

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

CHAPTER 2 – STATE GOVERNMENT FUNCTIONS

**Part A. State Government Finance
State Revenue Sources**

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

Revenues Collected by Department of Revenue

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

Sales and Use Tax

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

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

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

Income Taxes

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

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

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

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

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

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

Severance Taxes

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

Gasoline and Special Fuels Taxes

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

Tobacco, Alcoholic Beverage, and Beer Taxes

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

Cigars – Manufacturer's invoice price per thousand

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

Cigarettes – 36¢ per package of 20

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

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

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

Liquor - 66¢ per liter

Sparkling Wines - 42¢ per liter

Still Wines -

Alcoholic content 24% or above - 42¢ per liter

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

Alcoholic content 14% and under - 3¢ per liter

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

Corporation Franchise Tax

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

All Other Taxes Collected by the Department of Revenue

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

Revenues Collected by Department of Natural Resources

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

Revenues Collected by Department of the Treasury

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

Revenues Collected by Department of Insurance

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

Revenues Collected by Department of Public Safety and Corrections

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

Sales and Use Tax - Motor Vehicles

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

Motor Vehicle Licenses

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

Certificates of Title

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

Riverboat Gaming

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

Video Draw Poker

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

Race Track Slot Machines

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

Part A. State Government Finance Debt Structure of the State

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

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

Constitutional Provisions – General

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

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

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

State Bond Commission

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

Debt Limits

Statutory Limits on General Obligation Bond Debt

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

Limitation on Issuance of Net State Tax Supported Debt

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

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

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

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

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

Self-Imposed Limit on General Obligation Debt

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

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

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

Bond Ratings

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

Louisiana Bond Ratings - Historical Perspective

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

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

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

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

Treasury and Treasury Administration

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

Bond Security and Redemption Fund

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

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

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

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

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

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

Part A. State Government Finance The State General Fund

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

Dedicated Funds

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

Self-Generated Revenues

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

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

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

Agency Ancillary Funds

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

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

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

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

Revenue Sharing

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

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

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

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

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

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

Investment of State Funds

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

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

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

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

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

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

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

Part A. State Government Finance The Appropriation Process

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

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

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

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

Appropriations are made within the following constitutional framework:

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

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

Operating Budget Development

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

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

Revenue Estimating Conference

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

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

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

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

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

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

Government Performance and Accountability

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

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

Expenditure Limit

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

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

Executive Budget

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

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

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

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

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

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

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

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

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

Executive Budget

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

and non-discretionary spending.

Supporting Document

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

Legislative Procedure

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

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

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

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

Additional Information Required for Appropriation Bills

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

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

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

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

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

Restrictions on "One-Time Money"

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

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

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

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

Other Appropriation Bills

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

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

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

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

Avoidance of Budget Deficits in Budget Development

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

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

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

Actions Following Enactment of Appropriations

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

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

State Budget

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

Operating Budget Execution

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

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

Transfer of Funds

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

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

Remission of Balances

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

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

Avoidance of Deficits

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

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

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

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

Elimination of Year-End Deficits

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

Reductions to State Supplemental Pay and the Minimum Foundation Program

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

Annual Financial Statement

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

Joint Legislative Committee on the Budget

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

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

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

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

Legislative Fiscal Office

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

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

Legislative Auditor

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

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

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

Legislative Actuary

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

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

Interim Emergency Board

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

Part A. State Government Finance The Capital Outlay Process

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

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

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

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

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

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

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

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

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