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Joint Legislative Committee on  
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**2008 First Extraordinary Session  
of the Louisiana Legislature**

**Financial Disclosure**

**Act No. 1** of the 2008 First Extraordinary Session requires certain public officials to file annual financial disclosure statements. The law generally provides three levels of reporting, informally referred to as "tiers." Tier I applies to statewide elected officials, the secretary or chief executive of each department of state government, and certain other executive branch officials.

Individuals in Tier I are generally required to file certain specific information concerning the following for the individual and spouse: (1) occupation and employment; (2) businesses in which the individual or spouse holds certain positions or certain ownership interests; (3) sources of income received by the individual or spouse from the state, a political subdivision, or certain gaming interests; (4) other sources of income in excess of \$1,000 received by the individual or spouse (provides a limited exception for certain information relative to professional or consulting services); (5) immovable property valued at over \$2,000 owned by the individual or spouse; (6) investment securities valued at over \$1,000 (provides exceptions); purchases or sales of immovable property, stocks, and other securities valued at over \$1,000; and (7) liabilities exceeding \$10,000 (provides exceptions). Except for amounts of income received from public sources and gaming interests, amounts are disclosed by category of value. The statement is due by May 15 of each year in which the person holds an office or position in Tier I and during the year following the termination of the holding of the office or position.

Tier II applies to: (1) each member of the state legislature; (2) each person holding a public office who represents a voting district having a population of 5,000 or more persons; (3) each member of the Board of Ethics and the ethics administrator; (4) each member of the State Board of Elementary and Secondary Education; (5) each member of a state board or commission who receives a salary or other compensation for such public service of \$16,800 or more per year; and (6) each member of a state board or commission which has the authority to expend, disburse, or invest \$1,000,000 or more of funds in a fiscal year.

Much of the information required to be reported under Tier II is the same as Tier I, although there are differences in the information required to be reported concerning income, investment securities, purchases and sales, and liabilities. An individual reporting under Tier II may file his statement following May 15 and within 30 days of filing his tax return for the period on which he is reporting so long as he informs the Board of Ethics prior to the May 15 deadline that he will do so. Additionally, the categories of value are different for Tier II.

Tier III covers each person holding a public office who represents a voting district having a population of fewer than 5,000 persons and each member of a state board or commission which has the authority to expend, disburse, or invest more than \$10,000 but

less than \$1,000,000. Individuals reporting under Tier III are only required to report certain income from public and gaming sources.

A candidate is also required to file a financial statement for the office for which he is running. The filing is due within 10 days of the time the person becomes a candidate, a status which may be assumed when the person takes certain actions, including accepting contributions, making expenditures, or qualifying for the election.

Once filed, the financial statements are public records subject to the public records law.

Provides per day late fines for failing to report or failing to accurately report required information, which may be imposed following a 14-day delinquency notice procedure. The Board of Ethics is required to post a list of delinquent filers. Also provides criminal penalties for certain knowing and willful failures.

The reporting requirements for Tier I and Tier II become effective January 1, 2009. The requirement for Tier III becomes effective January 1, 2010.

### **Prohibited Contracts**

**Act No. 2** of the 2008 First Extraordinary Session prohibits legislators, statewide elected officials, certain executive branch officials, the Board of Ethics, and the ethics administrator along with spouses and certain legal entities of such officials from entering into any contract with state government. Also prohibits the immediate family members (other than the spouse) of such officials and certain affiliated legal entities from entering into a contract with state government that is not publicly bid or competitively negotiated through a request for proposal process in accordance with law. The law also applies to former officials for a period of one year following termination of public service. Reporting of allowed contracts with state government is required annually by July 1.

A number of exceptions are provided, including actions taken to comply with state law, certain retail sales, public assistance benefits, admission fees for events open to the public, certain contracts for employment by a licensed health care professional, and agreements for the provision of services by state government provided on the same terms and conditions available to similarly situated persons. The law provides for completion of certain contracts and for renewal under certain conditions.

Also prohibits statewide elected officials, legislators, and certain executive branch officials from entering into certain disaster contracts funded with federal dollars which are appropriated by the state. Also requires reporting of disaster contracts funded with federal dollars. A number of exceptions are provided.

### **Admission to Events**

**Act No. 19** of the 2008 First Extraordinary Session, effective March 10, 2008, replaced the general exception to the ethics code which allowed elected officials to receive certain

things of economic value related to cultural and sporting events with a new, much more restrictive provision which allows an elected official to accept complimentary admission to certain events as follows:

- (1) A civic, non-profit, educational, or political event IF the elected official is a program honoree, a speech presenter, or a panel member.
- (2) A fishing trip, hunting trip, or golf outing IF such trip or outing is associated with a candidate's, elected official's, or organization's fundraising event open to the general public AND the elected official is a program honoree, a speech presenter, or a panel member at such event, trip, or outing.

And which specifically prohibits:

- (1) Admission to any professional, semi-professional, or collegiate sporting event.
- (2) Any fishing trip, hunting trip, or golf outing NOT allowed in (2) above.

### **Meal Limitations**

**Act No. 9** of the 2008 First Extraordinary Session, effective March 30, 2008, provides a limit on the value of food, drink, and refreshment certain persons are allowed to give to public servant.

Present law provisions in the ethics code limit the receipt of food, drink, or refreshment by a public servant to the acceptance of food, drink, or refreshment consumed while the personal guest of the giver. The new provision **restricts** the value of food, drink, or refreshment that a person may give to a public servant to no more than \$50 for single event. Beginning in July of 2009, requires the Board of Ethics to adjust the \$50 limit in accordance with increases in the Consumer Price Index. Provides that the value of food, drink or refreshment given at an event to which a group or organization of public servants is invited shall be determined by dividing the cost of the giving by the number of invitees. Further provides that the limitation does not apply to a gathering held in conjunction with a meeting of a national or regional organization or a meeting of a statewide organization of governmental officials or employees.

### **Ethics Education**

**Act No. 3** of the 2008 First Extraordinary Session, requires each elected official to receive one hour of ethics education and training during each year of the term of office. Requires newly elected officials to receive at least one hour in the first ninety days of office. This is applicable to statewide elected officials, legislators, and public service commissioners now and will be applicable to all other elected officials beginning January, 2010. Beginning in 2009, requires each lobbyist to receive training on the lobbyist disclosure laws and the applicable provisions of the ethics code. Beginning in 2012, requires every public servant to receive at least one year of ethics training each year of public employment or service.

### **Ethics Adjudicatory Board**

**Act No. 23** of the 2008 First Extraordinary Session provides relative to the enforcement of laws within the jurisdiction of the Board of Ethics. Effective August 15, 2008, the Act creates the Ethics Adjudicatory Board, to be comprised of seven administrative law judges randomly selected by the director of the division of administrative law to serve one-year terms. Provides that the adjudicatory board sits in rotating three judge panels to conduct public hearings on those matters which the Board of Ethics, after an investigation, has determined should be adjudicated. Provides that if the adjudicatory panel determines that a violation has occurred, it also prescribes penalties or other sanctions. The law requires the Board of Ethics to issue a decision adopting the decision of the adjudicatory panel within 45 days.

### **Declaratory Ethics Opinions**

**Act No. 24** of the 2008 First Extraordinary Session, authorizes the Board of Ethics to issue a declaratory opinion which declares rights, status, and other legal relations established by the ethics code or other law within the board's jurisdiction. Provides that the purpose of such declaratory opinions is to settle uncertainty and afford relief to a person or agency in matters relating to the laws, opinions, and construction of laws and opinions within the jurisdiction of the board. Provides that such declaratory opinions are decisions of the board and reviewable by the First Circuit Court of Appeal.

### **Board of Ethics/Qualifications**

**Act No. 10** of the 2008 First Extraordinary Session requires that at least 3 of the Governor's appointees to the Board of Ethics be attorneys with at least 8 years of experience. Also requires, each newly appointed ethics board member to be publicly certified by the ethics board staff as having completed a training program regarding all of the provisions of law under the jurisdiction of the board prior to attending a meeting of the board in his official capacity or participating in any capacity as a member of the board.

### **Ethics Education Designees**

**Act No. 11** of the 2008 First Extraordinary Session requires the persons designated by a state agency to provide ethics information to the public servants in that agency to have at least 2 hours of ethics education and training prior to being designated. Requires at least one of those designees in each state executive branch department to be an attorney.

### **Whistleblowers**

**Act No. 5** of the 2008 First Extraordinary Session protects a public employee who reports what he reasonably believes indicates a violation of any law or of any order, rule, or regulation issued in accordance with law or any other alleged acts of impropriety related to the scope or duties of public employment or public office within any branch of state

government or any political subdivision from threats of discipline or reprisal. Present law already provided protection from discipline or reprisal for reporting said such acts of alleged impropriety.

### **Lobbying & Lobbyists**

**Act No. 13** of the 2008 First Extraordinary Session, effective January 1, 2009, requires executive branch and legislative branch lobbyists to electronically register and report monthly lobbying expenditures on executive branch and legislative branch officials and employees and on an official's spouse and minor child. Requires a lobbyist to disclose any business relationship that the lobbyist or his employer (or principal) has or had with such an official or his spouse during the previous 12 months. Additionally requires a lobbyist to report lobbying income by ranges of value and to list each subject matter about which he lobbies. Allows an immediate family member of a legislator to be a registered lobbyist if the person was a registered lobbyist for one year prior to becoming a family member of the legislator or one year prior to the initial election of the legislator. Prohibits such a lobbyist from lobbying the legislator or communicating with any public employee assigned to the district office of the legislator, any public employee whose primary duty is to assist the individual legislator, or, if the legislator is a chairman, any public employee assigned to his committee concerning any matter which may be the subject of action by the legislature.

### **Inspector General**

**Act No. 12** of the 2008 First Extraordinary Session creates the Office of Inspector General in the executive branch of state government to examine and investigate waste, inefficiencies, mismanagement, misconduct, abuse, fraud, and corruption in the executive branch. Requires the Inspector General to receive certification as a Certified Inspector General from the Association of Inspectors General. Provides that the inspector general is appointed for a 6-year term, subject to removal by the governor with concurrence of the legislature.

### **Local Ethics Boards and Inspector Generals**

**Act No. 18** of the 2008 First Extraordinary Session authorizes any municipality governed by a home rule charter which has a population in excess of 250,000 persons according to the latest federal decennial census to create local ethics entities, including but not limited to an ethics review board or office of inspector general or both and to designate the local ethics entity, ethics review board, or office of inspector general as a law enforcement agency. Additionally authorizes the municipality to confer upon the local ethics entity, ethics review board, or office of inspector general all investigative powers and privileges necessary for a law enforcement agency under state law, including access to computer systems, information maintained for the use of law enforcement personnel, and any information contained in the criminal history record and identification file of the Bureau of Criminal Identification and Information.

### **Nepotism**

**Act No. 6** of the 2008 First Extraordinary Session clarifies that a willful violation of the nepotism provisions in the ethics code subjects the agency head, member of the governing authority, the public employee having authority to hire and fire the employee, and the immediate supervisor of the employee to penalties even if such persons are not the immediate family member of the employee in question.

### **Recusal**

**Act No. 8** of the 2008 First Extraordinary Session requires an elected official to recuse himself from voting on a matter which would be a violation of ethics code provisions prohibiting participation in certain transactions involving his governmental entity in which he or an affiliated person or legal entity has a substantial economic interest. However, allows an elected official to participate in discussion and debate concerning the matter if he verbally discloses the nature of his conflict or potential conflict during such discussion and debate and prior to any vote taken on the matter.

### **Circumvention of the Code**

**Act No. 15** of the 2008 First Extraordinary Session prohibits a public servant or other person from transferring any thing of economic value or any asset, interest, or liability to any person or governmental entity for the purpose of circumventing any provision of the ethics code, unless the transfer is irrevocable. Specifies that a transfer shall not be irrevocable if there exists any legally enforceable agreement or authority which if exercised or enforced would require or authorize any asset, interest, or liability transferred by the public servant or other person to revert back to such public servant or other person.

### **Donated legal services**

**Act No. 7** of the 2008 First Extraordinary Session provides an ethics exception to allow public servants to accept free legal services donated by an attorney licensed to practice law in Louisiana pursuant to a program (such as the Wills for Heroes Program) adopted by the Louisiana Bar Association provided that the program is certified by the association to and accepted by the Board of Ethics.

### **Gubernatorial transitions and inauguration activities**

**Act No. 4** of the 2008 First Extraordinary Session limits contributions to the gubernatorial transition and inauguration from any one person to \$10,000. Present law requires a report of contributions to be filed no later than the sixtieth day after inauguration.

### **Candidacy and Ethics**

**Act No. 16** of the 2008 First Extraordinary Session requires each candidate for public office to certify that he does not owe any outstanding ethics fine, fee, or penalty at the time of filing his notice of candidacy. Requires the Board of Ethics to bring an action or join an action objecting to the candidacy of any person who falsely certifies such fact.

### **Use of Campaign Funds**

**Acts Nos. 26 and 27** of the 2008 First Extraordinary Session prohibit a person from using campaign funds to pay ethics fines, fees, or penalties. Further provides with respect to campaign finance fines, fees, or penalties, that only the person who was assessed the campaign finance fine fee or penalty can pay it, either with personal or campaign funds.

### **Campaign Finance Reports**

**Acts Nos. 17 and 25** of the 2008 First Extraordinary Session require certain political committees and candidates for major and district offices to electronically file campaign finance reports. Political committees with \$50,000 or more in contributions or expenditures must begin to electronically file in July of 2009. Major and district office candidate with contributions or expenditures in excess of \$25,000 must begin to file electronically on January 1, 2010, with all major and district office candidates filing electronically beginning January 1, 2012.

### **Canvassing Expenditures/Crime**

**Act No. 27** of the 2008 First Extraordinary Session requires each person, other than a candidate or political committee, who makes an expenditure for purposes of canvassing to submit in writing to the candidate or political committee on whose behalf such expenditure was made the name, address, and the last four digits of the social security number of each individual to whom such an expenditure was made. Provides that it is a felony for any person to commit an intentional criminal violation of requirement to report on expenditures for canvassing, subject to a fine of not more than twice the amount of such expenditure or compensation or imprisonment, with or without hard labor, for not more than five years, or both. Defines "intentional criminal violation" as conduct which establishes that a violator was in the state of mind which exists when the circumstances indicated that the offender actively desired the prescribed criminal consequences to follow his act or failure to act.

### **Electioneering Communications**

**Act No. 14** of the 2008 First Extraordinary Session requires, beginning January 1, 2010, certain broadcasts and political material which refer to a candidate, if authorized by a candidate, to contain a statement to such effect and the name of the person paying for the broadcast or political material, or, if not authorized by the candidate, to contain the full name, physical address, and telephone number, and the world-wide web address (if

available) of the person, committee, entity, or organization paying for the broadcast or political material and state that the communication is not authorized by any candidate.

### **§527 Organizations**

**Act No. 26** of the 2008 First Extraordinary Session, defines all 26 U.S.C.A. §527(c)(1) organizations (which includes all campaign funds) as “political committees” for purposes of the Campaign Finance Disclosure Act and requires such organizations to file the same reports as required for political committees regarding contributors, the amount of contributions, and expenditures. Also requires §527 organizations to file reports during the period beginning at midnight of the 20<sup>th</sup> day prior to an election and extending through midnight of election day containing the full name and address of each person from whom the political organization has received and accepted a contribution, or to whom such organization has made an expenditure during such period in excess of \$250, within 48 hours of such contribution or expenditure.

### **Crimes**

**Act No. 21** of the 2008 First Extraordinary Session increases the penalties for corrupt influencing from imprisonment for not more than five years with or without hard labor or a fine of not more than \$5,000 or both to imprisonment of not more than 10 years with or without hard labor or a fine of not more than \$10,000, or both.

**Act No. 22** of the 2008 First Extraordinary Session creates the crime of abuse of office and provides that no public officer or public employee shall knowingly and intentionally use the authority of his office or position, directly or indirectly, to compel or coerce any person to provide the public officer, public employee, or any other person with anything of apparent present or prospective value when the public officer or employee is not entitled by the nature of his office to the services sought or the object of his demand. Provides the penalties for violations is a fine up to \$5,000 or imprisonment with or without hard labor for not less than one year nor more than five years.

### **Budget Transparency**

**Act No. 20** of the 2008 First Extraordinary Session requires the commissioner of administration to establish and maintain a website which includes reports of state spending including the nature and amount of appropriations, annual salaries and total compensation of statewide elected officials and cabinet-level positions in the executive branch of state government, and the total number in the table of organization for each budget unit. Also requires monthly spending reports of each budget unit to be posted.

## 2008 Second Special Session Legislation

### Tax Legislation

#### House Bill 1 and Senate Bill 7 – Business Utilities

Eliminates the state sales tax “permanent penny” for certain business utilities, including water, electricity, natural gas, and steam, effective July 1, 2008. Provides for a state sales and use tax exclusion for business purchases of propane and butane.

- Current Rates: Water: 3.8%; Steam: 3.8%; Electricity: 3.3%; Natural Gas: 3.3%; Propane and butane: 4.0%
- Proposed Rates for July 1, 2008 – July 1, 2009: Water: 2.8%; Steam: 2.8%; Electricity: 2.3%; Natural Gas: 2.3%; Propane and butane: 0%

After July 1, 2009, if this bill is passed, there will be no state sales and use tax due on Water, Steam, Electricity and Natural Gas. **FISCAL NOTE:** Reduction of \$68 million in FY09 through FY11.

#### Senate Bill 12 – Manufacturer’s Machinery & Equipment

Accelerates the phase-in of the sales and use tax exclusion for purchases of manufacturing machinery and equipment by eliminating the last year of the phase-out.

Current Law Phase-out will be completed on July 1, 2010:

Tax Rate on MM&E: FY 2008 – 54%; FY 2009 – 68%; FY 2010 – 82%

Current Phase-out complete on July 1, 2010.

SB12 will complete the phase-out by July 1, 2009. FY 2008 and FY 2009 tax rates remain the same. **FISCAL NOTE:** \$ 4 million reduction in FY 2010 only. No effect on FY 2009, since that reduction percentage is not changed

### **Senate Bill 5 – School Tuition Deduction**

Authorizes an individual income tax deduction for 50% of the amount of tuition and fees paid or incurred during the taxable year for a student's enrollment in a non-profit, nonpublic elementary or secondary school which complies with the criteria set forth in *Brumfield v. Dodd* or to any public elementary or secondary laboratory school operated by a public college or university.

Additionally, Senate Bill 5 authorizes a deduction for 50% of the amounts paid or incurred during a tax year for textbooks and curricula for home-schooled students, limited to \$5,000 per child.

Lastly, the bill authorizes a deduction for certain educational expenses for a quality public education equal to 50% of the actual amount paid, or \$5,000, whichever is less, per student for the purchase of school uniforms, textbooks, curricula, instructional materials, or school supplies, all as required by the school.

### **Senate Bill 10 – Borrowed Capital**

Accelerates the elimination of borrowed capital from the tax base of corporation franchise tax by eliminating the last year of the phase-out.

Current Law Phase-out will be complete by Jan. 1, 2012.

- Rate of Inclusion of Borrowed Capital in Corporation Franchise Tax Base:  
2008 Tax Year – 58%; 2009 Tax Year – 44%; 2010 Tax Year – 30%

House Bill 3 will complete the phase-out of borrowed capital by January 1, 2011.  
**FISCAL NOTE:** Reduction of \$26 million in FY 2011. No effect on FY 2009 or FY 2010, since those reduction percentages are not changed.

### **House Bill 18 – Federal Stimulus Checks**

Ensures that the receipt of federal income tax rebate stimulus checks by Louisiana taxpayers will not increase their state individual income tax. The issue is the federal income tax deduction that our taxpayers receive on their state individual income taxes. If a taxpayer's federal income tax deduction is decreased, then he has higher taxable income, and therefore a higher tax. **FISCAL NOTE:** No decrease of state revenues.

### **House Bill 9 – Reauthorization of the New Markets Tax Credit**

Authorizes an additional \$50 million in aggregate tax credits for the New Markets Tax Credit program. Provides for \$25 million in credits to be allocated between July 1, 2008 and December 31, 2008, \$12.5 million in 2009, and \$12.5 million in 2010. Reduces the total credit amount for a single business from \$15 million to \$5 million. Provides for a \$15 million limit for certain businesses that are consistent with Department of Economic Development target industries.

### **Senate Bill 7 – Newspaper Manufacturing Machinery and Equipment Exemption**

Re-defines "manufacturer" for purposes of the manufacturing machinery and equipment sales tax exclusion for persons within NAICS Code information Sector 511110 if they are required to register with the Department of Labor for unemployment insurance purposes and are assigned such sector number. Currently such persons receive the exemption only if they are not required to register with the Department of Labor for unemployment insurance purposes.

## **Legislation relating to expenditures and state funds**

### **House Bill 46 - Appropriation of surplus state general fund revenues from FY06-07**

HB 46 contained appropriations totaling \$1.015 B, which included:

- \$500 M for roads, bridges and ports
- \$300 M for coastal restoration and levee repairs
- \$75 M for repairs at state colleges and universities
- \$60 M for extra payments on the unfunded accrued liabilities of the state employees' and teachers' retirement systems
- \$57 M for the Cyber Command Center Project in Bossier City
- \$50 M for expansion and improvements at Pennington Biomedical Research Center

### **House Concurrent Resolution 1 - Increased the expenditure limit to permit use of surplus monies**

HCR1 increased the FY07-08 expenditure limit from \$11.599 B to \$12.614 B

### **Senate Bill 11 - Dedication of state sales taxes on cars and trucks and also motor vehicle license taxes on trucks and trailers for expenditures related to highways and ports**

SB 11 establishes the dedication of these revenues, with the first year estimated to generate about \$42 M in new monies dedicated for highway projects. After full implementation (7 years out), the annual amount will be \$350 M.