

HOT TOPICS 2015

The following is a listing of *possible* "hot topics" for 2015. Beginning on the next page, items are listed by committee and in no particular order of priority. The inclusion of items herein does not mean that legislation is anticipated, but rather that the issue has received sufficient public comment to justify a belief that the legislature, as representatives of the public, *may* address the issue in 2015.

Hot Topics	Page
Auto Repairs	18
"Ban the Box"	21
Billing of Sexual Assault Victims by Hospitals	14
Changes to the Office of Group Benefits	5
Civil Procedure	8
Common Core State Standards and Related Assessments	12
Controlled Dangerous Substances	10
Cost of Criminal Defense	10
Cybersecurity and Data Privacy	9
Defined Benefit vs. Defined Contribution Plans	23
Domestic Violence	10
Firearms Regulation	10
Full Transition of Louisiana's Medicaid Program to Managed Care	14
Funding for Higher Education	6
Funding for Transportation Infrastructure Projects	24
GASB Statement Nos. 67 and 68	23
Health Insurance Exchanges	17
Higher Education Tuition	6
Immigration	19
International Plumbing Code	9
Law Enforcement Authority	19
Licensing of Claims Adjusters	17
Limitation of Liability	8

Mineral Rights/Property Rights	8
Minimum Foundation Program (MFP)	5
Minimum Wage Increases	21
Net Metering	9
Net State Tax Supported Debt Limitation	4
Ongoing Violations of the 2013 Louisiana Supreme Court Ruling (Violation of Non-Delegation Doctrine)	3
Out-of-State Prescriptions for Controlled Dangerous Substances	15
Pay Equality	22
Raw Milk	3
Ridesharing Companies	17
Self-Driving Automobiles	24
State Revenue Outlook	4
Student Data/Privacy	12
Tax Expenditures	25
Tax Legislation in General - Tax Exemptions/Deductions/Credits	25
Taylor Opportunity Program for Students (TOPS)	7
Teacher Evaluation	12
Telehealth Services and Telemedicine	15
Transportation Backlog	7
Use of Unmanned Aerial Vehicles in Agriculture	3

Agriculture Committee

Contact: Marsha Theis Jabour at (225) 342-6153 or email jabourm@legis.la.gov

- **Use of Unmanned Aerial Vehicles in Agriculture**
 - **Ongoing Violations of the 2013 Louisiana Supreme Court Ruling (Violation of Non-Delegation Doctrine*)**
 - **Raw Milk**
-

Use of Unmanned Aerial Vehicles in Agriculture

The commercial use of Unmanned Aerial Vehicles (UAVs or drones) may be a critical tool for farmers to obtain timely crop data for more efficient production and provide a lift to the agriculture sector of the economy. UAVs equipped with cameras, sensors, or other types of technology provide invaluable data for farmers to assess and increase crop yield, tailor the use of pesticides, herbicides, and fertilizers, and manage water resources, as well as other applications collectively known as "precision agriculture." A recent study commissioned by the Association of Unmanned Vehicle Systems forecasts an economic impact in Louisiana in the years 2015 through 2017 of \$213 million with more than 1,000 jobs created. However, the Federal Aviation Administration is in the process of gathering public comments nationwide, and the earliest expected change in policy for the commercial use of drones may be more than a year away.

Ongoing Violations of the 2013 Louisiana Supreme Court Ruling (Violation of Non-Delegation Doctrine*)

In October of 2013, the Louisiana Supreme Court struck down an assessment on rice produced in Louisiana as a violation of the non-delegation doctrine. Prior to this ruling, the power to impose the assessment, determine the amount of the assessment, and repeal the refund provisions rested entirely in the hands of the rice producers. Four Acts of the 2014 Regular Session restructured several "check-off" programs in order to continue to support and fund research and promotion of certain commodities; however, there remain similar laws within Title 3 of the Louisiana Revised Statutes that may need to be amended to comply with the court ruling.

*The court ruled that the legislature improperly delegated its assessment power to a private group.

Raw Milk

An issue that continues to spark interest from both proponents and opponents is the sale of raw, unpasteurized milk from the farmer directly to the consumer. During consideration of HB No. 1279 of the 2014 Regular Session, risks and benefits associated with consuming raw milk and raw milk products were passionately debated by both sides of the issue. HB No. 1279 successfully passed out of the House of Representatives but failed to garner the necessary votes to be reported favorably out of the Senate Health and Welfare Committee.

Appropriations Committee

- **State Revenue Outlook**
 - **Net State Tax Supported Debt Limitation**
 - **Changes to the Office of Group Benefits**
 - **Minimum Foundation Program (MFP)**
 - **Funding for Higher Education**
 - **Higher Education Tuition**
 - **Taylor Opportunity Program for Students (TOPS)**
 - **Transportation Backlog**
-

State Revenue Outlook

Contacts: Peter Conroy at (225) 342-6292 or email at conroy@legis.la.gov or Nancy Keaton at (225) 342-8596 or email at keaton@legis.la.gov

While revenues are projected to increase slightly in Fiscal Year (FY) 2015-2016, an increase in projected continuation expenditures is causing a projected revenue shortfall of approximately \$1.6 billion for FY 2015-2016. The governor is required to submit a balanced budget to the legislature, so discussions in the coming session will include how the governor balanced the budget with available revenue.

Several factors make the shortfall more difficult to face in the coming year. Approximately \$1 billion in nonrecurring revenue that is funding current year needs is not projected to materialize in the next fiscal year. Also, the Revenue Estimating Conference (REC) is now officially forecasting, and sometimes designating as non-recurring, certain revenues that have been used in prior years to balance the budget. Revenues that are designated as non-recurring by the REC are not available for use in the operating budget. Finally, \$1.6 billion is more than half of the \$2.6 billion in discretionary state general fund expenditures in state government.

Net State Tax Supported Debt Limitation

Contacts: Peter Conroy at (225) 342-6292 or email at conroy@legis.la.gov or Nancy Keaton at (225) 342-8596 or email at keaton@legis.la.gov

Act 419 of the 2013 Regular Session clarified that all statutory dedications and fees and self-generated funds (with the exception of fees and self-generated funds for higher education) must be recognized by the REC in order to be appropriated and further clarified that all revenues recognized by the REC should be deemed recurring or non-recurring. As with most laws, there were unforeseen consequences of the implementation of Act 419. One consequence that has arisen from the implementation of Act 419 is an increase in the amount of net state tax supported debt (debt limit). The Constitution of Louisiana prohibits the state from issuing debt if it will cause the debt service to exceed 6% of the state general fund and dedicated funds included in the official forecast adopted by the REC at the first meeting after the beginning of the state fiscal year (the state fiscal year begins July 1). Previously, the REC forecast state general fund and a limited number of statutory

dedications. After Act 419 went into effect, the statutory dedications forecast increased by roughly \$3.5 billion resulting in a higher forecast number used to calculate the 6% debt limit, and therefore additional debt limit capacity.

In July 2014, Governor Jindal issued an Executive Order prohibiting executive branch agencies from requesting or approving debt issuances that would increase the debt limit above what it would be without the effect of Act 419. The order is only effective for one year to give the legislature time to examine the effects of Act 419 and to pass laws regarding the debt limit calculations. In August 2014, the State Bond Commission passed a resolution indicating that they would not approve any debt if by issuing it the amount of money needed for the debt service would exceed 6% of the REC forecast as determined prior to the effective date of Act 419 (July 1, 2013).

Changes to the Office of Group Benefits

Contacts: Peter Conroy at (225) 342-6292 or email at conroy@legis.la.gov or Nancy Keaton at (225) 342-8596 or email at keatonn@legis.la.gov

Over the past several years, premiums collected by the Office of Group Benefits have not covered the costs of the plans offered. As a result, the OGB reserve fund has dropped from a high of \$500 million to a projected \$119 million by the end of FY 2014-2015.

Since July 1, 2014, numerous changes have been made or proposed to the plans offered and the premiums charged to state employees (active and retired) by the Office of Group Benefits (OGB) to prevent the fund balance from declining further. Originally, these changes were proposed without public input and an opportunity for legislative oversight. An Attorney General Opinion issued in September clarified that modifications to health plans must be in accordance with the Administrative Procedure Act procedures. Many legislators questioned how the fund balance dropped, if the procedures required in law for making plan and premium changes needed to be changed, and how the problems could be avoided in the future.

Minimum Foundation Program (MFP)

Contact: Tim Mathis at 225-342-9101 or email at mathist@legis.la.gov

During the 2014 Regular Session, the legislature approved the Minimum Foundation Program (MFP) that funds public K-12 education at \$3.6 billion. This amount provides a 2.75% increase from the previous year in the base per pupil cost, and ensured additional funding for new educational initiatives.

In December 2014, the MFP Task Force approved a set of policy recommendations estimated to cost \$75 million for the Board of Elementary and Secondary Education (BESE) to consider when developing the Fiscal Year 15-16 MFP. These recommendations include a 2.75% increase in base per pupil cost, \$5.4 million in new funding to meet the needs of students requiring high cost special education services, and increasing the per pupil cost for dual enrollment and other course choices. Providing additional funding for the MFP will be particularly challenging in the 2015 session as

legislators work to pass a budget that addresses a \$1.6 billion shortfall projected for the upcoming fiscal year.

Funding for Higher Education

Contact: Willis Brewer at 225-342-1964 or email at brewerw@legis.la.gov

With a \$1.6 billion shortfall projected for Fiscal Year (FY) 2015-2016, the state will be challenged to maintain a level of state funding that keeps Louisiana's colleges and universities competitive with those in other states. Since FY 2008-2009, state general funding for higher education has been reduced by approximately \$700 million. While much of this reduction has been offset with increases in student tuition rates that were below the average tuition rates across the south, the total funding for higher education is still lower than it was in FY 2008-2009.

Also, higher education's discretionary state funding accounts for approximately 30% of the total discretionary state dollars, which is second only to the Department of Health and Hospitals at 43%. With the passage in November 2014 of the constitutional amendments which limit the reductions to healthcare funding and the greater impact from state reductions to Medicaid due to the federal match, higher education's state funding becomes more exposed to potential reductions.

Higher Education Tuition

Contact: Willis Brewer at 225-342-1964 or email at brewerw@legis.la.gov

Several issues regarding tuition at the Louisiana's higher education institutions may be a topic of discussion during the upcoming session.

When an institution of higher education raises tuition, the institution projects how much they will collect and gets additional budget authority based on the projection. If the actual tuition that is collected is below the budgeted amount, the institution comes up short in revenues and has to find a way to make up the difference. For example, in Fiscal Year (FY) 2013-2014, the actual student fees collected for all of higher education was just over \$1 billion, which was \$26.6 million less than the budgeted amount.

Additionally, FY 2015-2016 is the last year an institution, if eligible, will be allowed to raise tuition under the LaGRAD Act so there may be some discussion regarding the future of the LaGRAD Act. Other items that may be discussed during the upcoming session to provide financial support or flexibility to the institutions regarding tuition include:

- Granting tuition authority to the Board of Regents or higher education management boards. Currently, except within the LaGRAD Act, only the legislature has the authority to change tuition charges.
- Charging different tuition based on the degree program. For example, higher cost degrees might cost more in tuition.
- Charging tuition per credit hour after 12 hours. Currently, tuition costs are capped at 12 hours a semester, so a student taking 12 hours pays the same tuition as a student taking 15 hours.

Taylor Opportunity Program for Students (TOPS)

Contact: Willis Brewer at 225-342-1964 or email at brewerw@legis.la.gov

Taylor Opportunity Program for Students (TOPS) is projected to grow to approximately \$250 million in Fiscal Year 2015-2016, an increase of \$34.3 million above the current year. The growth is mostly a result of tuition increases. Additionally, \$22 million from the TOPS Fund that is currently financing the program from tobacco settlement refinancing that will not be available in FY 2015-2016 will need to be replaced with another revenue source.

Options for altering or modifying the TOPS program as a result of the cost growth may be a topic for discussion in the upcoming legislative session. Recommendations from the recent Board of Regents Tuition Task Force, education leaders, policymakers, study groups, and others include:

- Raising TOPS eligibility standards.
- Capping the TOPS award amount.
- Using any balance in funding as a result of changes to the TOPS Program for GO Grants.

Transportation Backlog

Contact: Daniel Waguespack at 225-342-7477 or email at waguesd@legis.la.gov

Louisiana faces over a \$12 billion backlog of state highway system needs. Transportation and infrastructure funding continues to be of concern among policy leaders, stakeholders, and the general public. The state's transportation system is largely funded by federal funds and by a 20 cents per gallon state tax on gasoline and motor fuels that is constitutionally dedicated to the Transportation Trust Fund (TTF). The 20 cents is comprised of a 16 cents per gallon gasoline tax and an additional 4 cents per gallon gasoline tax for the sole purpose of completing projects in the Transportation Infrastructure Model for Economic Development (TIMED) Program.

The cause for concern is over the state's 16-cent gas tax being a flat, non-indexed tax that has consistently lost buying power from when the tax increased to its current amount in 1984. Due to inflation and rising construction costs, the state's 16-cent gas tax has a current day buying power of approximately 7 cents. Like the state's gas tax, the federal gas tax has lost ground to inflation and construction costs since its last increase in 1993. Another potential concern is that the 4-cent gasoline tax dedicated to the TIMED program is insufficient to cover the TIMED debt service payments. Monies from the Transportation Trust Fund's 16 cents per gallon revenue stream will be needed for TIMED debt service payments in future years. Some estimates indicate roughly 1 cent out of the 16-cent tax revenue is needed to cover the cost.

House Concurrent Resolution No. 166 of the 2014 Regular Session created and charged the Transportation Funding Task Force to study and make recommendations relative to transportation funding mechanisms to be used in the state and to report their findings to the House Committee on Transportation, Highways and Public Works and the Senate Committee on Transportation, Highways and Public Works. The task force met several times from September 2014 to January 2015.

Civil Law & Procedure Committee

Contact: Robert Singletary at (225) 342-6146 or email singletr@legis.la.gov

- **Civil Procedure**
 - **Limitation of Liability**
 - **Mineral Rights/Property Rights**
-

Civil Procedure

Limitations on the availability of jury trials is of interest each legislation session. Numerous bills were introduced in the 2014 Regular Session attempting to raise or lower the required dollar amount in controversy in order to be entitled to a jury trial. The Louisiana Association of Business and Industry has indicated in several publications and news articles that they intend on pursuing this legislation in the upcoming session.

Limitation of Liability

Each year, a multitude of bills are introduced in an attempt to limit the liability of various governmental and private organizations. Some of the most common limitation of liability topics involve the state's liability for such things as road hazards, municipalities and parishes for events and festivals, and doctors' and other medical professionals' liability for acts of medical malpractice. Most recently, the liability of oil and gas companies for damages to the coast is being litigated and has become a "hot topic".

Mineral Rights/Property Rights

Since the discovery and development of the Haynesville shale natural gas fields and the Tuscaloosa oil shale, many issues and questions regarding both mineral rights and other property rights have become "hot topics". The issues of royalty payments and determining ownership and boundaries of tracts of rural land have become of increased interest with the prospect of income from mineral royalties.

Commerce Committee

Contact: Rashida Keith at (225) 342-5100 or email keithr@legis.la.gov

- **Net Metering**
 - **International Plumbing Code**
 - **Cybersecurity and Data Privacy**
-

Net Metering

Net metering is a billing mechanism that requires electric utilities to credit solar energy system owners for electricity added to electric grids. The added electricity is the electricity produced by systems in excess of what the owners actually use. The excess energy is credited to an owner's utility bill, saving the owner money during times of heightened energy use. The excess electricity may also be sold by the utility to other customers, which is effectively a retail sale of energy.

Discussions in other states center around the notion that owners of net metering systems may be overcompensated. Electric utilities assert that some net metering homeowners receive a price for their excess power at or near the price the electric utility charges its other retail customers (retail price), instead of receiving a price equal to the amount of money saved by the electric utility that sells the excess solar energy in lieu of producing its own (avoided cost).

International Plumbing Code

Act No. 836 of the 2014 Regular Session replaced the state's plumbing code, as promulgated with the Department of Health and Hospitals, with the International Plumbing Code, as promulgated by the Louisiana State Uniform Construction Code Council (council). While the council is currently evaluating, adopting, and amending the latest edition of the International Plumbing Code, the Plumbing Transition Commission is meeting regularly to provide the council with its amendments to the plumbing provisions of the International Plumbing Code. Industry professionals and stakeholders are greatly interested in the changes to the code that will become effective January 1, 2016.

Cybersecurity and Data Privacy

Due to increased cyber threats such as breaches into major retailers and encryption vulnerability, Congress, federal government agencies, and private companies are making a collective effort to increase national cybersecurity. Legislation passed during the 113th Congress (2014) was aimed at improving the federal government's protection of its own networks. To protect consumers, 2015 federal policy initiatives and legislative proposals will include the following:

- Increasing the sharing of cybersecurity information between the government and private companies.
- Strengthening law officials' ability to investigate and prosecute cybercriminals.
- Establishing a federal mandate for hacked companies to disclose breaches to employees and customers who may be affected.

Criminal Justice Committee

*Contacts: Greg Riley at (225) 342-2422 or email rileyg@legis.la.gov or
Kelly Fogleman at (225) 342-6281 or email foglemank@legis.la.gov*

- **Firearms Regulation**
- **Controlled Dangerous Substances**
- **Domestic Violence**
- **Cost of Criminal Defense**

Firearms Regulation

Firearms regulation continues to be a "hot topic" for the legislature. In 2012, the people of the state of Louisiana ratified a change to the Louisiana Constitution which stated that the right to keep and bear arms is a fundamental right which shall not be infringed. Additionally, the amended constitution provided that any restrictions on the right to keep and bear arms shall be subject to strict scrutiny. The change has resulted in constitutional challenges to various firearms provisions in Louisiana law. Anticipated legislation include legislation to both restrict carrying of firearms in various locations and the expanded authorization to carry firearms in various locations.

Controlled Dangerous Substances

This area of law continues to change and remains a "hot topic" for the legislature. On October 29, 2014, the Department of Health and Hospitals adopted an emergency rule adding a new synthetic marijuana compound called "MAB-CHMINACA" to the list of controlled dangerous substances. This new compound is the latest in a series of synthetic compounds producing hallucinogenic effects. Anticipate the legislative response to this rule of adding these compounds and possibly others to existing controlled dangerous substances laws.

Domestic Violence

After substantial legislation last year on the process by which protective orders are issued, transmitted, and entered into the Louisiana Protective Order Registry and legislation to prohibit persons subject to a protective order relative to domestic abuse and persons convicted of domestic abuse battery from possessing a firearm, domestic violence continues to be a "hot topic" for the legislature in 2015. Act No. 663 of the 2014 Regular Session created the Domestic Violence Prevention Commission and requires the commission to review domestic violence programs and services, to make recommendations with respect to domestic violence prevention and intervention, and to annually issue a report of its findings and recommendations with the first of such reports to be issued February 1, 2015.

Cost of Criminal Defense

In 1983, Louisiana's laws against racketeering activity were enacted for the specific purpose of prosecuting drug racketeering activity and related organizations or enterprises. Over the next 30 years, these provisions were expanded to include other criminal activity in an effort to prosecute

groups of people in gangs or groups suspected of committing violent crimes. Most recently, legislation has expanded the racketeering statute to include activities involving human trafficking, trafficking of children for sexual purposes, and commercial sexual exploitation. According to a recent article in *The Advocate*, prosecutors have used Louisiana's racketeering statute with increasing frequency over the past few years as a tool to combat gang-related activity and as a means to "get at higher ranking individuals in an organization who might be more difficult to hold accountable for the group's [criminal] activities." (Gyan Jr., Joe. 2015, January 11. Defending accused racketeers creates new stress on judiciary. *The Advocate*.) The article goes on to state that use of the racketeering statute has put "mounting pressure on some parish criminal justice systems" and "cash-strapped public defenders" tasked with representing defendants who cannot afford to hire their own attorneys." *Id.* The issue of funding public defenders may be an issue during the upcoming session.

Education Committee

Contacts: Elizabeth Borné at (225) 342-7339 or email bornee@legis.la.gov or Nancy Jolly at (225) 342-7340 or email jollyn@legis.la.gov

- **Common Core State Standards and Related Assessments**
 - **Student Data/Privacy**
 - **Teacher Evaluation**
-

Common Core State Standards and Related Assessments

Legislation will likely be introduced in the upcoming session to again address the issue of Common Core State Standards (CCSS) and the related student assessments (Partnership for Assessment of Readiness for College and Careers-PARCC). These may include bills to prohibit further implementation of CCSS and PARCC, to provide for the development of new standards and assessments, and to require legislative approval of such standards and assessments.

After adjournment of the 2014 Regular Session, Governor Jindal announced his opposition to the CCSS. He stated that "... it is only right to allow the Louisiana Legislature and Louisiana parents and teachers the chance to take a second look at these tests and standards to ensure they make sense for our state." Also following the session, various lawsuits were filed (including one by a group of legislators) over issues related to the implementation of CCSS and the related PARCC tests. Final actions by the courts on most of these cases are pending. Meanwhile, implementation of the CCSS is ongoing in Louisiana and the PARCC assessments are scheduled to be administered to students beginning in March.

Student Data/Privacy

It is anticipated that legislation will be introduced in the upcoming legislative session with regard to the collection, storage, and sharing of student data by and with the state Department of Education, the State Board of Elementary and Secondary Education, local school boards, and other public and private agencies or entities. Legislation was passed in the 2014 Regular Session (Act Nos. 837 and 677) to address these issues – all as it relates to the protection of a student's right to privacy. Those involved with the implementation of these laws, including local school board representatives and state Department of Education personnel, are working together to compile changes that may be needed (through further legislation) to provide for a smoother and more efficient implementation.

Teacher Evaluation

State law requires the annual, formal evaluation of every public school teacher and administrator through the professional employee evaluation program. Act No. 240 of the 2014 Regular Session required the convening of a subcommittee of the State Board of Elementary and Secondary Education's Accountability Commission to report on and make recommendations regarding the overall effectiveness of this program, including recommendations for changes to state law or policy relative to the value-added assessment model (VAM), growth measures, elements of evaluation, and

standards for effectiveness. This subcommittee has been meeting during the interim, and its final meeting is scheduled for early February. Legislation based on the subcommittee's recommendations may be introduced in the upcoming legislative session.

Health and Welfare Committee

Contacts: Brandi Cannon at (225) 342-2417 or email cannonb@legis.la.gov or
Drew Murray at (225) 342-8601 or email murrayd@legis.la.gov

- **Billing of Sexual Assault Victims by Hospitals**
 - **Full Transition of Louisiana's Medicaid Program to Managed Care**
 - **Out-of-State Prescriptions for Controlled Dangerous Substances**
 - **Telehealth Services and Telemedicine**
-

Billing of Sexual Assault Victims by Hospitals

In September of 2014, news reports began to highlight the problem of victims of rape and other forms of sexual assault being billed by Louisiana hospitals for treatment necessitated by the attacks on the victims. Since that time, several meetings have occurred between state legislators, legislative staff members, officials at the Department of Health and Hospitals, governor's office staff, local officials, and sexual assault survivor advocates to ascertain the nature of this multifaceted problem and possible solutions to it. Opportunities exist for various legislative remedies to the problem, including amendments to the laws relative to emergency room procedures for treating rape victims (R.S. 40:2109.1, last amended in 1984), and administration of the Louisiana Crime Victims Reparations Fund.

Full Transition of Louisiana's Medicaid Program to Managed Care

In June of 2011, Louisiana's Medicaid program began a major shift away from a fee-for-service payment model toward an insurance-based managed care model when the Department of Health and Hospitals (DHH) established a coordinated care network program - now called Bayou Health - by administrative rule. In the fee-for-service system (in place since the inception of the state's Medicaid program in 1966 and now referred to by the department as "legacy Medicaid"), DHH pays healthcare providers and facilities for treating Medicaid enrollees according to an established set of rates for health services. Through the managed care system, DHH now contracts with private insurance companies which coordinate care for certain Medicaid enrollees and pay provider claims.

Bayou Health began operating on a statewide basis in 2012. Initially, the program covered physical health services only and excluded the populations that account for the greatest share of Medicaid spending (those being the aged, persons with disabilities, and persons receiving care in nursing homes and other institutions). Since the inception of Bayou Health, DHH has moved incrementally to institute managed care for additional populations and services, beginning with the Behavioral Health Partnership, which provides mental health care and addiction treatment, and is slated to become part of Bayou Health by the end of 2015. Additional Medicaid services on track to transition to managed care are those of the department's Office of Aging and Adult Services and, finally, those of the Office for Citizens with Developmental Disabilities through a system known as Managed Long-Term Supports and Services (MLTSS). Barring any unforeseen circumstances which would prevent the department from including any groups or classes of Medicaid enrollees in managed care,

with the anticipated establishment of MLTSS in mid-2016, the entirety of Louisiana's Medicaid program will be operated through managed care coordinated by private insurance companies that contract with the state.

Though privatized managed care has existed within state Medicaid programs for over 30 years, no consensus exists on whether anything inherent in the model produces cost savings or improved health outcomes on a program-wide basis. In an effort to discern whether Louisiana is achieving desired fiscal and public health outcomes from Medicaid managed care initiatives, the legislature passed a bill in 2011 (SB No. 207) and in 2012 (SB No. 629) calling for greater transparency in Medicaid managed care, but the governor vetoed the measure each year before signing it into law as Act No. 212 of the 2013 Regular Session (which originated as SB No. 55). Further, administration officials have publicly taken issue with findings by the Louisiana Legislative Auditor criticizing certain aspects of DHH's operations and oversight with respect to managed care contractors; and with challenges by the Legislative Fiscal Office to reports by the department of Medicaid cost savings resulting from managed care. The state's brief experience with Medicaid managed care has thus been marked by some contention between the executive and legislative branches, which will likely persist at some level as the state continues to transition Medicaid fully into a managed care model.

Out-of-State Prescriptions for Controlled Dangerous Substances

Act No. 865 of the 2014 Regular Session prohibits Louisiana pharmacies from dispensing more than a 10-day supply of a Schedule II or Schedule III opioid derivative drug (commonly prescribed for pain management) if the prescribing physician is not licensed in this state. Some Louisiana residents have expressed concern about the unintentional impact of this law on persons who receive treatment from a healthcare provider in another state – MD Anderson Cancer Center in Houston being the most frequently cited example – but no longer have access in Louisiana to an adequate supply of the medications they have been prescribed. Concerns over this issue are most pronounced among patients and pharmacies near Louisiana's borders with neighboring states. This issue highlights the challenge inherent in efforts to regulate the pain management industry, and in addressing the mounting public health and safety issues that result from overprescribing and abuse of opioid drugs.

Telehealth Services and Telemedicine

Act No. 442 of the 2014 Regular Session modernized state laws relative to the practice of telemedicine, which had last been amended in 2008. Since that time, rapid technological advances have made new forms of treatment and modes of health service delivery possible; which, in turn, have necessitated updates in laws and regulations to allow for access to medical care through telemedicine while ensuring patient safety and care quality. The 2014 legislation also established a definition of "telehealth" for the first time in state law. Distinct from the more limited "telemedicine," which only a physician can perform as it constitutes the practice of medicine, "telehealth," per Act No. 442, is a broader term meaning any healthcare delivery that utilizes information and communication technologies to enable diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from the healthcare providers that serve them. Further, Act No. 442 required the state boards that license and regulate healthcare professions to institute regulatory reforms that will accommodate telehealth service delivery within each profession's existing scope of practice. These regulatory reforms are expected to be ongoing

at the time the 2015 Regular Session convenes. Beyond monitoring changes in healthcare delivery resulting from Act No. 442, other aspects of telehealth for the legislature to consider going forward are establishing technical standards for delivery systems, identifying and addressing barriers to telehealth expansion, and instituting insurance coverage reforms.

Insurance Committee

Contacts: Theresa Ray at (225) 342-0484 or email rayt@legis.la.gov or
David Marcased at (225) 342-2379 or email marcased@legis.la.gov

- **Licensing of Claims Adjusters**
 - **Ridesharing Companies**
 - **Health Insurance Exchanges**
 - **Louisiana v. State Farm Lawsuit**
-

Licensing of Claims Adjusters

The Insurance Code (Title 22 of the Louisiana Revised Statutes) provides for the licensing of claims adjusters by the Department of Insurance. Louisiana residents obtain a "resident" license by completing the requirements set forth in R.S. 22:1665, including taking an examination regulated by the commissioner of insurance. Nonresident claims adjuster license reciprocity is provided by R.S. 22:1669 and 1670, for adjusters who obtain a license in another state and then become Louisiana residents. These adjusters are exempted from taking the Louisiana examination if they took an exam in the licensing state. Approximately 500 Louisiana residents have taken advantage of a loophole to obtain their Louisiana claims adjuster license by obtaining their license in other states that may have easier licensing tests and do not require those obtaining their license to be residents of the state, and then using the out-of-state license to obtain their Louisiana license through the nonresident claims adjuster reciprocity, bypassing the harder Louisiana claims adjuster licensing examination.

Ridesharing Companies

Ridesharing companies, such as Uber or Lyft, allow the owner of a vehicle to earn extra income by providing transportation to others for a fee. The arrangements are typically made through use of a ridesharing "app." The owner of the vehicle is considered an independent contractor, not an employee of the ridesharing company.

The typical personal automobile liability policy excludes coverage for a vehicle when it is used as a livery service. However, Louisiana jurisprudence holds that business use exclusions contained in personal automobile liability policies are void as a matter of public policy if excluding coverage for use of the policyholder's own automobile. Possible issues include whose insurance, if any, provides coverage if the car is involved in an accident, and whether the livery use exclusion effectively acts as a business use exclusion in this particular situation, and is therefore void as against public policy.

Health Insurance Exchanges

On March 4, the United States Supreme Court will hear arguments in *King v. Burwell*, the legal challenge to the granting of Affordable Care Act (ACA) subsidies for policies purchased on the federal health insurance exchange. The plaintiffs contend that the ACA's explicit language provides subsidies for policies issued on a state exchange only, and therefore granting subsidies to policies

purchased on the federal exchange violates the ACA. The IRS currently interprets the ACA as providing subsidies for all policies purchased on an exchange, regardless of whether the policy is issued by a state exchange or by the federal exchange. A ruling in favor of the plaintiffs ends subsidies in the 36 states, including Louisiana, whose residents purchase health insurance from the federal exchange. These states may then feel pressure to either establish an exchange, accept the expansion of Medicaid provided by the ACA (if the state has not already done so), or both.

It should be noted that, if the plaintiffs prevail, the ACA provides that, in a state that does not establish an exchange, the state's employers are exempt from the employer mandate. Additionally, the majority of that state's residents are exempt from the individual mandate, as it does not apply to those who cannot find insurance that costs less than 8% of their income.

Auto Repairs

Attorney General Buddy Caldwell filed suit during the summer against State Farm, alleging State Farm violated Louisiana laws regarding monopolies and unfair trade practices. The specific claims against State Farm are that State Farm steers its insureds and third parties to specific auto repair shops who are on a list of "recommended" repair shops. These shops have agreed to either repair damaged parts, or replace damaged parts with parts from salvage vehicles, rather than use Original Equipment Manufacturer (OEM) parts, a practice which is not disclosed to the insured. This allows State Farm to decrease the cost of repairs, but, according to the allegations, results in repairs that do not meet the recommendations of the vehicle's manufacturer and can result in unsafe vehicles. The suit also alleges that State Farm deliberately engages in a pattern of delay and obstruction when vehicles are taken to shops not on the State Farm list of approved shops, a pattern that includes providing estimates that clearly do not account for all of the damage that will need to be repaired and failing to timely send adjusters to these shops when informed of the need for a supplemental estimate. State Farm is also accused of delaying/refusing payment to these shops for necessary repairs not contained in the initial estimate.

R.S. 22:1892(D)(1) prohibits insurers from requiring, as a condition of payment, repairs to the vehicle be made by a particular shop or entity. There is also an issue of whether the insurer can require the use of aftermarket parts, or whether the insured is entitled to the use of OEM parts, in repairs.

Judiciary Committee

Contact: Tonya Joiner at (225) 342-2458 or email joinert@legis.la.gov

- **Law Enforcement Authority**
 - **Immigration**
-

Law Enforcement Authority

In August 2014, through [Executive Order](#), President Obama ordered a review of federal funding and programs that provide equipment to state and local law enforcement agencies (LEAs). On December 1, 2014, the Obama Administration released its [Review: Federal Support for Local Law Enforcement Equipment Acquisition](#), which provides details on the programs that have expanded over decades across multiple federal agencies that support the acquisition of equipment from the federal government to LEAs.

In response to the review, the President proposed a three-year \$263 million investment package intended to increase use of body-worn cameras, expand training for LEAs, add more resources for police department reform, and multiply the number of cities where United States Department of Justice (DOJ) facilitates community and local LEA engagement. As part of the initiative, a new Body Worn Camera Partnership Program would provide a 50% match to states/localities who purchase body worn cameras and requisite storage.

Additionally, Representative Emmanuel Cleaver introduced the [Camera Authorization and Maintenance Act](#) during the 113th Congress (2013-2014), which would create a grant program to assist LEAs in purchasing body cameras and provide for the creation of a task force to study body camera training.

Last year, at least eight states considered legislation to enable or require LEAs to use these cameras to record their interactions with the public.

Immigration

Louisiana Efforts:

On October 16, 2014, the House Select Committee on Homeland Security held a hearing and received information and testimony regarding immigration issues in the state of Louisiana. Presentations were made by House Legislative Services, the Louisiana National Guard, the Federal Bureau of Investigation - New Orleans Division, the Louisiana State Police, the Department of Corrections, and the Catholic Charities of the Diocese of Baton Rouge.

Additionally, Speaker Kleckley and Representatives Schroder, Landry, and Hodges received a briefing from the New Orleans Field Office Director for U.S. Immigration and Customs Enforcement (ICE) on their enforcement and removal operations. The group also discussed the coordination of regional meetings with law enforcement agencies throughout the state in an effort to facilitate better communication between ICE and local law enforcement.

Federal Efforts:

On November 20, 2014, President Obama issued executive actions addressing border enforcement, deferred action for deportation and relief for legal immigrants. Several state governments filed a legal challenge to the executive action. The executive action provides for the following:

Enforcement

- Ends Secure Communities and replaces it with a new Priority Enforcement Program to remove convicted criminals in state and local jails.
- Border Security – creates DHS task forces on southern maritime border and on the southern land border and the West Coast.
- Reprioritizes enforcement and removal goals to focus on removal of national security threats, convicted felons, gang members, and illegal entrants apprehended at the border.
- Streamlines immigration court process to address backlog of pending cases.

Deferred Action

- Deferred Action for Childhood Arrivals (DACA) expansion: 300,000 individuals (estimate)
Removes the current upper age restrictions (currently up to age 31)
- Extends visa/work permits from 2 years to 3 years
- Requires arrival in the U.S. prior to 2010 (previously 2007)

Deferred Action for Parental Accountability (DAPA)

- 4.1 million individuals (estimate)
- Allows unauthorized immigrants who are parents to U.S. citizen or lawful permanent resident children to apply for employment authorization and protection from deportation if there is continuous residence since January 1, 2010, and if the person is not an enforcement priority; requires fees, background checks and payment of taxes.

Legal Immigration

- Provisional waivers for family unity: Unauthorized children or spouses of U.S. or lawful permanent residents eligible for visas do not have to leave the country to apply.
- Parole-in-place or deferred action for families of U.S. Armed Forces members.
- Employment addresses backlogs from numerical caps for employment visas for H1B, L-1B, O-1; spouses of H1B workers permitted to work, inventors/entrepreneurs without employer sponsor.
- Extends optional practical training for F-1 student visas an additional 12 months.

White House Task Force on New Americans

- Interagency task force to establish national strategy to identify and support state and local efforts at integration.

The federal policy changes may create new policy choices for states. Many states are continuing to consider whether to provide or deny state benefits such as driver's licenses or instate tuition to noncitizens, including persons granted deferred action.

Labor and Industrial Relations Committee

Contact: Shana Veade at (225) 342-6111 or email veades@legis.la.gov

- **Minimum Wage Increases**
 - **"Ban the Box"**
 - **Pay Equality**
-

Minimum Wage Increases

In March of 2013, Congress introduced the Fair Minimum Wage Act of 2013 which would have increased the federal minimum wage by a system of three annually occurring raises followed by the use of a formula for annual increases thereafter. Because the Fair Minimum Wage Act was not successfully passed, on February 12, 2014, President Obama signed Executive Order 13658, "Establishing a Minimum Wage for Contractors," to raise the minimum wage to \$10.10 for all workers on Federal construction and service contracts. Executive Order 13658 applies to new contracts and replacements for expiring contracts with the federal government that result from solicitations issued on or after January 1, 2015, or to contracts that are awarded outside the solicitation process on or after January 1, 2015.

Alongside a federal movement for an increase of minimum wage, more than half of the states have raised minimum wage within the past year. According to the National Conference of State Legislatures, as of January 1, 2015, 29 states and Washington, D.C. now have minimum wages above the federal minimum wage. Four states, Alaska, Arkansas, Nebraska, and South Dakota, approved minimum wage increases through ballot measures in the 2014 general election and Illinois voters approved an advisory measure. The legislatures in Connecticut, Delaware, Hawaii, Maryland, Massachusetts, Michigan, Minnesota, Rhode Island, Vermont, West Virginia, and Washington, D.C. enacted increases during the 2014 session. Minimum wages increased in nine states on January 1, 2015, because of Consumer Price Index increases. Those states are Arizona, Colorado, Florida, Missouri, Montana, New Jersey, Ohio, Oregon, and Washington.

Legislation in the states varies and often includes a raise of the state minimum wage in general, increases for tipped workers, or both.

A number of cities across the country have recently enacted their own citywide minimum wages that are higher than the state and federal minimum wages. This trend, along with "living wage" legislation, seems to be gaining momentum across the nation.

"Ban the Box"

The "Ban the Box" movement is coming to the forefront in many states across the nation. The phrase originates from the box on an application for employment that must be checked if the applicant has a criminal history. Proponents of "Ban the Box" seek to prohibit employers from inquiring about an applicant's criminal history on the initial written employment application.

According to the National Employment Law Project, 13 states and Washington, D.C. have passed ban the box legislation and 70 cities and counties have effectively done the same.

In 2014, legislation was filed in Louisiana to prohibit a contractor who has obtained a public contract from inquiring about the arrest history of a potential employee on a job application. Another bill was filed to prohibit state civil service from inquiring after arrest history on civil service employment applications. Neither bill passed; however, state civil service did voluntarily elect to remove the question regarding previous arrests from the employment application.

Pay Equality

Pay equality, also referred to as Equal Pay for Women, has been a hot topic for several years within the state of Louisiana and the nation. In 2013, the Louisiana legislature passed the Equal Pay for Women Act. The Equal Pay for Women Act requires pay equality for women who are employed by any department, office, division, agency, commission, board, committee, or other organizational unit of the state of Louisiana. Legislation proposed in the 2014 Regular Session to expand the Equal Pay for Women Act to include employees in the private sector was unsuccessful. Because pay equality has been an issue for several years, and because several pieces of legislation to expand the Equal Pay for Women Act were proposed and failed to pass during the last session, the issue may be a hot topic in 2015 as well.

Retirement Committee

Contact: Stephanie Little at (225) 342-2447 or email littlest@legis.la.gov

- **Defined Benefit vs. Defined Contribution Plans**
 - **GASB Statement Nos. 67 and 68**
-

Defined Benefit vs. Defined Contribution Plans

Currently, the four state retirement systems (State Employees', Teachers', State Police, and School Employees') and the nine statewide retirement systems operate retirement plans known as "defined benefit" (DB) plans. A DB plan provides a benefit that is guaranteed for life and is based upon salary and years of service. These benefits are funded through employer and employee contributions and through the system's investment earnings on those contributions, but there is no individualized amount in the trust for any particular member or retiree. By comparison, in a "defined contribution" (DC) plan, contributions are made to a 401(k) style account and are invested and managed by the member or a third party. The benefit amount is subject to market volatility and depends on the amount of money in the member's DC account at retirement. Legislation has been proposed in the past to move new state hires into a DC or hybrid plan (such as a Cash Balance Plan). The DB versus DC plan debate continues on a national level and may spark debate in our state legislature in the near future.

GASB Statement Nos. 67 and 68

The Governmental Accounting Standards Board (GASB) recently issued two new directives that impact government financial statements – this includes all levels of government, not just the state. The new directives are complex, but in general they require each public retirement system to perform a separate valuation for financial statement purposes using different assumptions than the system uses for determining funding requirements. This will change how the funding of the system looks. Additionally, beginning this fiscal year, state and local governments will have to carry a portion of the unfunded accrued liability of every retirement system their employees are in on their financial statements. It should be noted that these new directives only impact financial statements. They do not impact how the systems are funded or how they operate.

Transportation Committee

*Contacts: Kim Callaway at (225) 342-0793 or email callawayk@legis.la.gov or
Jared Evans at (225) 342-6277 or email evansj@legis.la.gov*

- **Funding for Transportation Infrastructure Projects**
 - **Self-Driving Automobiles**
-

Funding for Transportation Infrastructure Projects

Funding for transportation infrastructure projects continues to be an issue. Proponents of enhanced funding report that the need for new capacity projects and continued maintenance to existing infrastructure continues to grow as the buying power of the gas tax is diminished. Legislators continue to search for sources of alternative funding for these infrastructure projects.

Self-Driving Automobiles

A growing number of states have passed legislation opening the door for self-driving vehicles on their roadways. The National Highway Traffic Safety Administration has said issues such as licensing, driver training, and how the vehicles will be operated are best handled by the states. Some industry officials believe that fully autonomous vehicles could be mainstream by 2025. States will need to be on the forefront of issues such as necessary driver training for these vehicles, liability for accidents involving such vehicles, and culpability for traffic violations.

Ways and Means Committee

Contacts: Alison Pryor at (225) 342-8357 or email pryora@legis.la.gov or
Elise Read at (225) 342-2303 or email reade@legis.la.gov

- **Tax Expenditures**
 - **Tax Legislation in General - Tax Exemptions/Deductions/Credits**
-

Tax Expenditures

The revenue projection for funding state government in Fiscal Year 2015-2016 is estimated to be short by approximately \$1.6 billion. The Administration and the Legislature will be faced with making tough decisions regarding the funding of state operations. Proposals to address the \$1.6 billion budget shortfall will likely include discussions involving some combination of reductions in operating budget expenditures coupled with reductions in tax expenditures associated with various state taxes.

Income tax credits, deductions, and exemptions, as well as sales and use tax exemptions and exclusions, have been mentioned as potential items that may be considered for modifications or reductions. Additionally, the Legislature may consider changes or modifications to existing severance tax exemptions and increases in the tax on cigarettes, cigars, smoking tobacco, smokeless tobacco, and alcoholic beverages as possible avenues to make-up some of the projected revenue shortfall.

In Fiscal Year 2013, the latest year for which actual data is available, the state collected approximately \$384 million in corporate income and franchise taxes, \$2.7 billion in individual income taxes, and \$2.64 billion in sales and use taxes. Also in that year, the state granted an estimated \$2 billion in exemptions for corporate income and franchise taxes, \$2 billion in exemptions for individual income tax, and \$2.66 billion in sales tax exemptions.

Tax Legislation in General - Tax Exemptions/Deductions/Credits

Since the 2015 Regular Session is a fiscally restricted session, proposals to levy or authorize a new tax, increase an existing tax, levy, authorize, increase, decrease, or repeal a fee, and legislation with regard to tax exemptions, exclusions, deductions, reductions, repeals, or credits are matters which are certain to be discussed.