



2021 REGULAR SESSION LEGISLATIVE SESSION REVIEW

ADMINISTRATIVE

Act 211 (SB 136) amends emergency rule promulgation provisions. In addition to utilization of the emergency rulemaking provisions to prevent imminent peril to public health, safety, or welfare, one may be adopted under the following circumstances: (1) to avoid sanctions or penalties from the United States; (2) to avoid a budget deficit in the case of the medical assistance program; (3) to secure new or enhanced federal funding; or (4) to effectively administer the law relating to the imposition, collection, or administration of taxes when required due to time constraints related to congressional, legislative, or judicial actions.

An emergency rule may not be promulgated if the agency: (1) is acting in the normal course and scope of fulfilling its mission; (2) failed to take necessary steps to avoid the emergency; (3) is promulgating rules to implement an Act of the legislature unless the Act specifically directed the agency to proceed with emergency rulemaking, or (4) is continually republishing existing emergency rules. An agency cannot adopt an identical emergency rule more than two consecutive times unless the agency is operating under a state or federal declaration of disaster, state or federal public health emergency, or ongoing emergency. The bill retains the remainder of present law regarding an emergency rule. Effective August 1, 2021.

[Amends R.S. 3:4104(G), R.S. 15:587.1.2(D), R.S. 22:11.1, R.S. 27:220(D), R.S. 29:784(B), R.S. 30:2019(C) and (D)(2)(d), 2019.1(E), and 2022(B)(3), R.S. 32:415.2(D)(1), R.S. 34:851.14.1(B), R.S. 36:254(D)(1)(a)(i), R.S. 40:5.3(E), 962(H), 2008.10(B), and 2136(B), R.S. 49:953(E)(1) and (G)(3)(d), 954(B), and R.S. 56:6.1(B); adds R.S. 49:951(8) and 953.1 and repeals R.S. 49:953(B)]

Act 213 (SB 146) requires agencies to preserve all public records for the times specified in approved formal retention schedules or for three years if no such schedule exists. Additionally, the law requires the retention of an original record, if it exists, or one duplicate, if no original exists. The Act allows a compliant appropriate microform to be deemed an original, provided the source document is unalterable and image produced is accessible. Agency head must identify records not needed for current agency business nor warrant further retention and request the state archivist to authorize disposal of the identified records, and must have a designated records officer and make such designation every year. Effective June 11, 2021.

[Amends and reenacts R.S. 44:36, 39, the introductory paragraph of 411(A) and (A)(2) and (C), and 422]

Act 285 (SB 81) requires that service recipients who are required to file Form 1099-NEC with the Internal Revenue Service (IRS) to file copies of any Form 1099-NEC issued for services provided in Louisiana with LDR. This bill also provides an exception to R.S. 47:1508 to allow LDR to share the Form 1099-NECs with the Department of Children and Family Services for purposes of child support enforcement. Effective July 1, 2021.

[Amends and reenacts R.S. 46:236.14(D)(2) and R.S. 47:1508(B)(23) and enacts R.S. 47:114.1]

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Act 297 (SB 244) establishes three programs. The Fresh Start Proper Worker Classification Initiative is a 1-year program that allows employers who have been misclassifying a class or classes of workers to voluntarily reclassify those workers as employees without liability for any previous withholding or unemployment taxes or penalties. An application must be submitted to the Department of Revenue between January 1, 2022 and December 31, 2022. The employer must have consistently treated the class or classes of workers as nonemployees for the previous 3 years, and must have filed any required Forms 1099-NEC with the IRS to qualify. The voluntary disclosure program specifically applies to withholding and unemployment taxes. The provisions are substantially the same as the Department of Revenue's current voluntary disclosure program except that the look-back period is the current calendar year up to the date of registration with the Department of Revenue and Louisiana Workforce Commission, and the one immediately preceding calendar year. Additionally, the applicant must obtain workers compensation coverage for his employees and provide proof as part of his application. Lastly, the safe harbor provisions for withholding tax audits provide that an employer shall not owe withholding tax or penalties due for underpayment of any unemployment tax for workers that meet certain requirements. Effective January 1, 2022.

(Enacts R.S. 23:1771 through 1776)

Act 343 (HB 573) amends and reenacts and enacts various provisions in Title 47 related to the Board of Tax Appeals and the Louisiana Tax Commission that provide for the administration, review, and adjudication of ad valorem assessments. Effective January 1, 2022.

[Amends and reenacts R.S. 47:1402(D)(2), (3)(introductory paragraph), and (5), 1403(B)(6)(c), 1407(3) and (7), 1418(4)(b) and (c), 1431(B), 1432(A), 1436(B), 1437(A), 1439(C), 1856(D)(2) and (3) and (G), 1857(B)(1), 1989(C), 1998(A)(1)(a) and (b)(i) and (D), 2132(D), 2134(B)(3), (D), and (E)(1), and 2327, enacts R.S. 47:1402(D)(3)(h) and (i), 1403(B)(6)(d), 1418(4)(d), 1431(F), 1432(B), 1837(G)(3), 1856(H), 1857(B)(3), 1992(A)(3) and (B)(3), and 1998(H) and (I), repeals R.S. 47:1431(D)(2) and 1432(D)]

Act 457 (SB 148) establishes the M.J. Foster Program. This program is to be administered by the Board of Regents through the office of student financial assistance to provide financial assistance awards to eligible students who enroll in a qualified program at a two-year public postsecondary education institution to pursue an associate degree or a shorter-term postsecondary education credential that is a requisite for certain high-demand, high-wage occupations aligned to Louisiana's workforce priorities. Appoints LDR's secretary to Program's Advisory Council to identify such students, to meet by 1/1/2022 and at least once every three years thereafter to review the state's workforce priorities, each workforce region, and designate qualified programs as directed in the bill. Notwithstanding R.S. 47:1508, requires Board of Regents to enter into MOU with LDR and Louisiana Workforce Commission (LWC) to share information relative to a taxpayer's reported income and employment information for purposes of generating data related to the success of award recipients in the workforce, and that Board of Regents hold such information confidential, report it in the aggregate only, with no personally identifiable information for any award recipient. Effective June 23, 2021.

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[Enacts Chapter 20-G of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 17:3047 through 3047.7]

CORPORATION INCOME AND FRANCHISE TAX

Act 54 (SB 11) provides an exemption from individual and corporation income tax for all COVID-19 relief benefits received by a taxpayer. “COVID-19 relief benefits” means any gratuitous grant, loan, rebate, tax credit, advance refund, or other qualified disaster relief benefit directly or indirectly provided to a taxpayer by the state or federal government including but not limited to benefits provided pursuant to the Coronavirus Aid, Relief, and Economic Security Act, the Taxpayer Certainty and Disaster Relief Act, the COVID-Related Tax Relief Act, the Consolidated Appropriations Act of 2021, the State Coronavirus Relief Program, the Coronavirus Local Recovery Allocation Program, the Louisiana Main Street Recovery Program, the Critical Infrastructure Worker’s Hazard Pay Rebate, and pursuant to any other existing or subsequent state or federal COVID-19 relief legislation. A COVID-19 relief benefit does not include any unemployment compensation benefits provided to a taxpayer. Effective June 4, 2021.

[Amends and reenacts R.S. 47:293(10) and enacts R.S. 47:287.738(H), 293(9)(a)(xx), and 297.16]

Act 389 (SB 161) extends the current suspension of corporation franchise tax at the rate of \$1.50 for each \$1000 of taxable capital through July 1, 2023. For taxable periods beginning on or after January 1, 2023, reduces the imposed rates and thresholds for corporation franchise tax from \$1.50 for each \$1000, or major fraction thereof, on the first \$300,000 of taxable capital and \$3.00 for each \$1000, or major fraction thereof, on amounts in excess of \$300,000 of taxable capital to \$2.75 for each \$1000, or major fraction thereof, on amounts in excess of \$300,000 of taxable capital. The act also provides a trigger which automatically reduces the imposed rates by a percentage of corporation income and franchise tax collections in excess of the growth factor (calculated as collections for Fiscal Year 2018-19, adjusted annually by the growth factor, as provided in Article VII, Section 10(C) of the Constitution.) The trigger is activated only when numerous benchmarks are met, including: 1.) The prior year’s actual total tax, licenses, and fees exceed the actual total tax, licenses and fees for Fiscal Year 2018-19, adjusted annually by the growth factor; and 2.) the Budget Stabilization Fund balance as determined by the Treasurer is at least 2.5 % of the total state revenue receipts from the prior fiscal year. The rate reduction and the trigger is applicable to taxable periods beginning on or after January 1, 2023 if voters approve the constitutional amendment in Act 134. Effective June 16, 2021.

[Amends and reenacts R.S. 47:601(A) and 601.1(A)(1) and enacts R.S. 47:601(D) and 601.2]

Act 396 (HB 292) reduces the rates and brackets imposed on corporations to 3.5% on the first \$50,000 of Louisiana taxable income, 5.5% on amounts above \$50,000 but not in excess of \$150,000, and 7.5% on amounts in excess of \$150,000. In addition, the Act repeals the deduction for federal income taxes paid for corporations. For taxpayers making the Pass Through entity election, the Act changes the rates from 2%, 4% and 6% to 1.85%, 3.5%, and 4.25% respectively. Applicable to taxable periods beginning on or after January 1, 2022, if

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voters approve the constitutional amendment in Act 134. Effective January 1, 2022 if approved by voters.

[Amends and reenacts R.S. 47:32(C), 241, 287.12, 287.69, 287.442(B), and 287.732.2(B) and repeals R.S. 47:55(5), 287.79, 287.83, 287.85, and 287.732.2(C)]

Act 459 (SB 36) provides that for all claims for a net operating loss deduction filed on or after January 1, 2022, starting with losses from 2001, any unused loss may be carried forward to each taxable year following the loss until the loss is fully utilized. Effective June 24, 2021.

[Amends and reenacts R.S. 47:287.86(B)]

INDIVIDUAL INCOME

Act No. 3 (HB 12) provides a checkoff on individual income tax returns (Form IT-540 or IT-540B) to designate a donation of all or part of the tax refund amount to the Sexual Trauma Awareness and Response (STAR) organization. Applicable to taxable years beginning on or after January 1, 2021.

[Enacts R.S. 47:120.351]

Act No. 52 (SB 5) provides that any Louisiana Student Tuition Assistance and Revenue Trust K-12 (START K12) account holders with a filing status of single, married filing separately, head of household, and qualifying widow(er) can exempt up to \$1,200 per beneficiary from Louisiana taxable income. Account holders with a filing status of married filing jointly can each exempt up to \$2,400 per beneficiary from Louisiana taxable income. Amounts deducted that are used to pay costs associated with a student's enrollment in a school or home-schooled are not eligible for the deductions authorized pursuant R.S 47:297.10, 297.11 and 297.12. Applicable to taxable years beginning on or after January 1, 2022. Effective January 1, 2022.

[Amends and reenacts R.S. 17:3100.5(A)(1) and R.S. 47:297.11 and enacts R.S.47:293(9)(a)(xx), 297.10(C), and 297.12(C)]

Act 54 (SB 11) provides an exemption from individual and corporation income tax for all COVID-19 relief benefits received by a taxpayer. "COVID-19 relief benefits" means any gratuitous grant, loan, rebate, tax credit, advance refund, or other qualified disaster relief benefit directly or indirectly provided to a taxpayer by the state or federal government including but not limited to benefits provided pursuant to the Coronavirus Aid, Relief, and Economic Security Act, the Taxpayer Certainty and Disaster Relief Act, the COVID-Related Tax Relief Act, the Consolidated Appropriations Act of 2021, the State Coronavirus Relief Program, the Coronavirus Local Recovery Allocation Program, the Louisiana Main Street Recovery Program, the Critical Infrastructure Worker's Hazard Pay Rebate, and pursuant to any other existing or subsequent state or federal COVID-19 relief legislation. A COVID-19 relief benefit does not include any unemployment compensation benefits provided to a taxpayer. Effective June 4, 2021.

[Amends and reenacts R.S. 47:293(10) and enacts R.S. 47:287.738(H), 293(9)(a)(xx), and 297.16]

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Act No. 134 (SB 159) is a Constitutional amendment that if approved by voters would limit the maximum tax rate for state individual income taxes to 4.75% and repeal the guarantee of the federal income tax deduction for all taxpayers. The Act provides for an election on October 9, 2021, whereby Louisiana voters can elect to adopt the changes made in the constitutional amendment. Applicable to taxable years beginning on or after January 1, 2022. *[Amends Article VII, Section 4(A)]*

Act. No. 161 (SB 46) increases the individual income tax exclusion for active duty service member of the United States armed forces who works out-of-state for a consecutive 120-day period from \$30,000 to \$50,000. Applicable to taxable years beginning on or after January 1, 2022. Effective June 11, 2021. *[Amends and reenacts R.S. 47:293(9)(e)]*

Act No. 185 (HB 200) provides an individual income tax exclusion for military survivor benefit plan payments received by individuals. Applicable to taxable years beginning on or after January 1, 2021. Effective June 11, 2021. *[Amends and reenacts R.S. 47:293(10) and to enact R.S. 47:293(9)(a)(xx) and 297.16]*

Act 228 (HB 362) creates a checkoff on individual income tax returns to designate a donation of all or part of the tax refund amount to the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College for the Louisiana State University Agricultural Center Grant Walker Educational Center (4-H Camp Grant Walker). Applicable to taxable years beginning on or after January 1, 2021. Effective August 1, 2021. *[Enacts R.S. 47:120.351]*

Act 296 (SB 239) increases an individual's federal income tax liability, for purposes of the federal income tax deduction, by an amount equal to the amount by which the taxpayer's federal income tax was reduced through claiming disaster losses attributable to Hurricane Zeta as itemized deductions on their federal return for tax years 2019 and 2020. The Act also extends the disaster loss relief to those who increased their standard deduction by disaster losses on federal individual income returns for Hurricanes Laura, Delta, and Zeta. Effective June 14, 2021. *(Amends and reenacts R.S. 47:293(4)(e))*

Act 378 (HB 424) creates a deduction of \$5,000 for individuals who adopt a child who is in foster care, or a youth receiving extended foster care services. The Act also creates a deduction of \$5,000 for individuals who adopt an unrelated infant who is less than one year old through private adoption. Lastly, the Act creates a nonrefundable income tax credit for donations made to a qualifying foster care charitable organization. The credit will be equal to the actual amount of the donation used by the foster care organization with a cap of \$50,000. Effective January 1, 2022. *[Enacts R.S. 47:293(9)(a)(xx) and (xxi), 297.16, 297.17, and 6042]*

Act 383 (SB 157), beginning January 1, 2022, provides an exemption from income tax to nonresident employees who performed their duties within the state of Louisiana for 25-days or fewer during a calendar year. The exemption does not apply to professional athletes, staff members of a professional athletic team, professional entertainers, public figures, or

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qualified production employees. The Act also eliminates the requirement for employers to withhold taxes and report income for the same employees. Effective June 16, 2021.

[Amends and reenacts R.S. 47:242(1)(g) and (2) and 293(10) and enacts R.S. 47:111(A)(12), 112.2, and 248]

Act 387 (SB 31) creates an individual income tax exemption of 50 % of the gross wages of a resident digital nomad with a maximum exemption of \$150,000. The taxpayer will only be allowed to claim the exemption for two taxable years beginning with tax year 2022 and ending with tax year 2025. Effective June 16, 2021.

[Enacts R.S. 47:293(9)(a)(xx) and 297.16]

Act 395 (HB 278) reduces the imposed rates for individuals and fiduciary taxpayers from 2%, 4% and 6% to 1.85%, 3.5%, and 4.25%, respectively, as well as repeals the statutory deduction for federal income taxes paid. The Act also limits the deduction for excess federal itemized deductions to the amount of the itemized expense for medical and dental care that exceeds the federal standard deduction. The Act contains a trigger which automatically reduces the imposed rates by a percentage of individual collections in excess of the growth factor (calculated as collections for Fiscal Year 2018-19, adjusted annually by the growth factor, as provided in Article VII, Section 10(C) of the Constitution.) The trigger is activated only when numerous benchmarks are met, including: 1.) The prior year's actual total tax, licenses, and fees exceed the actual total tax, licenses and fees for Fiscal Year 2018-19, adjusted annually by the growth factor; and 2.) the Budget Stabilization Fund balance as determined by the Treasurer is at least 2.5 % of the total state revenue receipts from the prior fiscal year. Applicable to taxable periods beginning on or after January 1, 2022. Effective January 1, 2022 if voters approve the Constitutional amendment in Act 134.

[Amends and reenacts R.S. 47:32(A), 241, 293(3) and (10), 295(B), 300.1, 300.6(A), and 300.7(A), enacts R.S. 47:32.1, and repeals R.S. 47:293(4) and (9)(a)(ii), 296.1(B)(3)(c), and 298]

PARTNERSHIP INCOME TAX

Act 287 (SB 160) authorizes a partnership to report and pay any income taxes assessed either as a result of a federal adjustment arising from an IRS audit or other action by the IRS at the partnership level, rather than the partner level. The partnership can also request a refund of an overpayment of tax arising from final federal adjustments. In addition, the Act authorizes the Department to adopt similar procedures for purposes of state income tax. The Act allows both corporation and partnerships to make estimated tax payments due to a federal audit. The Act also changes the due date for the partnership return and requires all partnerships to file the return with LDR. Effective June 14, 2021.

[Amends and reenacts R.S. 47:103(A)(2)(a) and 201 and enacts R.S. 47:201.2, 287.614(C)(3), and 287.657]

WITHHOLDING TAX

Act 383 (SB 157), beginning January 1, 2022, provides an exemption from income tax to nonresident employees who performed their duties within the state of Louisiana for 25-days or fewer during a calendar year. The exemption does not apply to professional athletes, staff members of a professional athletic team, professional entertainers, public figures, or

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qualified production employees. The Act also eliminates the requirement for employers to withhold taxes and report income for the same employees. Effective June 16, 2021.

TAX CREDITS, REBATES AND GRANT PROGRAMS

Act 81 (SB 45) extends the sunset date for both the Ports of Louisiana Investor tax credit and Ports of Louisiana Import-Export Cargo tax credit to July 1, 2025. Effective June 4, 2021. *[Amends and reenacts R.S. 47:6036(G)]*

Act 292 (SB 217) creates the Louisiana Import tax credit, which authorizes a one-time nonrefundable income tax credit for imported cargo received by a port facility within its port credit incentive period. Eligible applicants must be a port facility user that imports more than 50 TEUs of cargo through Louisiana ports, increase their imported cargo volumes by at least 150% during its port credit incentive period as compared to imported cargo volumes during its base cargo volume period, and apply for certification with the Louisiana Department of Economic Development. The credit is equal to up to \$50 per TEU of cargo imported through a Louisiana public port, or up to \$100 per TEU of cargo imported through a Louisiana public port if entering into a project agreement with the state. Effective June 14, 2021.

(Enacts R.S. 47:6036.1)

Act 378 (HB 424) creates a deduction of \$5,000 for individuals who adopt a child who is in foster care, or a youth receiving extended foster care services. The Act also creates a deduction of \$5,000 for individuals who adopt an unrelated infant who is less than one year old through private adoption. Lastly, the Act creates a nonrefundable income tax credit for donations made to a qualifying foster care charitable organization. The credit will be equal to the actual amount of the donation used by the foster care organization with a cap of \$50,000. Effective January 1, 2022.

[Enacts R.S. 47:293(9)(a)(xx) and (xxi), 297.16, 297.17, and 6042]

Act 385 (SB 8) Removes the tax credit for the purchase of motor vehicles propelled by alternative fuel and retains the tax credit for the cost of property that is directly related to the delivery of an alternative fuel into the fuel tank of motor vehicles propelled by alternative fuel. The Act also provides that no credit shall be earned for the purchase or installation of qualified clean-burning motor vehicle fuel property on or after January 1, 2022. Effective July 1, 2021.

[Amends and reenacts R.S. 47:6035]

Act 410 (HB 642) creates several funds and programs to administer money from the American Rescue Plan Act of 2021 to assist various entities impacted by Covid-19. Of these funds, this bill makes the Department of Revenue responsible for administering and creating policies and eligibility criteria for the Louisiana Small Business and Nonprofit Assistance Program. The Act provides funding of \$10 million to be distributed through grants to small businesses and nonprofits for the administration of COVID-19 response and relief efforts. Effective June 17, 2021.

[Enacts R.S. 39:100.44.1, 100.44.2, 100.51 - 100.59.2]

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Act 401 (HB 445) changes the payroll credit for Qualified Music Companies to a refundable credit for applications received on or after July 1, 2021. Effective June 16, 2021.

[Amends and reenacts R.S. 47:6023(C)(2), (D)(2)(c)(iii), and (E) and repeals R.S. 47:6023(C)(5)]

Act 453 (HB 678) extends the 5% Louisiana earned income tax credit through December 31, 2030 and creates the Louisiana Work Opportunity Tax Credit, which authorizes a nonrefundable income and franchise tax credit for a business that hires an eligible re-entrant. Applicable to the employment of eligible re-entrants with a release date on or after January 1, 2021. Effective June 23, 2021.

[Amends and reenacts R.S. 47:297.8(A) and enacts R.S. 47:287.750]

Act 454 (HB 680) creates the Louisiana Youth Jobs Tax Credit Program, which authorizes a nonrefundable income and corporation franchise tax credit for a business that hires one or more eligible youths on or after July 1, 2021. The Act also creates the Apprenticeship Tax Credit, which authorizes a nonrefundable income and corporation franchise tax for a business that hires an eligible apprentice. Effective June 23, 2021.

[Enacts R.S. 47:6028 and 6033]

Act 467 (HB 146) creates a refundable individual income tax credit of \$2,000 for an individual who delivers a stillborn baby. Applicable to taxable years beginning on or after January 1, 2022. Effective January 1, 2022. *[Enacts R.S. 47:297.15]*

Act 470 (HB 301) creates a refundable individual income tax credit for funeral expenses paid for a pregnancy-related death, not to exceed \$5,000. The credit is claimed by the estate of the deceased person, or, if the estate of the deceased person does not claim the credit, the individual who actually paid the reasonable funeral and burial expenses. Applicable to taxable periods beginning on or after January 1, 2022. Effective January 1, 2022.

[Enacts R.S. 47:297.16]

SALES TAX

Act 7 (HB 50) excludes leases and rentals for the purpose of re-lease or re-rental from the definition of “lease or rental” when the entity renting is a short-term equipment rental dealer. Short-term equipment rental dealer is defined as a person or entity whose principal business is the short term rental of tangible personal property and whose business would be classified under the NAICS codes 532412 and 532310. These NAICS codes describe general construction equipment rental. Effective October 1, 2021.

[Enacts R.S. 47:301(7)(m), 302(BB)(114), 321(P)(115), 321.1(I)(115), and 331(V)(115)]

Act 53 (SB 6) creates a state sales tax exemption for utilities used by commercial farmers for on-farm storage. “On-farm storage” is defined as facilities or containers located in Louisiana that are separately metered for utilities that contain raw agricultural commodities. Utilities consist of water, electricity, natural gas and other energy sources. The raw agricultural commodities must be used in preparing, finishing, manufacturing or producing crops or animals prior to the first point of sale. The Act also adds this exemption to the exclusive list of exemptions found in all sales tax imposition statutes. Effective June 4, 2021.

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[Enacts R.S. 47:302(BB)(114), 305.4, 321(P)(115), 321.1(I)(115), and 331(V)(115)]

Act 166 (SB 77) expands the current school bus exclusion to apply to the purchase of a new or used school bus less than five years old that is to be used exclusively by any public elementary and secondary schools, laboratory schools funded by public universities or nonpublic schools approved by the State Board of Elementary and Secondary Education (BESE). The busses must meet all safety requirements established by the Department of Education as well as all aesthetic requirements of BESE. The bus must also be purchased from a dealer licensed pursuant to R.S. 32:791 or 1254. The Act adds this exemption to the exclusive list of exemptions found in all sales tax imposition statutes. Effective July 1, 2021. *[Amends and reenacts R.S. 47:301(10)(i) and to enact R.S. 47:302(BB)(114), 321(P)(115), 321.1(I)(115), and 331(V)(115)]*

Act 200 (HB 172) creates a state sales tax exemption for construction materials to be used in the construction of new animal shelters in Louisiana. The animal shelter must be constructed between July 1, 2021 and June 30, 2025. The Act also reinstates the state sales tax exemptions for construction materials purchased by Habitat for Humanity, Fuller Center for Housing and the Make It Right Foundation for the construction of new dwellings within Louisiana. Both exemptions apply starting October 1, 2021. The Act adds R.S. 47:305.59 to the list of state exemptions and exclusion, which are operative and in effect for purposes of the sales tax impositions R.S. 302, 321, 321.1 and 331. Effective July 1, 2021. *[Amends and reenacts R.S. 47:305.59 and to enact R.S. 47:302(BB)(114), 321(P)(115), 321.1(I)(115), and 331(V)(115)]*

Act 424 (HB 391) authorizes the recommendation of marijuana in the raw or crude form. As a result of this change, the raw and crude form of marijuana, when recommended for therapeutic use is included in the current state sales and use tax exemption found in R.S. 47:301(10)(ii). No pharmacy authorized to dispense marijuana for therapeutic use shall dispense more than two and one half ounces or seventy-one grams of raw or crude marijuana every fourteen days to an individual patient. The authorized pharmacy cannot dispense raw or crude marijuana to a person under twenty-one years of age without a physician's recommendation. Effective January 1, 2022. *[Amends and reenacts R.S. 40:1046(A)(1) and (C)(2)(e) and enacts R.S. 40:1046(A)(5) and (C)(2)(l)]*

Act 448 (HB 639) creates the Hurricane and Storm Damage Risk Reduction System Repayment Fund for the purpose of making payments to the US Army Corp of Engineers for costs associated with the Hurricane and Storm Damage Risk Reduction System. Between July 1, 2021 and June 30, 2022 the treasurer is required to deposit thirty-eight percent of any increase of State General Fund Revenues recognized by the REC for Fiscal Year 2021-2022 into the fund. Between July 1, 2022 and June 30, 2023 sales and use tax revenues from all sales of tangible personal property, rentals and leases collected in the parishes of St. Charles, Jefferson, Plaquemines, St. Bernard, and Orleans shall be deposited in the fund. The total amount deposited in the fund shall not exceed four hundred million dollars. The Act also requires no federal funds received by the state for infrastructure projects pursuant to the American Jobs Plan Act be spent or encumbered before a proposal containing specific

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funding amounts for certain transportation, highway, construction or other infrastructure projects is approved by the Joint Legislative Committee on the Budget. Effective June 30, 2021.

[Amends and reenacts R.S. 39:100.26(B) and (D) and enacts R.S. 39:100.122 and R.S. 39:134.1]

Act 486 (HB 514) dedicates funds to the Construction Subfund, within the Transportation Trust Fund. Sales and use tax revenues from motor vehicles will now be deposited into the Construction Subfund. In Fiscal Year 2023-2024 30% of the revenues will be deposited into the subfund and in Fiscal Year 2024-2025 and every year following, 60% of these revenues will be deposited into the subfund. In Fiscal Year 2024-2025 there is a limit to the amount deposited into the Subfund of \$150 million dollars, if the REC revises the general forecast and finds that there is a decrease in recurring general fund revenue of \$100 million dollars or more. Effective August 1, 2021.

[Amends and reenact R.S. 48:77]

SEVERANCE TAX

Act 391 (SB 171) provides a severance tax exemption for any oil well that has been designated as orphaned by DNR and has had no production for at least 12 months, that is undergoing or has undergone well enhancements that required a DNR permit, and from which production commences on or after October 1, 2021 and before June 30, 2031. Operators must apply to the Department of Natural Resources for certification. Once certified, the operator retains an amount equal to the severance tax that would have been due (i.e., true exemption) for the first three months. Thereafter, the operator shall report and remit an amount equal to the severance tax that would have been due to LDR for credit to a site-specific trust account for that well. This payment is subject to the due date, interest and penalty provisions that would have applied to the tax. Effective June 16, 2021.

[Enacts R.S. 30:88.2 and R.S. 47:633(7)(c)(iv)(cc)]

OILFIELD SITE RESTORATION FEES

Act 298 (SB 167) authorizes the Treasurer to deposit into the Oilfield Site Restoration Fund \$30 million from the first federal funds received by the state for which oilfield site restoration or plugging orphan wells is an allowable use and monies from federal appropriations or any federal grant program established by the United States Congress for restoring orphan oilfield sites. The Joint Legislative Committee on the Budget is required to determine whether federal funds received by the state can be used for oilfield site restoration or plugging orphan wells. Effective June 15, 2021.

[Amends R.S. 30:86(A), (C), and (E)(intro. para.) and enacts R.S. 30:86(D)(9) and (10) and (E)(7)]

ALCOHOL BEVERAGE TAX

Act 71 (HB 219) allows Class-A Restaurants to deliver ready to drink beverages in addition to malt beverages, sparkling wine and still wine along with the restaurant prepared food. Allows Package House-Class B to deliver ready to drink beverages in addition to malt beverages, sparkling wine, and still wine. Effective August 1, 2021.

[Amends R.S. 26:271.2(2)(b) and 308(B) and (C)(2)(b) and enacts R.S. 26:2(32) and 241(27)]

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Act 278 (HB 192) allows retail dealers of alcoholic beverages to pay using credit card payments in addition to cash or terms requiring payment no later than 15 days following the actual date of delivery when buying products from a wholesale dealer or manufacturer. The credit card discount fees or merchant fees must be added to the cost of the transaction as a convenience fee and the fees are to be paid by the retailer. Effective August 1, 2021.

[Amends R.S. 26:148(A)]

Act 290 (SB 76) creates a permit exception for hotel and lodging establishments. If the permit holder fails to purchase alcoholic beverages for more than six consecutive months for a location, the permit holder shall be required to surrender any and all state alcoholic beverage permits issued for that location by the Office of Alcohol and Tobacco Control. The permit shall not: (1) be utilized in lieu of a special event permit; (2) exempt applicant from prior approval from any festivals and public events; (3) be used as a prerequisite to apply for video poker machines; (4) apply to any change of ownership of the business, including changes to the owner of the applicant, whether in whole or in part. Any such change requires the exception permit to be void. Effective August 1, 2021.

[Enacts R.S. 26:794.1]

Act 314 (HB 296) defines a "Class C-Package Store" as an establishment that operates a package store whereby the primary sales of alcoholic beverages at the location are sales of factory-sealed containers for off-premise consumption. The bill provides that the retailer may sell alcoholic beverages for on-premise consumption not to exceed 20% of the business's annual revenue of alcoholic beverage sales and provides that on premise consumption sales are subject to audits by ATC. Effective August 1, 2021.

[Amends R.S. 26:71.2(A)(7) and 271.3(A)(7)]

Act 380 (HB 706) amends the definition of "manufacturer" to provide that a wine producer is considered a manufacturer for purposes of providing a bond and payment and reporting of alcohol tax and defines "microvintner" and "microwinery". The bill authorizes the Office of Alcohol and Tobacco Control to issue a microwinery permit, which allows a microwinery to import the juices of grapes, fruits, berries, honey, or vegetables to produce and bottle wine in Louisiana at a single location not to exceed 12,500 gallons a year. The permit allows the sale at retail of the wine produced at the location where the vinification takes place for consumption on or off the licensed premises if the holder possesses a Retailer Class A permit. The microwinery cannot sell the wine at wholesale or to any wholesale dealer. The microwinery cannot sell any wine for transportation off the premises to any other licensed alcoholic beverage retail dealer. Wine produced by a microwinery is taxed in the same manner and at the same rate as beverages produced by other manufacturers. The bill amends R.S. 26:287(B) to allow the Office of Alcohol and Tobacco Control to revoke or suspend a license for failure to pay withholding taxes, Louisiana Stadium and Exposition District hotel occupancy taxes, Ernest N. Morial New Orleans Exhibition Hall Authority taxes, or taxes due to the state for the sale of beverages of high alcoholic content, beverages of low alcoholic content, or tobacco. Effective August 1, 2021.

[Amends R.S. 26:2(16), 71(A)(3)(e), 142, and 287(B) and enacts R.S. 26:2(32) and (33), 71(A)(3)(f), and 71.4]

Louisiana Department of Revenue

2021 Regular Session Legislative Session Review

TOBACCO/INDUSTRIAL HEMP TAX

Act 336 (HB 640) changes “industrial hemp-derived CBD product” to “consumable hemp product” throughout the regulatory (LDAF and ATC) and tax statutes which expands the tax to apply to consumable hemp products even if it does not contain cannabidiol(CBD). The bill defines *consumable hemp product* as “any product derived from industrial hemp that contains any cannabinoid, including cannabidiol, and is intended for consumption or topical use.” The bill further provides that *consumable hemp product* includes commercial feed, pet products and hemp floral material. Additionally, the bill removes the prohibition on processing hemp for inhalation, but maintains the prohibition on the sale of such products. It also removes the prohibition on the processing or selling of any food or beverage product containing CBD unless the FDA approves CBD as a food additive. These changes expand the taxable base to include any product made from industrial hemp intended for consumption or topical use. Lastly, the bill makes changes to the regulatory provisions including, but not limited to, requiring wholesalers to be permitted by the Office of Alcohol and Tobacco Control. Effective August 1, 2021.

[Amends and reenacts R.S. 3:1402, 1461, 1462, 1464(8), 1465(A), (C)(1), (D)(1), and (F), 1466(A) and (B)(2), 1468, 1471(A)(4), 1481, 1482, 1483, 1484, and 1485(B) and (G) and R.S. 47:1692 and 1693(A) and enacts R.S. 3:1469(C) and (D) and 1473]

Act 403 (HB 473) raises the minimum age for purchasing tobacco products from 18 to 21 years. The bill prohibits the distribution of promotional samples of any tobacco product, alternative nicotine product, or vapor product to persons under the age of 21. The Office of Alcohol and Tobacco Control may enlist persons between the ages of 16 and 21 to test compliance if the testing is under the direct supervision of employees of the Office of Alcohol and Tobacco Control and requires written parental consent. The bill requires that signs at points of sale and on vending machines for tobacco products be updated to reflect the minimum age change. Effective August 1, 2021.

[Amends R.S. 14:91.6(A) and 91.8(C), (D), (E), and (F)(1) and (2)(intro. para.), R.S. 26:793(C)(1), 910, 910.1(A), 911(A)(1), and 917(A)(into. para.), and R.S. 47:851(C)(2) and enacts R.S. 26:901.1]

RESOLUTIONS

SCR 49 requires a joint report by LDR and the Department of Education on School Tuition Organization credits and scholarships by October 31, 2021 to the Senate committees on education, revenue and fiscal affairs, and finance, and the House committees on education, ways and means, and appropriations.