et seq., and 831 et seq., showing as of December thirty-first of the reporting period that at least the following amounts of the total admitted assets of the payer, less assets in an amount equal to the reserves on its policies issued in foreign countries in which it is authorized to do business and which countries require an investment therein as a condition of doing business, are invested and maintained in qualifying Louisiana investments as defined in R.S. 22:832(C). If one-sixth of the total admitted assets of the payer are in qualifying Louisiana investments, then the offset shall be sixty-six and two-thirds percent of the amount otherwise assessed; if at least one-fifth of the total admitted assets of the payer are in qualifying Louisiana investments, then the offset shall be seventy-five percent of the amount otherwise assessed; if at least one-fourth of the total admitted assets of the payer are in qualifying Louisiana investments, the offset shall be eighty-five percent of the amount otherwise assessed; and if at least one-third of the total admitted assets of the payer are in qualifying Louisiana investments, then the offset shall be ninety-five percent of the amount otherwise assessed. ~~If the total of the net premium tax liability and the assessment for the expenses of the Department of Insurance paid for the previous year was less than the offset allowed under Item (3)(b)(ii) of this Subsection for the previous year, the member company may reduce its assessment payment to the Louisiana Insurance Guaranty Association for the current year by that difference.~~

* * *

(b)(i) Issue to each insurer paying an assessment under this Part a certificate of contribution, in a form prescribed by the commissioner, for the amount so paid up to but not exceeding one-half of the maximum assessment. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue.

(ii) A certificate of contribution issued to a member company may be offset against its premium tax liability in an amount not to exceed ten percent of the assessment for the year in which the assessment was paid in full and not to exceed ten percent of the assessment per year for each of the nine calendar years following the year in which ~~such~~ the assessment was paid in full, not to exceed a total offset of one hundred percent for each assessment. During the calendar year of issuance of a certificate of contribution, and yearly thereafter, a member shall at its option have the right to show a certificate of contribution as an asset in the form approved by the commissioner at percentages of the original face amount approved by the commissioner, equal to the unused offset as of each such calendar year.

(iii) To the extent amounts have ~~not been written-off offset~~ under Item (ii) of this Subparagraph, the provisions of R.S. 22:2066 shall ~~not~~ apply. The commissioner may promulgate a separate form in accordance with the Administrative Procedure Act, to facilitate submission of a filing to recover the amounts not offset pursuant to Item (ii) of this Subparagraph, subject to oversight by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

(c) ~~Not subject the premium dollars paid to an insurer by any "high net worth insured" as defined in this Part to the assessment provided for in this Section for the next calendar year. Any insurer deducting may deduct the premium dollars from its assessment shall provide by providing a net worth affidavit to the association from each insured whose premium dollars are being deducted together with a statement of the amount of premium dollars paid by such insured in accordance with procedures established by the association.~~

* * *

B. The association may do any of the following:

* * *

(6)(a) Refund to the member insurers in proportion to the contribution of each member insurer to the association that amount by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities of the association as estimated by the board of directors ~~for the coming year.~~

* * *

§2061.1. Net worth exclusion

A. For purposes of this Part, "high net worth insured" ~~shall mean means~~ any policyholder or named insured, other than any state or local governmental agency or subdivision thereof, whose net worth exceeds twenty-five million dollars on December thirty-first of the year prior to the year in which the insurer becomes an insolvent ~~insurer if an insurer.~~ An insured's net worth on that date shall be deemed to include the aggregate net worth of the insured and all of its subsidiaries and affiliates as calculated on a consolidated basis. The consolidated net worth of the insured and all of its affiliates shall be calculated on the basis of their fair market values. The members of a group self-insurance fund formed pursuant to R.S. 23:1191 et seq. shall not be deemed to be affiliates of the fund, and shall not be included in the determination of the net worth of the fund. For the purposes of this Section, a group self-insurance fund, and each individual member of the fund upon whose behalf a claim is submitted, shall be deemed to be policyholders or named insureds of any policy of insurance issued to the fund.

* * *

D. The association shall ~~establish maintain~~ reasonable procedures subject to the approval of the commissioner for requesting financial information from insureds on a confidential basis for purposes of applying this Section, ~~provided that the Section.~~ The financial information may be shared with any other association similar to the association and the liquidator for the insolvent insurer on the same confidential basis, ~~but shall otherwise be kept strictly confidential.~~ The financial information provided by the insured subject to ~~these procedures is not subject to discovery, subpoena, or other disclosure, unless the association and the high net worth insured are compelled to disclose this information by a valid and final court order in a proceeding to which the association was provided with notice and an opportunity to object to the disclosure of the information.~~ Any request to an insured seeking financial information ~~must~~ shall advise the insured of the consequences of failing to provide the financial information. If an insured refuses to provide the requested financial information where it is requested and available, the association may, until such time as the information is provided, provisionally deem the insured to be a high net worth insured for the purpose of denying a claim ~~under~~ pursuant to Subsection B of this Section.

* * *

§2062. Exhaustion of other coverage

* * *

E. The association is entitled to conduct confidential discovery to determine whether other available insurance as provided by this Section exists, the applicable limits thereof, the amount of a claimant's recovery, the efforts to exhaust any applicable limits, and to determine whether its obligations to the claimant have been extinguished by the application of any applicable credits during the pendency of litigation, subject to maintaining adequate procedures to protect the confidentiality of any information obtained through

the discovery.

Section 2. R.S. 22:2062(A)(2)(c) is hereby repealed in its entirety.

Section 3. R.S. 22:2058(A)(3)(a)(ii) as amended by this Act that provides a two percent maximum assessment by the La. Insurance Guaranty Association shall be applied prospectively and shall become effective on January 1, 2024.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 28, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 445

HOUSE BILL NO. 523

BY REPRESENTATIVES LACOMBE, SCHEXNAYDER, AND STEFANSKI
AN ACT

To amend and reenact Children's Code Article 306(B)(introductory paragraph) and (2), (C), and (G), R.S. 15:1110(C)(1)(introductory paragraph), (D), (E), and (H), to enact Children's Code Article 815(F) and R.S. 15:1110.3, and to repeal R.S. 15:1110(F) through (I), 1110.1, and 1110.2, relative to the custody of juveniles; to provide relative to the pre-adjudication detention of juveniles; to provide relative to licensing standards for pre-adjudication detention facilities; to provide relative to the transfer of juvenile detention facility licensing; to provide for an effective date; and to provide for related matters. Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Article 306(B)(introductory paragraph) and (2), (C), and (G) are hereby amended and reenacted and Children's Code Article 815(F) is hereby enacted to read as follows:

Art. 306. Places of detention; juveniles subject to criminal court jurisdiction

* * *

B. If a detention facility for juveniles is not available, he may be held in an adult jail or lockup for identification or processing procedures or while awaiting transportation only as long as necessary to complete these activities for up to six hours, except that in nonmetropolitan areas, he may be held for up to ~~twenty-four~~ forty-eight hours if all of the following occur:

* * *

(2) A continued custody hearing in accordance with Articles 820 and 821 is held within ~~twenty-four~~ forty-eight hours after his arrest.

* * *

C. If an indictment has not been returned, a bill of information filed, or a continued custody hearing not held within ~~twenty-four~~ forty-eight hours, the child held in an adult jail or lockup in a nonmetropolitan area shall be released or removed to a juvenile detention facility.

* * *

G. Notwithstanding any provision of law to the contrary, a child who is subject to criminal jurisdiction pursuant to Article 305 ~~shall not be detained prior to trial in a juvenile detention facility after reaching the age of eighteen if the governing authority with funding responsibility for the juvenile detention facility objects to such detention and being held in a juvenile detention facility before trial shall be transferred to the appropriate adult facility for continued pretrial detention upon reaching the age of eighteen.~~

* * *

Art. 815. Child taken into custody; place of detention

* * *

F. If a juvenile detention center is not available, a juvenile may be held in an adult jail or lockup for purposes of and only as long as necessary to complete identification or processing procedures or while awaiting transportation, but not to exceed six hours. However, in nonmetropolitan areas, he may be held for up to forty-eight hours if all of the following occur:

(1) The juvenile is accused of a nonstatus offense.

(2) A continued custody hearing in accordance with Articles 820 and 821 is held within forty-eight hours after his arrest.

(3) There is no acceptable alternative placement to the jail or lockup in which he is being held.

(4) The sheriff or the administrator of the adult jail or lockup has certified to the court that facilities exist that provide for sight and sound separation of the juvenile from adult offenders and the juvenile can be given continuous visual supervision while placed in the jail or lockup.

Section 2. R.S. 15:1110(C)(1)(introductory paragraph), (D), (E), and (H) are hereby amended and reenacted and R.S. 15:1110.3 is hereby enacted to read as follows:

§1110. Purpose and reasons for detention; detention standards; licensing; fees

* * *

C.(1) ~~At~~ No juvenile detention ~~facilities~~ facility, including facilities any facility owned or operated by any governmental, profit, nonprofit, private, or public agency, shall ~~not~~ be used to detain a child who is alleged to have committed a delinquent act for any of the following purposes or reasons:

* * *

D.(1) On or after July 1, 2020, a detention screening instrument, as provided

in Children's Code Article 815, shall be administered for any child placed in secure detention when taken into custody without a court order pursuant to Children's Code Article 814 for alleged commission of a delinquent act.

(2)(a) The Louisiana Juvenile Detention Alternatives Initiative Statewide Leadership Collaborative, created by House Concurrent Resolution No. 102 of the 2016 Regular Session of the Legislature, hereinafter referred to as "the JDAI Collaborative" shall support the statewide implementation of detention screening instruments and the training process and requirements for those persons who will utilize the instruments.

(b) The detention screening instruments shall assess the child only to determine the child's risk to public safety while a current arrest is pending and the risk of failure to appear in court for the pending case.

(c) ~~Except as authorized in Subparagraph (d) of this Paragraph, the~~ The detention screening instrument shall be selected from the tools that are being utilized as of January 1, 2019, by local jurisdictions in the state, which shall be provided by the JDAI Collaborative. A detention screening instrument that is being utilized by a jurisdiction as of January 1, 2019, is sufficient to satisfy the requirements of this Subparagraph.

~~(d) Any jurisdiction that chooses to use a detention screening instrument other than an instrument provided by the JDAI Collaborative, shall submit the instrument to the JDAI Collaborative for its approval no later than April 1, 2020, pursuant to a submission process set forth by the JDAI Collaborative.~~

(3) A copy of the completed detention screening instrument shall be provided to the juvenile detention facility for any child who is admitted into its custody. The juvenile detention facility shall keep a record of the results of the detention screening instrument and the recommendation made based upon the instrument to either detain the child, release the child with conditions, or release the child without conditions. This record shall include the parish in which the child was taken into custody, the most serious charge for which the child was taken into custody, and demographic information about the child including but not limited to race, ethnicity, gender, and age. This information shall be aggregated and submitted quarterly to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice which shall annually provide such information to the JDAI Collaborative.

E. Each juvenile detention facility licensed pursuant to this Section Part, including facilities owned or operated by any governmental, profit, nonprofit, private, or public agency, may establish arts-based programming in the facility which may include but is not limited to performing arts, visual arts, and other arts activities that enhance youth development. For the purposes of funding the arts-based programming, the facility owner or operator is authorized to receive, by appropriation, gift, grant, donation, or otherwise, any sum of money, aid, or assistance from any person, firm, or corporation or from the United States, its agencies, the state of Louisiana, or any political subdivision of the state.

* * *

H. On or before July 1, 2013, all juvenile detention facilities, including facilities owned or operated by any governmental, profit, nonprofit, private, or public agency, shall be licensed in accordance with rules promulgated pursuant to the provisions of Subsection G of this Section. The Department of Children and Family Services shall be responsible for licensing and regulating juvenile detention facilities until July 1, 2024, when the licensing authority is transferred to the office of juvenile justice pursuant to R.S. 15:1110.3.

* * *

§1110.3. Licensing; transfer to office of juvenile justice

A. Beginning July 1, 2024, all juvenile detention facilities, including facilities owned or operated by any governmental, for profit, nonprofit, private, or public agency, shall be licensed and regulated by the office of juvenile justice pursuant to the provisions of this Section.

B. There shall be an annual license fee for any license issued to a detention facility. The fee shall be used by the office of juvenile justice for expenses related to the licensing program.

(1) For a detention facility authorized to care for six or fewer juveniles, the license fee shall be four hundred dollars.

(2) For a detention facility authorized to care for at least seven but not more than fifteen juveniles, the license fee shall be five hundred dollars.

(3) For a detention facility authorized to care for sixteen or more juveniles, the license fee shall be six hundred dollars.

C. Whoever operates a juvenile detention facility without a valid license issued by the office of juvenile justice pursuant to this Section shall be fined one thousand dollars for each day of operation without the valid license. In addition to seeking civil fines imposed pursuant to the provisions of this Section, if any juvenile detention facility operates without a valid license issued by the office, the office may file suit in the district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons, or any other group operating the facility, from continuing the violation.

D.(1) No person shall operate any juvenile detention facility in violation of any provision of this Part or any other state or federal statute, regulation, or any rule adopted pursuant to the Administrative Procedure Act that governs the ownership or operation of juvenile detention facilities.

(2) In lieu of revocation of the facility's license, the office may issue a written warning that includes a corrective action plan to any person or entity violating these requirements when the violation creates a condition or occurrence relating to the operation and maintenance of a juvenile detention facility

that does not pose an imminent threat to the health, safety, rights, or welfare of a child. Failure to implement a corrective action plan issued pursuant to the provisions of this Section may result in either the assessment of a civil fine or license revocation or may result in both actions being taken by the office. Such civil fines shall not exceed two hundred fifty dollars per day for each fine assessment; however, the aggregate fines assessed for violations determined in any consecutive twelve-month period shall not exceed two thousand dollars.

E. An appeal of any office decision for a violation of any provision of this Part shall be suspensive. All appeals filed pursuant to the provisions of this Section shall be heard by the division of administrative law pursuant to Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950. The office shall furnish the facility or agency a copy of the decision, together with notice of the procedure for requesting judicial review.

F. The office may institute all necessary civil court actions to collect fines imposed that are not timely appealed. No juvenile detention facility may claim imposed fines as reimbursable. Interest shall begin to accrue at the current judicial rate on the day following the date on which any fines become due and payable. All costs of any successful action to collect such fines, including travel expenses and reasonable attorney fees, shall be awarded to the office in addition to the fines.

G.(1) Civil fines collected pursuant to the provisions of this Section shall be deposited immediately into the state treasury.

(2) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to the monies being placed in the state general fund, an amount equal to the amount deposited as provided in Paragraph (1) of this Subsection shall be credited to a special fund hereby created in the state treasury to be known as the "Juvenile Detention Licensing Trust Fund". The monies in the fund shall be subject to annual appropriation and shall be available exclusively for use by the office of juvenile justice for the education and training of employees, staff, or other personnel of juvenile detention facilities.

(3) The monies in the fund shall be invested by the treasurer in the same manner as the monies in the state general fund, and all interest earned from the investment of monies in the fund shall be deposited in and remain to the credit of the fund. All unexpended and unencumbered monies remaining in the fund at the end of the fiscal year shall remain in the fund.

H.(1) Any owner, operator, current or prospective employee, or volunteer of a juvenile detention facility that is requesting licensure or is licensed by the office of juvenile justice is prohibited from being employed by the facility if that individual's name is recorded on the state central registry as a perpetrator for a justified finding of abuse or neglect of a child.

(2) If the individual's name is or was entered on the state central registry, the individual who is the subject of the finding may file a written motion seeking correction to the division of administrative law for an administrative appeal of the justified determination, in accordance with Children's Code Article 616.1.1 and the procedures promulgated by the office.

I. The office of juvenile justice shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section. The rules shall contain at a minimum the following:

(1) Licensing standards for juvenile detention centers that comport with nationally recognized and accepted best practice standards.

(2) Specific factors for determining the type of sanctions to be imposed including severity of risk, actual harm, failure to implement a written corrective action plan, mitigating circumstances, the history of noncompliance and an explanation of the treatment of continuing noncompliance, an explanation of the treatment of continuing repeat deficiencies, evidence of good faith effort to comply, and any other relevant factors.

(3) The process to provide notice to a juvenile detention facility of any violation, a reconsideration process for sanctions issued, and an appeal procedure, including judicial review.

Section 3. R.S. 15:1110(F) through (I), 1110.1, and 1110.2 are hereby repealed in their entirety.

Section 4.(A) The provisions of this Section and Sections 1 and 2 of this Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Section 1 and this Section of this Act shall become effective on the day following such approval.

(B) Section 3 of this Act shall become effective on July 1, 2024.

Approved by the Governor, June 28, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State

ACT No. 446

HOUSE BILL NO. 597
BY REPRESENTATIVE IVEY
AN ACT

To amend and reenact the title of Subpart D of Part I of Chapter I of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, R.S. 39:16.1(4), 16.2, 16.3(A)(1), (3)(introductory paragraph), and (5) and (D), 16.4(A)(1), 16.5(A)(1)

and (B)(introductory paragraph) and (4)(introductory paragraph), 16.6(A)(1) and (C)(7), 16.8(A) and (C), 16.10(A)(1) and (3) and (C)(3), 16.12(A), and 16.13(C), to enact R.S. 24:513(D)(7) and Part III of Chapter 8 of Title 24 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 24:571 through 586, and R.S. 39:16.10(C)(8) and (9), and to repeal R.S. 39:16.3(B), 16.4(B), 16.5(B)(1), (2), and (3) and (D), 16.6(B), 16.7, 16.8(B), 16.9, 16.10(B), 16.11, 16.13(D)(2), and 16.14, relative to the legislative auditor; to provide for the Louisiana Transparency Portal; to provide for the powers and duties of the legislative auditor relative thereto; to provide for the responsibilities and duties of agencies and auditees relative thereto; to provide for the information available on and functionality of the portal; to revise provisions relative to the Louisiana Fiscal Transparency Website, also known as the Louisiana Checkbook; to provide for the duties of the commissioner of administration relative thereto; to create and provide relative to a special fund to be known as the Louisiana Transparency Fund and for the deposit and use of monies in the fund; to provide for a transition from the transparency website to the portal; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 24:513(D)(7) and Part III of Chapter 8 of Title 24 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 24:571 through 584, are hereby enacted to read as follows:§513. Powers and duties of legislative auditor; audit reports as public records; assistance and opinions of attorney general; frequency of audits; subpoena power

* * *

D. In addition, the legislative auditor shall perform the following duties and functions:

* * *

(7) He shall establish and maintain the Louisiana Transparency Portal in the manner provided by Part III of this Chapter, as a centralized, searchable website, referred to as the “Louisiana Transparency Portal”, that shall serve as an interactive portal for the public to access fiscal information, including data and reports of state expenditures, contracts, incentive expenditures, revenues, and other financial matters. For the purposes of this Paragraph, the datasets provided to the legislative auditor pursuant to R.S. 39:16.2 meet the information requirements for the portal for the state agencies that are included in the LaGov statewide enterprise resource planning system; however, the legislative auditor, with the approval of the Legislative Audit Advisory Council, may require the production of additional information.

* * *

PART III. LOUISIANA TRANSPARENCY PORTAL

§571. Definitions

(1) “Auditor” means the legislative auditor.

(2) “Contract” means an agreement to which a state agency is a party, regardless of what the agreement may be called and shall include an order, grant, or document purporting to represent a grant for the purchase or disposal of supplies, services, major repairs, or any other item; an award or notice of award of a contract of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; a contract providing for the issuance of job or task orders; lease; letter contract; a purchase order; a memorandum of understanding between a state agency and a nonstate entity; a cooperative endeavor agreement between a state agency and a nonstate entity; incentive expenditure documentation; and a personal, professional, consulting, or social services contract.

(3) “Incentive expenditure” shall have the meaning ascribed to it in R.S. 39:2.

(4) “State agency” solely for the purposes of this Part means any state office, department, board, commission, institution, division, officer or other person, or functional group, heretofore existing or hereafter created, that is authorized to exercise, or that does exercise, any functions of the government of the state in the legislative, judicial, or executive branch, including higher education agencies, and state retirement systems.

(5) “Website” means the Louisiana Transparency Portal.

§572. Auditor; policies; functionality, content, accessibility, reporting of the website

A. The auditor may establish policies subject to the approval of the Legislative Audit Advisory Council as are necessary for the implementation of this Part.

B. The auditor shall ensure that the Louisiana Transparency Portal presents information in a manner that is intuitive to members of the general public and provides for the following functionality:

(1) Access to all related databases and features of the website at no cost to the public and without the requirement of user registration.

(2) Search, aggregate, and query data.

(3) Download, export, and print reports, graphs, charts, tables, or information yielded by a search of the database.

(4) Provide for graphical presentation and manipulation.

(5) Access to all related databases and features of the website with optimization for desktop and mobile platforms.

(6) Allow for the ability to share information on social media.

C. The auditor shall ensure that the public-facing database shall not include the following content:

(1) The addresses or telephone numbers of payees.

(2) Tax payment or refund data that include confidential taxpayer information, such as the social security number or federal tax identification number of any individual or business.

(3) Payments of state assistance to individual recipients.

(4) Protected health information as the term is defined under the federal

Health Insurance Portability and Accountability Act of 1996.

(5) Information subject to attorney-client privilege.

(6) Secure information that would reveal undercover or intelligence operations by law enforcement.

(7) Any information that is confidential under state or federal law, rule, or regulation.

D. The auditor shall ensure that the website contains the following information relative to its databases as applicable:

(1) All relevant data points that are collected in each state agency information system.

(2) All data points that are relevant to the purposes of this Chapter in each state agency information system.

E. For purposes of this Part, the datasets provided to the auditor pursuant to R.S. 39:16.2 meet the information requirements for the website for the state agencies that are included in the LaGov statewide enterprise resource planning system; however, the legislative auditor, with the approval of the Legislative Audit Advisory Council, may require the production of additional information.

§573. Website; requirements of agencies

A. All state agencies are directed to furnish information, reports, aid, services, and assistance as may be requested by the auditor in the performance of the auditor’s responsibilities as set forth in this Chapter and specifically in this Part.

B. Any state agency which does not maintain data on the LaGov statewide enterprise resource planning system shall report the information required in this Part to the auditor in the format and manner required by the auditor.

C. Except as otherwise provided in this Part, the auditor and, to the extent otherwise specified, the responsible agency shall ensure that information in the dataset for inclusion on the website is updated “in the time and manner required by the auditor.

§574. Expenditure database

A.(1) The auditor shall ensure that the website includes an expenditure database that is electronically searchable by the public and contains reporting of expenditures by each budget unit in the executive budget.

(2) All state agencies shall provide information to the auditor required by this Section in the time and manner required by the auditor.

B. The auditor shall ensure that the expenditure database has the following functionality and ability to:

(1) Search and aggregate expenditures by individual and multiple budget units and programs.

(2) Search and aggregate payments to individual vendors and governmental entities, including the total amount of state payments issued to individual vendors and governmental entities.

(3) Search and aggregate expenditures and payments from multiple fiscal years.

(4) Search and aggregate expenditures by category.

(5) Download information yielded by a search of the database.

C. The expenditure database shall include the following content:

(1) Expenditures by category including:

(a) Details of expenses charged to credit, debit, or other purchase cards and related fees to the extent available from the card issuer.

(b) Mandated interagency payments, such as fees to the legislative auditor, annual payments to the office of risk management, and contributions to retirement systems and benefits plans.

(c) Revenue sharing and aid to other levels of government, including minimum foundation program transfers.

(2) Where available, for each expenditure, the database shall include the following information:

(a) The name of the entity making the expenditure.

(b) The name of the person or entity receiving the payment.

(c) The date and the amount of the expenditure.

(d) A standardized descriptive title of the type and purpose of each expenditure.

(e) The manner of payment, including check, warrant, credit, debit, or other purchase card.

(f) The funding source, including the categorical code and the state fund or account from which the expenditure is accounted.

(g) Where applicable, a link to additional information on the contract available through the contracts database.

§574.1. Budget database

A. The auditor, in coordination with the fiscal staff of the House of Representatives and the Senate and the Legislative Fiscal Office, shall ensure that the website includes a budget database.

B. The auditor shall ensure that the budget database includes the following for each branch of state government:

(1) Budgets for current and past fiscal years.

(2) Budgets proposed by the legislature, including the general appropriations, ancillary appropriations, legislative budget, judicial budget, and capital outlay bills.

§575. Contracts database

A.(1) The auditor shall ensure that the website includes a contract database that is electronically searchable by the public.

(2) All state agencies shall provide information to the auditor as required by this Section in the time and manner required by the auditor.

B. The auditor shall ensure that the contract database shall have the following functionality and ability to:

- (1) Search and aggregate records by agency.
- (2) Search and aggregate contracts by contractor.
- (3) Download information yielded by a search of the database.
- (4) Provide access or integration into the website information from the reports on contracts required by law including:

(a) Information required to be published on the division of administration's website by R.S. 39:1567(B)(3).

(b) Copies of the monthly reports submitted to the Joint Legislative Committee on the Budget under R.S. 39:1567(E).

(c) The annual report on the progress of the Louisiana Initiative for Small Entrepreneurships (the Hudson Initiative) required to be made available on the internet by R.S. 39:2007(E).

(d) The annual report on the progress of the Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships (the Veteran Initiative) required to be made available on the internet by R.S. 39:2177(E).

C. The contract database shall include the following content:

- (1) Contract amount.
- (2) A brief description of the purpose of the contract.
- (3) The beginning and ending dates of the contract.
- (4) The name of the contracting agency.
- (5) The name of the contractor.
- (6) The city and state of the contractor's domicile.
- (7) If available, supporting documentation for payment requests including invoices, timesheets, and reports from automatic verification software capable of automatically verifying the legitimacy of hours billed for computer generated work performed.

§576. Payroll database

A.(1) The auditor shall ensure that the website includes an employment and payroll database that is electronically searchable by the public.

(2) All state agencies shall provide information to the auditor required by this Section in the time and manner required by the auditor.

B. The auditor shall ensure that the employment and payroll database shall have the following functionality and ability to:

- (1) Search and aggregate records by agency.
- (2) Search and aggregate salaries by job title.
- (3) Search and aggregate records by Civil Service Classification.
- (4) Search and aggregate records of employees by their enrolled retirement system.
- (5) Download information yielded by a search of the database.

C. The employment and payroll database shall include the following content:

- (1) The name of the employing agency.
- (2) The name of the employee.
- (3) The job title or position.
- (4) The salary or hourly wage of the employee.
- (5) The total compensation paid to the employee in previous calendar years including overtime, stipends, allowances, benefit payments, and nontaxable reimbursements.
- (6) Employer's payroll benefit cost for the employee.
- (7) The website shall contain information regarding the number of authorized positions and the number of vacant positions for each institution of higher education and each budget unit contained in the General Appropriation Act and the Ancillary Appropriation Act.

§577. Reports database

A.(1) The auditor shall ensure that the website includes a reports database that is electronically searchable by the public.

(2) All state agencies shall provide information to the auditor required by this Section in the time and manner required by the auditor.

B. The reports database shall be organized and searchable in an intuitive manner.

C. The reports database shall include the following content:

- (1) The official forecast and the incentive expenditure forecast adopted by the Revenue Estimating Conference.
- (2) The tax exemption budget prepared by the Department of Revenue under R.S. 47:1517.
- (3) The Annual Tax Collection Report prepared by the Department of Revenue.
- (4) Monthly reports provided by the Department of Revenue on net collections and distributions and severance tax collections and distributions.
- (5) Information required to be published on the division of administration's website by R.S. 39:1567(B)(3).
- (6) The monthly reports submitted to the Joint Legislative Committee on the Budget under R.S. 39:1567(E).
- (7) The annual report on the progress of the Louisiana Initiative for Small Entrepreneurships (the Hudson Initiative) required to be made available on the internet by R.S. 39:2007(E).
- (8) The annual report on the progress of the Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships (the Veteran Initiative) required to be made available on the internet by R.S. 39:2177(E).
- (9) Any other state agency reports required by law.

§578. Boards and commission database

A.(1) The auditor shall ensure that the website includes a boards and commissions database that is electronically searchable by the public.

(2) All boards and commissions shall provide information to the auditor

required by this Section in the time and manner required by the auditor.

B. The auditor shall ensure that the boards and commissions database has the following functionality and ability to:

- (1) Search and aggregate records by agency.
- (2) Search and aggregate expenditures and payments from multiple fiscal years.
- (3) Search and aggregate expenditures by category.
- (4) Search and aggregate expenditures by individual and multiple agencies.
- (5) Download information yielded by a search of the database.

C. The boards and commissions database shall include the following content:

- (1) Membership information, employee information, and financial and budget information required by R.S. 49:1302 and R.S. 24:513.2.
- (2) Provide a link to or incorporate the annual reports submitted to the legislature by the auditor on boards, commissions, and like entities under R.S. 24:513.2(E).

§579. State debt database

A.(1) The auditor shall ensure that the website includes a state debt database that is electronically searchable by the public.

(2) All agencies, boards, commissions, and departments of the state shall furnish information, reports, aid, services, and assistance to the extent allowed by state and federal law and regulations as may be requested by the auditor in the performance of the auditor's responsibilities as set forth in this Subsection.

B. The auditor shall ensure that the state debt database allows the public to:

- (1) Search and aggregate debt by agency.
- (2) Search and aggregate debt from multiple fiscal years.

C. The state debt database shall include the following content:

- (1) Amounts and categories of state debt, such as pensions, post-employment benefit obligations, and capital construction.
- (2) Annual costs of debt service by category and budget unit.
- (3) Sources of funding for state debt obligations.
- (4) The per capita costs of state debt.
- (5) Information used to determine the state's net state tax supported debt.

§580. Incentives database

A.(1) The auditor shall ensure that the website includes an incentives database that is electronically searchable by the public.

(2) The auditor shall require any state agency that administers an incentive expenditure program to report the information stated in this Section for each incentive expenditure.

(3) The information shall be provided no later than six months after the effective date of such incentive expenditures and shall be updated as needed no less than every three months thereafter. Each state agency that administers such a program shall provide sufficient information to satisfy the requirements of this Subsection.

B. The auditor shall ensure that the incentives database allows the public to do the following:

- (1) Search and aggregate incentives by individual recipients and multiple budget units and programs.
 - (2) Search and aggregate payments to recipients and governmental entities, including the total amount of state payments issued to individual recipients.
- C. For the incentives database, the administering state agency shall report in each fiscal year the following information:
- (1) The name of the recipient of the incentive expenditure.
 - (2) The corporate domicile of such recipient.
 - (3) The estimated net new jobs and payroll, if available.
 - (4) The estimated total capital investment or estimated total Louisiana expenditures, whichever is relevant based upon the incentive expenditure program being reported on.
 - (5) The annual and total estimated value of the benefits to such recipient.
 - (6) The official forecast of the incentive expenditure forecast adopted by the Revenue Estimating Conference.
 - (7) The actual total capital investment or actual total Louisiana expenditures, whichever is relevant based upon the incentive expenditure program, if the information is available.
 - (8) The annual and total actual value of the benefits to such recipient, if available.

D. The auditor shall ensure that the incentives database does not include information that is protected.

§581. Dedicated funds database

A. The auditor shall ensure that the website includes a dedicated funds database that is electronically searchable by the public.

B. All state agencies shall provide information pursuant to this Section that contains the electronic database of reports supported by appropriations from dedicated funds required by R.S. 49:308.5(B).

C. The dedicated funds database shall include access to the report on special funds prepared by the state treasurer as required by R.S. 49:308.3(E).

§582. Performance database

A. The auditor shall ensure that the website includes a performance database that is electronically searchable by the public.

B. The executive branch shall provide information pursuant to this Section.

C. The performance database shall include the Louisiana Performance Accountability System, the electronic performance database that tracks performance standards, interim quarterly performance targets, and actual performance information for executive branch departments and agencies

required under the Louisiana Government Performance and Accountability Act, R.S. 39:87.1 et seq.

§583. Audit requirements

A. All state agencies shall submit to the auditor comprehensive data sufficient to comply with the provisions of this Part. This data shall be of the type, extent, format, frequency, and timing specified by the auditor.

B. Internal auditors of state agencies required to have an internal audit function shall report to the auditor any findings of state agencies, contractors, grantees, vendors, or recipients of state funding that are not in compliance with the requirements of this Part.

C.(1) The auditor shall report agency noncompliance with this Part to the Joint Legislative Committee on the Budget and the Legislative Audit Advisory Council on at least a quarterly basis.

(2) The auditor shall notify each member of the Legislative Audit Advisory Council and the agency of any significant issue with noncompliance that in his opinion warrants public discussion at the next meeting of the council.

D.(1) The legislative auditor shall perform periodic and unscheduled reviews of state agencies, contractors, grantees, vendors, or recipients of state funds to ensure compliance with this Part. The auditor shall report to the Legislative Audit Advisory Council and the Joint Legislative Committee on the Budget any finding of noncompliance with the requirements of this Part.

(2) All audits performed as authorized or required by a state agency contract, expenditure, or incentive expenditure shall be available on the website.

E. Any state agency whose internal audit or legislative audit contains findings indicating a violation of the constitution or laws of this state or findings of fraud, waste, and abuse, shall be subject to periodic and unscheduled investigative audits by the internal auditor or the legislative auditor for a probationary period of not less than three years.

§584. Local auditee database

The auditor shall establish a schedule to include fiscal information regarding local auditees on the website. The schedule and the fiscal information requested from local auditees shall be subject to the approval of the Legislative Audit Advisory Council. After approval, local auditees shall furnish the information requested by the auditor in the format specified by the auditor.

Section 2. R.S. 24:586 is hereby enacted to read as follows:

§586. Louisiana Transparency Fund

A. There is hereby created in the state treasury, as a special fund, the Louisiana Transparency Fund, referred to in this Section as the "fund".

B. The state treasurer is hereby authorized and directed to transfer three million five hundred thousand dollars from the state general fund to the fund on July first of each fiscal year beginning July 1, 2024. The legislature may appropriate, allocate, or transfer additional monies to the fund if it deems necessary to accomplish the purposes of the fund.

C. Monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund and any interest earned on the investment of monies in the fund shall be credited to the fund. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

D. Monies in the fund shall be available for appropriation to and use by the Legislative Budgetary Control Council, referred to in this Section as the "council". Such appropriations shall be used by the council solely to fund the development and maintenance of the Louisiana Transparency Portal; data analytics, including staff, technology, and contracts; and for supporting all other operations and activities consistent with Part.

Section 3. The title of Subpart D of Part I of Chapter I of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, R.S. 39:16.1(4), 16.2, 16.3(A) (1), (3)(introductory paragraph), and (5) and (D), 16.4(A)(1), 16.5(A)(1) and (B) (introductory paragraph) and (4)(introductory paragraph), 16.6(A)(1) and (C)(7), 16.8(A) and (C), 16.10(A)(1) and (3) and (C)(3), 16.12(A), and 16.13(C) are hereby amended and reenacted and R.S. 39:16.10(C)(8) and (9) are hereby enacted to read as follows:

SUBPART D. STATE FISCAL TRANSPARENCY WEBSITE

§16.1. Definitions

As used in this Subpart, the following words, terms, and phrases shall have the meanings ascribed to them in the Section:

* * *

(4) "State agency" solely for the purposes of this Subpart means any state office, department, board, commission, institution, division, officer or other person, or functional group, heretofore existing or hereafter created, that is authorized to exercise, or that does exercise, any functions of the government of the state in the executive, legislative, or judicial branch, including higher education agencies, and state retirement systems.

§16.2. Duties of the commissioner relative to the Louisiana Fiscal Transparency Website state transparency

The commissioner, subject to legislative appropriation, shall establish and maintain the Louisiana Fiscal Transparency Website, a centralized, searchable website, hereinafter to be referred to as "Louisiana Checkbook", that provides information to the public about data and reports of state expenditures, contracts, incentive expenditures, revenues, and other financial matters. The website shall serve as an interactive portal for the public to access state fiscal information. shall provide all databases to the legislative auditor for reporting to the Louisiana Transparency Portal as provided in Part III of Chapter 8 of Title 24 of the Louisiana Revised Statutes of 1950.

§16.3. Duties of the commissioner relative to the functionality, content, accessibility, reporting of the website state transparency databases

A.(1) All agencies, boards, commissions, departments, and institutions of higher education, legislature, and judiciary are directed to furnish information, reports, aid, services, and assistance as may be requested by the commissioner of administration in the performance of the commissioner's responsibilities as set forth in this Subpart.

* * *

(3) All state agencies, and higher education agencies, the judicial branch, and the legislative branch which are not maintained on the LaGov statewide enterprise resource planning system shall either:

* * *

(5) Except as otherwise provided in this Subpart, information on the website in the databases shall be updated at least monthly.

* * *

D. The commissioner shall ensure that the website contains the following information relative to all databases as possible and applicable: databases contain all data points that are relevant to the purposes of this Subpart and that are collected in each state agency information system.

(1) All relevant data points that are collected in each state agency information system shall be submitted.

(2) All data points that are capable to be collected in each state agency information system shall be submitted.

§16.4. Duties of the commissioner relative to the expenditure database

A.(1) The commissioner shall ensure the website includes establish an expenditure database that is electronically searchable by the public and contains reporting of expenditures by each budget unit in the executive budget.

* * *

§16.5. Duties of the commissioner relative to the contracts database

A.(1) The commissioner shall ensure the website includes establish a contract database that is electronically searchable by the public.

* * *

B. The contract database shall have the following functionality:

* * *

(4) Provide access or integration into to the database, the Louisiana Checkbook and information from the reports on contracts required by law including:

* * *

§16.6. Duties of the commissioner relative to the payroll database

A.(1) The commissioner shall ensure the website includes establish an employment and payroll database that is electronically searchable by the public.

* * *

C. The employment and payroll database shall include the following content:

* * *

(7) The Louisiana Checkbook shall contain The commissioner may create a separate database but shall provide information regarding the number of authorized positions and the number of vacant positions for each institution of higher education and each budget unit contained in the General Appropriation Act and the Ancillary Appropriation Act.

§16.8. Duties of the commissioner relative to the boards and commission database

A.(1) The commissioner shall ensure the website includes establish a boards and commissions database that is electronically searchable by the public.

(2) All boards and commissions that submit information to commissioner pursuant to R.S. 49:1301, et seq. shall be required to provide information pursuant to this Subpart.

* * *

C. The boards and commissions database shall include the following content:

(1) Membership membership information, employee information, and financial and budget information required by R.S. 49:1302 and R.S. 24:513.2.

(2) Provide a link to or incorporate the annual reports submitted to the legislature by the legislative auditor on boards, commissions, and like entities under R.S. 24:513.2(E).

§16.10. Duties of the commissioner relative to the incentives database

A.(1) The commissioner shall ensure the website includes establish an incentives database that is electronically searchable by the public.

* * *

(3) Such information shall be provided no later than six months after the effective date of such incentive expenditures and shall be updated as needed no less than every twelve months thereafter. The state agencies that administer such programs shall provide, or shall require the beneficiaries of each program to provide, sufficient information to satisfy the requirements of this Subsection. The direct recipient shall assume responsibility for reporting the information required in this Section.

* * *

C. For the incentives database, the administering state agency shall report in each fiscal year the following information:

* * *

(3) The estimated net new jobs and/or payroll, if available.

* * *

(8) The actual total capital investment or actual total state expenditures.

whichever is relevant based upon the incentive expenditure program being reported on if available.

(9) The annual and total actual value of the benefits to such recipient if available.

* * *

§16.12. Duties of the commissioner relative to the performance database

A. The commissioner shall ~~ensure the website includes~~ establish a performance database ~~that is electronically searchable by the public.~~

* * *

§16.13. Compliance auditing

* * *

C.(1) The commissioner shall report agency noncompliance with this Subpart to the Joint Legislative Committee on the Budget on at least a quarterly basis.

(2) The commissioner shall report agency noncompliance with this Subpart to the legislative auditor on at least a quarterly basis. The legislative auditor shall request that any reports of noncompliance be added as an agenda item for the next scheduled Legislative Audit Advisory Committee meeting. Upon request by the commissioner or after six months of noncompliance, the legislative auditor shall intervene to compel compliance.

* * *

Section 4. R.S. 39:16.3(B), 16.4(B), 16.5(B)(1), (2), and (3) and (D), 16.6(B), 16.7, 16.8(B), 16.9, 16.10(B), 16.11, 16.13(D)(2), and 16.14 are hereby repealed in their entirety.

Section 5. The commissioner of administration and the legislative auditor shall establish a transition plan to ensure the effective and efficient transfer of information from the Louisiana Fiscal Transparency Website to the Louisiana Transparency Portal and to effectuate the purposes and requirements of this Act. The commissioner of administration and the legislative auditor shall report progress to the legislature at the close of each quarter until the transition is complete. The commissioner of administration shall have until July 1, 2025, to include any information in a dataset that is required by Subpart D of Part I of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950 that is not included as of July 1, 2023. Prior to July 1, 2026, the legislative auditor is not required to include any information required by Section 1 of this Act on the Louisiana Transparency Portal for any agency which does not maintain data on the LaGov statewide enterprise resource planning system.

Section 6. Notwithstanding any other provision of law to the contrary, between July 1, 2023, and June 30, 2024, after deposits required pursuant to R.S. 39:100.61, the state treasurer is directed to deposit three million five hundred thousand dollars of recurring state general fund revenue as recognized by the Revenue Estimating Conference in excess of the official forecast at the beginning of Fiscal Year 2023-2024 into the Louisiana Transparency Fund.

Section 7.(A) This Section, Section 2, Section 5, and Section 6 of this Act shall become effective upon signature of this Act by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and subsequently approved by the legislature, this Section, Section 2, Section 5, and Section 6 of this Act shall become effective on the day following such approval.

(B) The provisions of Section 1 shall become effective if and when a deposit is made into the Louisiana Transparency Fund.

(C) The provisions of Sections 3 and 4 of this Act shall become effective on July 1, 2026, or the day after the commissioner of administration and the legislative auditor report to the legislature that the transition is complete, whichever is earlier.

Approved by the Governor, June 28, 2023.

A true copy:

R. Kyle Ardoin
Secretary of State
