

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of the Commissioner

Scrapies (LAC 7:XXI.121)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Agriculture and Forestry, Office of the Commissioner, proposes to amend regulations regarding the exportation of sheep and mutton.

In an effort to prevent the introduction and subsequent spread of scrapie, a disease of sheep and goats, this rule change would require owners of sheep and registered goats to put an official ear tag (in lieu of an official tattoo) in each animal's ear prior to showing or selling the animal.

These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 1. General Provisions

§101. Definitions

* * *

Flock Plan Ca written agreement, between the owner of the flock and a veterinarian employed by the LDAF or USDA, APHIS, VS, approved by the State Veterinarian to control scrapie in sheep and goats.

* * *

Official Identification for Scrapie Can electronic identification, state or federally approved tamper-resistant ear tag, or a flank or ear tattoo, which has been recorded in a book of record of a sheep or goat registry or association. When an animal is identified by an ear or flank tattoo either a registration certificate or a certificate of veterinary inspection shall accompany the animal. In the case of goats registered with the American Dairy Goat Association, the tattoo may be applied at the tail web.

* * *

Scrapie Affected Animal Cany animal that tests positive for scrapie on an APHIS- approved live animal screening test is considered an affected animal.

* * *

Source Flock Ca flock in which one animal diagnosed as scrapie positive at the age of 72 months or less was born.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:230 (March 1985), amended LR 12:289 (May 1986), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR

18:840 (August 1992), LR 23:949 (August 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), LR 28:

§121. Requiring the Reporting of Contagious Diseases

A. In order to improve the protection of the livestock industry from the effects of contagious diseases of livestock, all veterinarians licensed in the State of Louisiana are required to report to the state veterinarian, by telephone or wire, within 24 hours after diagnosis or tentative diagnosis, the occurrence or suspected occurrence of the following contagious diseases: anthrax, Avian Influenza (OIE List A Disease), brucellosis, equine encephalomyelitis, equine infectious anemia, hog cholera, Infectious Encephalomyelitis, Infectious Laryngotracheitis (other than vaccine induced), Newcastle (OIE List A disease), Ornithosis, Paramyxovirus (other than Newcastle Disease), pseudorabies, pullorum/typhoid, scabies, scrapie, transmissible spongiform encephalopathies, tuberculosis, vesicular condition or any other disease condition which may seriously threaten the welfare of the livestock and poultry industry.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2094 and R.S. 3:2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:234 (March 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:813 (October 1989), LR 16:391 (May 1990), LR 23:197 (February 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner LR 28:

Family Impact Statement

The proposed amendments to LAC 7:XXI.Chapter 1 regarding the exportation of sheep and mutton should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on the proposed rules to Dr. Maxwell Lea through the close of business on March 25, 2002 at 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble regarding these rules is necessary.

Bob Odum
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scrapies**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no implementation costs or savings to state or local governmental units. In an effort to prevent the introduction and subsequent spread of scrapie, a disease of sheep and goats, this rule change would require owners of sheep and registered goats to put an official ear tag (in lieu of an official tattoo) in each animal's ear prior to showing or selling the animal. Untagged animals arriving at Louisiana auction markets would be tagged upon arrival. Owners would also have to keep records of all sales and purchases of animals in order to be able to trace back the source of disease to the flock of origin. This rule change also gives the State Veterinarian authority to quarantine flocks that are found to have scrapie and eliminate the disease from the flock. The cost for the State Veterinarian to quarantine flocks would be minimal and would be covered under funds already generated through the department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no effect on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Participants in the Flock Certification Program may earn a minimal increase in the revenue because their animals will be certified free of the scrapie disease.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0202#051

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Structural Pest Control Commission**

Contracts for Termite Control Work (LAC 7:XXV.119)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, proposes to amend regulations regarding combination liquid spot and bait and baiting system termite treatments. These regulations were inadvertently deleted from the register.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to allow a liquid spot and a bait and baiting system treatment to be contracted with one contract and to set the fee for said contract.

These rules comply with and are enabled by R.S. 3:3203.

**Title 7
AGRICULTURE AND ANIMALS**

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§119. Contracts for Termite Control Work

A. The licensee must enter into a written agreement for termite work with the property owner employing him, which agreement must:

1. be in a form provided or approved by the commission;
2. guarantee performance for a period of not less than one year after the treatment is made;
3. guarantee treatment of the property in accordance with minimum specifications for termite control work set forth in §141 hereof; and
4. provide for at least one inspection of the property prior to expiration of the agreement;
5. include an inspection diagram;
6. provide for the treatment of all subterranean termites.

B. Each contract for termite control work shall cover only one unit or one individual property, provided that the contract may include a garage appurtenant to the unit or individual property.

C. Contracts for spot termite treatments must guarantee the area treated for a period of one year.

D. Contracts for combination liquid spot and bait and baiting system termite treatments shall follow the requirements under §119.A, B, E and F.

E. The licensee must report to the commission, no later than the tenth day of each month, each contract for termite work which he has entered into and performed during the previous month. If no contracts were entered into or performed during the previous month, the licensee must report this fact to the commission no later than the tenth of each month.

F. The licensee shall pay a \$5 fee for each standard contract and shall pay an \$8 fee for each combination contract for liquid spot and bait and baiting system treatments reported under §119.E above when the required monthly report is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3336 and R.S. 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 28:

Family Impact Statement

The proposed amendments to rules §§119 and 141 regarding combination liquid spot and bait and baiting system termite treatments should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;

3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through March 25, 2002 at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on these rules on March 25, 2002 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Contracts for Termite Control Work**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs or savings to state or local governmental units is anticipated. This rule change reinstates the rules and regulation that allow a liquid spot and a bait and baiting system treatment to be contracted with one contract and sets the fee for said contract. These regulations were inadvertently deleted from the register.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state and or local governmental units is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Skip Rhorer Assistant Commissioner 0202#050	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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**NOTICE OF INTENT
Department of Civil Service
Civil Services Commission**

Military Leave Civil Service Changes

The State Civil Service Commission will hold a public hearing on Wednesday, March 6, 2002 to consider the following rule proposals. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service, Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana.

The following will be considered at the meeting.

Amend Rule 11.26

11.26 Military Leave. The provisions of this rule shall apply to members of a Reserve Component of the Armed Forces of the United States who are called to active duty for military purposes, and to members of National Guard Units which are called to active duty as a result of a non-local or non-state emergency.

(a) Military Leave with Pay

1. Provided they give advance notice, employees serving on job appointment, provisional, probationary or permanent status, shall be entitled to military leave with pay.

2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.

3. Maximum military leave with pay for military purposes is 15 working days per calendar year.

(b) Use of Annual and Compensatory Leave for Military Purposes.

1. Employees serving on job appointment, provisional, probationary or permanent status, who give advance notice of military obligations and apply for annual or compensatory leave for military purposes, shall be granted such leave.

2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.

(c) Use of Leave Without Pay for Military Purposes. Employees serving on job appointment, provisional, probationary or permanent status, who have either exhausted annual leave and compensatory leave or choose not to use their annual and/or compensatory leave for military purposes, shall be placed on leave without pay. This period of leave without pay for military purposes shall not exceed six years. After six years, he/she shall be separated from the classified service. This rule does not extend the term of temporary appointments which were made for less than six years; if the original term of the appointment was less than six years, the agency may end the appointment as originally scheduled and the employee may be separated.

(d) Rights Upon Return. Provisional, probational and permanent employees and employees serving on job appointments returning to their classified positions under the provisions of this Rule or Rule 8.19, which governs time frame requirements for restoration to state employment, shall return with such seniority, status, pay, and annual and sick leave accrual rates as they would have had if they had not been absent for military training or military active duty; however, both provisional and probational status shall be governed by the provisions of Rule 9.3.

(e) Repeal entire section as it applied only to Persian Gulf Crisis of 1990.

(f) Repeal entire section as it applied only to Persian Gulf Crisis of 1990.

(g) The provisions of this section of the rule apply to employees serving on job appointment, provisional, probationary or permanent status, who are called to active duty, and who are on Leave Without Pay by choice or because all annual and/or compensatory leave has been exhausted. The provisions of this subsection (g) shall apply retroactively to September 11, 2001.

1. When Military Leave with Pay as provided in Rule 11.26(a) has been exhausted, an employee whose military base pay is less than his state base pay shall be paid the difference between his military base pay and his state base pay. Such payment shall be made on the same frequency and manner as the employee's regular state pay, unless other voluntary arrangements are made. Employees receiving the pay differential shall provide to agency officials any documentation appropriate to ensure the payment amount is calculated correctly. Employees who choose to use their annual leave during their period of military absence shall not be eligible for receipt of the pay differential, unless the leave was used between September 11, 2001, and the date of the adoption of this rule, in which case subparagraph (4) shall apply.

2. Employees shall continue to accrue sick and annual leave for the entire period of service, beginning the date of the service. Leave shall be accrued and credited on the same basis as though the employee had not been activated. Leave earned shall be credited to the employee upon his return from active duty.

3. Employees who are on Leave Without Pay shall receive, each calendar year, the full 15-days of Military Leave with Pay provided in Rule 11.26(a)3. The pay differential allowed in 11.26(g)1 shall be suspended until the 15-day Military Leave with Pay period is exhausted and the employee returns to Leave Without Pay status.

4. If paid leave has been used during any portion of service from September 11, 2001, through the date of adoption of this rule, an employee who chooses to use the pay differential option shall have his leave balance reccredited with a leave amount equal to the value of the pay differential the employee would have received had this rule been in effect on September 11, 2001.

(h) A probationary or permanent employee, who was called to active duty for military purposes and who resigned from state service, may, at his request, and within 90 days of his release from active duty, have his resignation rescinded and become eligible for the benefits of subsection (g) of this rule.

Explanation

Employees who are called to military duty for an extended tour of duty receive 15 days of military leave with pay each calendar year. Once military leave with pay is exhausted, those employees must either use their own annual/compensatory leave, or be placed on leave without pay once their military leave has been exhausted. This creates an undue hardship for those employees whose military base pay is less than their state base pay.

The proposed change provides for a maximum of 15 days of military pay per calendar year, regardless of the number of "tours" an individual serves during the calendar year. For all employees whose military base pay is less than state base pay, once military leave with pay is exhausted during a calendar year, the employee may be placed on leave without pay and receive a payment equal to the difference between his military base pay and his state base pay. An employee with no annual/compensatory leave will be placed on leave without pay and thus will automatically receive the benefit of this rule; an employee who does have annual and/or compensatory leave may choose to use his leave, or may choose to be placed on leave without pay (thus preserving

his personal leave balances) to receive the benefit of this rule.

In addition to the changes listed above, changes have been made throughout the rule to allow the rule to apply to provisional appointees as well as the others originally listed.

Amend Rule 8.19

8.19 Restoration of Duty Upon Return from Military Service. Any employee, who subsequent to June 24, 1948 has left or leaves a classified position in which he was or is serving with provisional, probationary or permanent status, for active duty in the armed forces of the United States for not more than six years of voluntary service or an indefinite period of involuntary service and who upon separation from the armed forces of the United States by honorable discharge or under honorable conditions makes application for reemployment within ninety days thereof or within ninety days after he is released from hospitalization continuing after discharge for a period of not more than one year shall

(a) If still qualified to perform the duties of such position, be restored by his department to such position or to a position of like seniority, status and pay; or

(b) If not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform duties of any other position in the department where he formerly worked be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status and pay or the nearest approximation thereof consistent with the circumstances in his case.

Explanation

Provisional appointments have been added to Rule 11.26; it was necessary to add provisional appointments to this rule also in order to remain consistent.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, Louisiana 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Allen H. Reynolds
Director

0202#049

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of the State Library**

State Library Processing Center; Public Library Construction; Health and Correctional Institution Libraries; Auditorium and Conference Room Use by Public; Deposit of Publications; Depository Library System (LAC 25:VII.Chapters 11, 21, 25, 27, 43, and 45)

Editor's Note: LAC 25:VII.2705, Patron's Rights, has been moved to LAC 25:VII.507. The text of this Section has not been changed, but moved to be incorporated into similar subject matter.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Libraries, Museums, and other Scientific and Cultural Facilities Law (R.S. 25:8 et seq.), the Office of the State Library hereby

gives notice of its intent to repeal and amend Rules of the State Library of Louisiana. These proposed Rules repeal and amend sections of the law that refer to outdated services and programs. The Rules promote the public interest through deletion of rules governed by no longer existent federal entitlements, or through deletion of outdated rules regarding management of no longer existing buildings, or through revision of rules regarding dissemination of state documents, to include electronic information.

Title 25

CULTURAL RESOURCES

Part VII. State Library

Subpart 1. Readers' Services

Chapter 5. Services

§507. Patrons' Right to Privacy (formerly §2705)

A. State Library employees shall not divulge information regarding the materials used by any patron nor shall they identify the users of particular library materials without the consent of the individuals concerned. Such privileged client information will only be made available by the State Library on order from a court of competent Jurisdiction.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repromulgated by Department of Culture, Recreation and Tourism, Office of the State Library LR 28:

Subpart 2. Library Technical Services

Chapter 11. State Library Processing Center

§1101. Processing Center Functions

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:

§1103. Conditions for Membership

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:

§1105. Space and Staff

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:

§1107. Processing Center Agreement with Member Libraries

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:

§1109. Processing Center Charge to Institutional Libraries

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:

Part VII. State Library

Subpart 3. Library Development

Chapter 21. Public Library Construction

§2101. Administration

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, Office of the State Library of Louisiana, LR 18:1356 (December 1992), repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:

§2103. Definition

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, Office of the State Library of Louisiana, LR 18:1356 (December 1992), repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:

§2105. Rules Governing Administration of the Act

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Adopted by the Louisiana State Library, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 18:1356 (December 1992), LR 22:12 (January 1996), repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:

Chapter 25. Libraries in State's Health and Correctional Institution

§2501. Services

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:

§2503. State Library Agreement with Individual Institutions

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:

§2505. Agreement

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism Office of the State Library, LR 28:

Chapter 27. Auditorium and Conference Room Use by Public

§2701. Details

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:

§2703. Equipment Use

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed LR 28:

Chapter 43. Deposit of Publications

§4303. Public Documents Required to be Deposited

A. The public documents required to be deposited are those defined in R.S. 25:121.1. "Public Document" means informational matter, regardless of format, method of reproduction, source, or copyright, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency, including material published with federal funds or by sub-state planning districts. This definition incorporates publications released by private bodies such as research and consultant firms under a contract with and/or under the supervision of any state agency. Further, this definition specifically includes journals, laws or bills, statutes, codes, rules, regulations; newsletters, bulletins, state plans, brochures, periodicals or magazines; minutes of meetings of boards and commissions, transcripts of public hearings; reports, directories, statistical compendiums, bibliographies, pamphlets, lists, books; charts, maps, surveys; other printed matter; microfilm, microfiche, audiovisuals; electronic documents. "Electronic Documents" denotes any discrete public document published in a static electronic or digital format, i.e., CD-ROM, web document, floppy disk, etc. Whenever possible, paper is the preferred format for deposit with the recorder of documents. Excluded from the definition of public documents are correspondence, interoffice or intra-office memoranda, records of an archival nature; interactive, non-discrete, constantly changing electronic items such as Web sites, databases, ASP (active server pages), or software programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:

§4305. Public Documents not Required to be Deposited

A. ...

B. Complete Web sites are excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122.B.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:

§4311. Liaison Officer of Agencies

A. The head of every state agency shall designate one of its staff members as the liaison officer for the agency and shall notify the recorder of documents on or before the first day of July of the identity of the liaison officer, and shall immediately notify the recorder of documents of any new liaison officer should a change occur. If a liaison officer is not appointed, the head of the agency serves as liaison by default. The liaison officer of each state agency shall have the duty to provide the recorder of documents with required copies of publications in whatever format they were originally published and to submit the URL's of Internet documents. The liaison officer shall compile and forward to the recorder of documents lists of the public documents of the agency, and to provide other related information as may be requested by the recorder of documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122.B.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:

§4313. Application of Rules

A. If the liaison officer is in doubt whether a specific publication is required to be deposited as set forth in the above rules, or if the number of copies to be deposited is burdensome because of cost or numbers published, or if the number of copies to be deposited is uncertain, the liaison officer of the agency shall consult with the recorder of documents for assistance in interpreting the regulations. If the agency is not satisfied with the determination of the recorder of documents, a written request should be submitted to the state librarian, who shall make the final ruling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122.B.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:

Chapter 45. Depository Library System

§4501. Statutory Depositories

A. Louisiana State Library and Louisiana State University Library at Baton Rouge are legally designated complete depository libraries. They shall be the historical depository libraries, shall receive two copies of all public documents received by the recorder for distribution, and shall retain permanently one copy of each. The State Library of Louisiana is responsible for archiving and providing permanent public access to documents it receives that are issued solely in electronic formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122.B.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:

§4503. Other Depositories

A. Libraries including those in state agencies and other institutions in Louisiana wishing to receive public documents through the depository system shall submit a written application to the state librarian requesting

designation as a complete depository, or a selective depository. Special depository status is limited to the David R. Poynter Legislative Research Library.

1. Complete depositories shall receive one copy of all public documents received by the recorder of documents for distribution and shall retain one copy for a minimum of six years.

2. Selective depositories shall receive one copy of the core collection and all public documents received by the recorder for distribution in the predetermined categories they select and shall retain one copy for a minimum of six years. Those libraries selecting only the core collection shall retain the latest edition of each document received.

3. The special depository shall follow standard selection procedures and shall comply with the contract made with the state librarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122.B.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:

Family Impact Statement

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by RS25 Rule Changes. Such comments must be received no later than March 1, 2002, at 4:30 p.m., and should be sent to Gary O. Rolstad, State Library of Louisiana, P.O. Box 131, Baton Rouge, LA 70821-0131 or to fax (225) 342-3547. Copies of this proposed regulation can be acquired at the above referenced address.

Any person may submit data, views or positions, orally or in writing, to the State Board of Library Commissioners by writing to Box 14868, Baton Rouge, LA 70898-0131, or by telephoning (225) 342-4923 and facsimile (225) 342-35547.

Interested persons may submit written comments until 4:30 p.m., March 9, 2002, to Gary O. Rolstad, State Library of Louisiana, P.O. Box 131, Baton Rouge, LA 70821-0131.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: State Library Processing Center; Public Library Construction; Health and Correctional Institution Libraries; Auditorium and Conference Room-Use by Public; Deposit of Publications; Depository Library System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs/savings excepting the costs for publication in the *Louisiana Register*. The publication costs are expected to be \$1,280.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue is unaffected by these changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The changes update certain processes that are outdated and deleted. There are no significant costs or economic benefits directly to an persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment are not affected by these changes.

Gary O. Rolstad
Associate State Librarian
0201#013

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 102C Louisiana Physical Education
Content Standards
(LAC 28:LIII.Chapters 1 - 11)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the adoption of Bulletin 102, *Louisiana Physical Education Content Standards*. Bulletin 102 will be printed in codified format as Part LIII of Title 28 of the Louisiana Administrative Code. The *Louisiana Physical Education Content Standards* will be disseminated to local school districts following publication. The standards and benchmarks therein will be used to guide curriculum development for all physical education courses. Implementation of the guidelines set forth in the *Louisiana Physical Education Content Standards* will improve educational practices and coherence in the local physical education programs. The *Louisiana Physical Education Content Standards* will align the curriculum with desired changes to promote a more relevant physical education curriculum for all students.

Title 28

EDUCATION

Part LIII. Louisiana Physical Education Content Standards

Subpart 1. Teaching and Learning Criteria

Chapter 1. General Provisions

§101. Introduction

A. Louisiana State Physical Education Standards are based on the National Physical Education Standards developed by the National Association for Sport and Physical Education. This standards document is not a state curriculum or a predetermined course of study, rather, it speaks of competencies, defining what a student should know and be able to do. Teachers in the state of Louisiana are encouraged and empowered to create their own physical education curriculum that would best help their students meet these standards.

B. Standards-based reform seeks to establish clear, attainable standards at internationally competitive levels for all students. Because the standards are consensus statements about what a student should "know and be able to do," they provide a basis for student assessment, and for evaluating programs, at national, state, and local levels.

C. A significant benefit to physical education offered through the delineation of a comprehensive set of standards and accompanying assessments is that they combat the uninformed idea that physical education is an "academically soft" area of study. The standards ascribe academic standing to physical education. They say there is such a thing as

achievement, that knowledge and skills matter, and that mere willing participation is not the same as education.

D. Educational reform initiatives include aligning assessment to a program with a fully integrated teaching process that provides meaningful information about student learning and achievement. The transformation of assessment programs is moving toward performance-based assessments that focus on high-priority objectives and significant outcomes for students. The primary goal of assessment should be the enhancement of learning, rather than the documentation of learning for the purpose of determining a grade.

E. The Louisiana State Content Standards are presented in grade clusters (K-2, 3-5, 6-8, and 9-12) representing the configuration of most Louisiana school systems and developmentally appropriate physical education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§103. Louisiana Standards Foundation Skills

A. The Louisiana Content Standards Task Force has developed the following foundation skills which should apply to all disciplines. These foundation skills are listed numerically in parentheses at the end of each benchmark.

1. Communication. Communication is a process by which information is exchanged and a concept of *meaning* is created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills:

- a. reading;
- b. writing;
- c. speaking;
- d. listening;
- e. viewing; and
- f. visually representing.

2. Problem Solving. Problem solving involves the identification of an obstacle or challenge and the application of knowledge and thinking process which include reasoning, decision making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

3. Resource Access and Utilization. Resource Access and Utilization is the process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential in all learning processes. These resource tools include:

- a. pen;
- b. pencil and paper;
- c. audio/video material;
- d. word processors;
- e. computers;
- f. interactive devices;
- g. telecommunication; and
- h. other emerging technologies.

4. Linking and Generating Knowledge. Linking and generating knowledge is the effective use of cognitive processes to generate and link knowledge across the

disciplines and in a variety of contexts. In order to engage in the principles of continued improvement, students must be able to transfer and elaborate on these processes. *Transfer* refers to the ability to apply a strategy or content knowledge effectively in a setting or context other than that in which it was originally learned. *Elaboration* refers to monitoring, adjusting, and expanding strategies into other contexts.

5. Citizenship. Citizenship is the application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes:

- a. working respectfully and productively together for the benefit of the individual and the community;
- b. being accountable for one's civil, constitutional, and statutory rights; and
- c. mentoring others to be productive citizens and lifelong learners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§105. Definitions/Descriptions

Benchmark Behavior that indicates progress toward a content standard.

CTAPE Criterion referenced assessment tool available through the Louisiana Department of Education. This assessment measures basic motor competencies for children ages 6 and up. *CTAPE* will discriminate between children who have average motor skills and children who have significantly below average motor skills. *CTAPE* consists of six testing levels based on chronological age.

Daily Physical Education Minimum daily instructional period of at least 30 minutes in elementary education and 50 minutes in middle and high school.

Developmentally Appropriate Takes into account those aspects of teaching and learning that change with the age and experience of the learner.

Event Task A performance task that can be completed within 50 minutes. The task is loosely structured and written broadly enough to allow for multiple solutions or many possible correct answers. It should be engaging so as to capture the interest of the students and replicate or simulate a real world experience.

Group Project Can assessment project completed by several students working cooperatively. As opposed to an event task that can be completed in a single class period, the group project usually takes more than one class period to complete and may include time spent outside of class. *Group projects* may be performance-based (presentation of dance, creation of a new game) or involve class presentation of results, displays, wall charts.

Health-Enhancing Physical Activity Regular physical activity that results in maintaining physical fitness and improvement in health and well being across the life span.

Health Related Fitness Level of physiological functioning in:

1. cardiovascular endurance;
2. strength;
3. muscular endurance;
4. flexibility; and
5. body composition.

Interview One-to-one discussion with a planned sequence of questions designed to obtain information (e.g., cognitive, affective, statistical). They are often regarded as teacher-to-

student interviews for the purposes of obtaining information on student thoughts, feelings and understandings. Student-to-student or student-to-persons in the community interviews, however, may be used for such purposes as analyzing activity patterns or computing frequency of exercise.

Locomotor Skill/Movements Cbasic movements performed while moving the body from place to place (e.g., walk, run, hop, jump, skip, gallop, slide).

Manipulative Skill Cmovement done to or with objects with hands or involving the feet or other parts of the body.

Movement Concepts Cmovements that reinforce concepts such as time, space, effort and relationships.

Nonlocomotor Skill Cmovement of the body around an axis or joint (e.g., bend, stretch, twist, reach).

Observation (Teacher/Student) Cthe most utilized form of assessment in physical education. Teachers observe students on a regular basis as part of the instructional process. *Teacher observation* can also be used systematically to provide data on student performance, collect information on the instructional process or as a means of evaluation. All students or a sample of students representing different skill levels can be assessed. There are many tools teachers can use to record observational data including anecdotal records, checklists, rating scales, or scoring rubrics. All of these tools can be used whether in live observation or with video analysis by the teacher or by the students in peer assessment or self-assessment. The value of the information recorded in each of these cases is enhanced if teachers have a clear idea of what they are looking for in their observations and attend to issues related to the reliability and validity of the data they collect.

Observational Record Cobservational data includes anecdotal records, checklists, rating scales, or scoring rubrics either live or videotaped by teachers or students.

Parental Support Crecord of student regularity, progress, process or product of participation that has been verified by the parent(s). The report may include verification by signature of a student's recorded report or by anecdotal comments of the parent or person who has observed the out-of-class performance.

Peer Observation C

1. the observation of students by other students to assess competence in performance of skill and demonstration of selected critical elements of skill. It is most often used for the observation of critical elements that lead to a mature execution of a particular skill. Informal *peer observation* is used throughout teaching to help students evaluate progress toward the goal (inclusion of all components for a gymnastics routine or creative dance, correct pathway of travel in response to task).

2. *Peer observation feedback* includes:

- a. verbal discussion;
- b. verbal response;
- c. thumbs up or thumbs down; and
- d. written feedback.

3. Videotape is a helpful support technology for *peer observation*.

Performance Assessment Cform of assessment in which students are asked to produce or create something demonstrating knowledge.

Portfolio Ccollections of a student's work assembled over time (*Feuer and Fulton, 1993*). They include various pieces

of evidence documenting student achievement of a goal. *Portfolios* have been used by artists and models for many years to demonstrate their best work. The focus in student portfolios is on:

1. student thinking;
2. growth over time;
3. views of oneself as a learner; and
4. problem-solving.

Role Playing Cstudents are given a scenario and then asked to simulate the characters they portray, or act out the situation that has been set for them. These dialogues can be written or verbalized. Students have the opportunity to portray real world situations. Students are required to use reasoning and problem solving to deal with the reality of the experience as it unfolds.

Rubric Crating scale and list of criteria by which student knowledge, skills or performance can be assessed.

Self-Assessment C

1. the student assesses personal progress as opposed to being assessed by the teacher or by other students. *Self-assessments* include:

- a. rating scales for levels of performance;
- b. participation;
- c. recording performance scores (e.g., distance, accuracy);
- d. summary reports after a series of assessment tasks (e.g., dribbling, throwing for accuracy and distance, jump shooting, physical fitness profiles); and
- e. questionnaires of likes and dislikes in activities.

2. *Self-assessment* is a part of logs, journals and portfolios as students evaluate personal performance or progress toward goals.

Standard Cwhat students should know and be able to do.

Student Journal Cstudent record of participation, results, responses to, feelings, perception, or reflections about actual happenings or results. Entries, made at regular intervals over time, may serve as indicators of success, failure, benefits, or other intangible products of participation. Entries are not viewed as right or wrong since they are reflections about personal performance including social and psychological perspectives. Students may describe both positive and negative behavior. Journal entries are used to summarize, compare and contrast like and unlike experiences, provide opportunity for self-analysis of personal meaning and quality of participation, record behavior adjustments, compare results of other assessment options including conditions which contribute, enhance, or limit participation, and as a resource of suggestions for change. Journal entries can be reviewed to determine how a student processes both internal and external information about his or her performance.

Student Log C

1. students record performance of specific behaviors over a period of time that identifies:

- a. products;
- b. time intervals;
- c. decisions/choices; and
- d. reflections.

2. Recorded items should indicate critical factors relative to expected results. Information may show:

- a. performance changes;
- b. sequence of behaviors;
- c. choices;

- d. feelings;
- e. documentation of conditions;
- f. progress;
- g. process, and/or
- h. regularity of participation.

3. *Logs* may be kept by individual students, small groups, or whole classes. Information can be used in combination with other assessment options to justify program changes and to make predictions.

Student Project—students engage in building a scenario, determining goals, planning a program of participation to achieve outcomes, and implementing the plan to the completion of the goals. Student projects provide for a range of strategies and results including the following: the application of the processes of data collection, goal setting, planning, analysis, decision making, problem solving; development and application of skill and knowledge to real-life situations to solve problems or create "new" interventions to reach personal goals. These may include:

- 1. multiple objectives or outcomes;
- 2. combine multiple assessment options (e.g., logs, journals, and reports);
- 3. student autonomy in choosing procedures and reaching conclusions;
- 4. solo or multiple students;
- 5. multiple resources;
- 6. changes in status, behaviors or conditions;
- 7. authenticity;
- 8. performance products;
- 9. flexibility of time (complexity of task determines time); and
- 10. integration of multiple content areas, concepts and applications.

Wellness—individual exercise programs based on health and healthy lifestyle issues including physical, intellectual, emotional, social and spiritual dimensions.

Written Tests

1. encompass multiple choice, true/false, matching, essay, short answer and fill-in-the-blank test formats traditionally used to examine:

- a. knowledge;
- b. comprehension;
- c. application;
- d. analysis;
- e. synthesis; and
- f. evaluation of the knowledge base in physical education.

2. Broadly speaking, such tests could include other test formats such as oral examinations and examinations that use drawings or pictures to elicit student responses.

3. *Written tests* are commonly used for short quizzes or for longer formal examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§107. Louisiana Physical Education Standards

A. Demonstrates competency in many movement forms and proficiency in a few movement forms. (1,2,5)

1. The intent of this standard is the development of movement competence and proficiency. Movement

competence implies the development of sufficient ability to enjoy participation in physical activities and establishes a foundation to facilitate continued motor skill acquisition and increased ability to engage in appropriate motor patterns in daily physical activities. The development of proficiency in a few movement forms gives the student the capacity for successful and advanced levels of performance to further increase the likelihood of participation. In the primary years students develop maturity and versatility in the use of fundamental skills (e.g., running, skipping, throwing, striking) that are further refined, combined and varied during the middle school years. These motor patterns, now having evolved into specialized skills (e.g., a specific dance step, chest pass, catching with a glove), are used in increasingly more complex movement environments (more players or participants, rules, and strategies) through the middle school years. On the basis of interest and ability, high school students select a few activities for regular participation within which proficiency will be developed. In preparation for adulthood, students should have acquired the basic skills to participate in a wide variety of leisure and work-related physical activities and advanced skills in at least two or three areas.

B. Applies movement concepts and principles to the learning and development of motor skills. (1,2,4)

1. This standard concerns the ability of the learner to use cognitive information to understand and enhance motor skill acquisition and performance. This includes the application of concepts from disciplines such as:

- a. motor learning and development;
- b. sport psychology and sociology;
- c. biomechanics; and
- d. exercise physiology.

2. Specifically this would include concepts like increasing force production through the summation of forces, effects of anxiety on performance, and the principle of specificity of training. Knowledge of such concepts and practice applying these concepts enhances the likelihood of independent learning and, therefore, more regular and effective participation in physical activity.

a. During the lower elementary years emphasis is placed on establishing a movement vocabulary and the initial application of introductory concepts (e.g., for absorption, principles governing equilibrium, application of force).

b. Through the upper elementary and middle school years an emphasis is placed on learning more and increasingly complex concepts. In addition, emphasis is placed on applying and generalizing these concepts to real life physical activity situations (e.g., managing stress and the effect of growth spurt on movement performance).

c. During the high school years the student should possess sufficient knowledge of concepts to independently and routinely use a wide variety of increasingly complex concepts (e.g., performance trends associated with learning new motor skills, specificity of training).

d. By graduation the student should have developed sufficient knowledge and ability to independently use their knowledge to acquire new skills while continuing to refine existing ones.

C. Exhibits a physically active lifestyle. (1,2,3,4,5)

1. The intent of this standard is to establish patterns of regular participation in meaningful physical activity. This standard should connect what is done in the physical education class with the lives of students outside of physical education. While participation within the physical education class is important, what the student does outside the physical education class is critical to developing an active, healthy lifestyle. Students are more likely to participate if they have had opportunities to develop movement competence and they should be encouraged to participate in vigorous and unstructured play. As students get under the structure of activity tends to increase and the opportunities for participation in different types of activity increase outside of the physical education class. Attainment of this standard should develop an awareness of those opportunities and encourage a broad level of participation. Cognitive understandings develop from an initial awareness of cause and effect relationships between activity, and its immediate and identifiable effects on the body, to an increased understanding of the role of physical activity on the physiological body, social opportunities and relationships, and emotional well being. This yields a comprehensive perspective on maintaining the idea of a healthy lifestyle.

D. Achieves and maintains a health-enhancing level of physical fitness. (2,3,4,5)

1. The intent of this standard is for the student to achieve a health-enhancing level of physical fitness. Students should be encouraged to develop higher levels of basic fitness and physical competence as needed for many work situations and active leisure participation. Health-related fitness components include cardiorespiratory endurance, muscular strength and endurance, flexibility and body composition. Expectations for students' fitness levels should be established on a personal basis, taking into account variation in entry levels rather than setting a single set of standards for all children at a given grade level.

a. For elementary children, the emphasis is on promoting an awareness of fitness components and having fun while participating in health-enhancing activities that promote physical fitness.

b. Middle school students gradually acquire a greater understanding of the fitness components, how each is developed and maintained, and the importance of each in overall fitness.

c. Secondary students are able to design and develop an appropriate personal fitness program that enables them to achieve desired levels of fitness. Thus student should have both the ability and willingness to accept responsibility for personal fitness which fosters an active, healthy lifestyle.

E. Demonstrates responsible personal and social behavior in physical activity settings. (1,2,5)

1. The intent of this standard is the achievement of self-initiated behaviors that promote personal and group success in activity-oriented settings. These include safe practices, adherence to rules and procedure, etiquette, cooperation, teamwork, ethical behavior in sport, and positive social interaction.

2. Achievement of this standard in the lower elementary grades begins with recognition of classroom

rules and procedures, as well as a focus on safety. In the upper elementary levels, students identify the purposes for rules and procedures and become involved in decision-making processes to establish rules and procedures for specific activity situations. High school students initiate responsible behavior, function independently and responsibly, while positively influencing the behavior of others in physical activity settings.

F. Demonstrates understanding and respect for differences among people in physical activity settings. (1,5)

1. The intent of this standard is to develop respect for individual similarities and differences through positive interaction among participants in physical activity. Similarities and differences include characteristics of culture, ethnicity, motor performance, disabilities, physical characteristics (e.g., strength, size, shape), gender, race, and socio-economic status.

a. Elementary school students begin to recognize individual similarities and differences and participate cooperatively in physical activity.

b. By middle school, students participate cooperatively in physical activity with persons with diverse characteristics and backgrounds.

c. High school students are expected to be able to participate with all people, recognize the value of diversity in physical activity, and develop strategies for inclusion of others.

G Understands that physical activity provides opportunities for enjoyment, challenge, self-expression, and social interaction. (1,4)

1. This standard is designed to develop an awareness of the intrinsic values and benefits of participation in physical activity that provides personal meaning. Physical activity can provide opportunity for self-expression and social interaction and can be enjoyable, challenging, and fun. These benefits entice people to continue participation in activity throughout the life span.

a. Elementary school children derive pleasure from movement sensations and experience challenge and joy as they sense a growing competence in movement ability.

b. At the middle school level, participation in physical activity provides important opportunities for challenge, social interaction and group membership, as well as opportunities for continued personal growth in physical skills and their applied settings.

c. Participation at the high school level continues to provide enjoyment and challenge as well as opportunities for self-expression and social interaction. As a result of these intrinsic benefits of participation, students will begin to actively pursue lifelong physical activities that meet their own needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Subpart 3. Cluster Levels

Chapter 3. Content Standards and Benchmarks

§301. Coding Key for Benchmarks

A. Standards are broad goals for student achievement in a content area. Each standard is followed by a set of benchmarks.

B. The benchmarks state what a student should know and be able to do in order to reach the standard. The key below will explain the coding used for the benchmarks contained in this document.

1. The first number indicates the standards number.
2. The capitol letter represents the cluster level.
3. The third symbol is a second number, which represent the benchmark number.
4. The letters for each grade cluster level are below:
PC represents the primary cluster level, grades K-2
EC represents the elementary cluster level, grades 3-5
MC represents the middle school cluster level, grades 6-8

HC represents the high school cluster level, grade 9

Example: 2-E-4 would represent benchmark four for standard two on the Elementary Level (grades 3-5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Chapter 5. Grades K-2C Primary Cluster Level

§501. Standard 1

A. Standard 1 demonstrates competency in many movement forms and proficiency in a few movement forms.

1. Intent. The intent of this standard is to enable students to demonstrate mature locomotor and nonlocomotor patterns and combine these movements in smooth, rhythmical and sequential patterns in a variety of conditions.

B. Benchmarks

1-P-1	Performs locomotor and non-locomotor skills at a basic level progressing to simple sequences utilizing shapes, levels, directions, pathways, and ranges.	(2,4)
1-P-2	Demonstrates ways to manage body weight in a variety of situations alone or within a group (e.g., hanging, climbing, and balancing in symmetrical and asymmetrical shapes).	(1,3,4)
1-P-3	Performs manipulative skills using a variety of equipment in different environmental conditions (e.g., striking with self, partner, or in a game situation).	(1,2,4,5)
1-P-4	Performs basic rhythmic skills alone, with a partner or within a group.	(1,2,5)

C. Suggested Assessment Methods

1. Teacher observation
2. Group project
3. Self assessment
4. Peer observation
5. Checklist
6. Video analysis

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§503. Standard 2

A. Standard 2 applies movement concepts and principals to the learning and development of motor skills.

1. Intent. The intent of this standard is to enable students to demonstrate elements of fundamental skills and to use them in relation to the concepts of space, effort and relationships.

B. Benchmarks

2-P-1	Integrates other content areas through movement.	(1,2,3,4,5)
2-P-2	Demonstrates and uses a variety of relationships with objects (e.g., over/under, behind, alongside, through).	(1,2,4)
2-P-3	Identifies fundamental movement patterns	(1,2,4)
2-P-4	Establishes a beginning movement vocabulary (e.g., personal space, high/low levels, fast/slow speeds, light/heavy weights, balance, twist).	(1,2,4)
2-P-5	Applies appropriate concepts to performance (change direction while running).	(1,2,4)

C. Suggested Assessment Methods

1. Teacher observation
2. Group project
3. Self assessment
4. Peer observation
5. Checklist
6. Written test
7. Video analysis

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§505. Standard 3

A. Standard 3 exhibits a physically active lifestyle.

1. Intent. The intent of this standard is to enable students to develop positive attitudes toward regular physical activity and its effect on personal well being.

B. Benchmarks

3-P-1	Participates regularly in vigorous activities outside of physical education class.	(1,2,3,4,5)
3-P-2	Acknowledges that physical activity is good for personal well being.	(1,2,3,4,5)
3-P-3	Experiences and expresses satisfaction from participation in physical activity.	(1,2,4,5)

C. Suggested Assessment Methods

1. Group project
2. Self assessment
3. Peer observation
4. Student journal
5. Interview
6. Portfolio
7. Role playing
8. Criterion-Related Assessment (C-TAPE-

Competency Test for Adapted Physical Education)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§507. Standard 4

A. Standard 4 achieves and maintains a health-enhancing level of physical fitness.

1. Intent. The intent of this standard is to encourage students to participate in activities that promote health-related fitness.

B. Benchmarks

4-P-1	Sustains activity from moderate to vigorous intensity levels while participating in physical activity.	(2,4)
4-P-2	Identifies physiological signs of moderate physical activity (e.g., fast heart rate, sweating, increased breathing).	(1,2,4)
4-P-3	Demonstrates activities that increase muscular strength and endurance.	(1,2,4)
4-P-4	Demonstrates moving each joint through a full range of motion.	(1,2,4)

C. Suggested Assessment Methods

1. Teacher observation
2. Self assessment
3. Peer observation
4. Group project
5. Parental report
6. Portfolio
7. Student log
8. Written test
9. Checklist - teacher, student, and parent

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§509. Standard 5

A. Standard 5 demonstrates responsible personal and social behavior in physical activity settings.

1. Intent. The intent of this standard is to enable students to demonstrate safe practices, rules and procedures with little or no reinforcement.

B. Benchmarks

5-P-1	Demonstrates established protocols with little reinforcement (e.g., playground, classroom, and gymnasium).	(1,2,4,5)
5-P-2	Acknowledges the importance of being aware of one's surroundings and acting in a safe manner in physical activity settings.	(1,2,4,5)
5-P-3	Works cooperatively (e.g., takes turns, is supportive, assists partner) with another to complete an assigned task.	(1,2,4,5)
5-P-4	Applies the elements of socially acceptable conflict resolution in physical activity settings (e.g., cooperation, sharing, consideration).	(1,2,4,5)

C. Suggested Assessment Methods

1. Portfolio
2. Teacher observation
3. Student journal
4. Observational record
5. Parental reporting
6. Checklist – teacher, student, and parent

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§511. Standard 6

A. Standard 6 demonstrates an understanding and respect for differences among people in physical activity settings.

1. Intent. The intent of this standard is to encourage students to identify and demonstrate concepts of cooperation, sharing and consideration regardless of differences.

B. Benchmarks

6-P-1	Recognizes the importance of seeking out, participating with, and showing respect for people of like and different physical abilities.	(1,2,5)
6-P-2	Interacts with others regardless of personal differences (e.g., gender, ethnicity, disability).	(1,2,5)
6-P-3	Demonstrates a willingness to help a fellow student who has difficulty completing a skill	(1,2,5)

C. Suggested Assessment Methods

1. Written assessment
2. Oral assessment
3. Checklist
4. Student journal
5. Portfolio
6. Observational record
7. Interview
8. Role playing
9. Teacher observation
10. Group project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§513. Standard 7

A. Standard 7 understands that physical activity provides the opportunity for enjoyment, challenge, self-expression, and social interaction.

1. Intent. The intent of this standard is to encourage students to demonstrate cooperation with others in dyads and small groups and to express their feelings through activity.

B. Benchmarks

7-P-1	Describes the feelings that result from challenges, successes, and failures in physical activity, alone or in groups.	(1,2,4)
7-P-2	Distinguishes feelings about and during physical activity.	(1,2,4)
7-P-3	Displays a willingness to participate in new activities.	(1,2,4)

C. Suggested Assessment Methods

1. Written Assessment
2. Oral assessment
3. Checklist
4. Student journal
5. Student portfolio
6. Role playing
7. Teacher observation
8. Interview
9. Group project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Chapter 7. Grades 3-5C Elementary Cluster Level

§701. Standard 1

A. Standard 1 demonstrates competency in many movement forms and proficiency in a few movement forms.

1. Intent. The intent of this standard is to demonstrate refined fundamental movement patterns. Attainment of mature motor patterns and variations of skills and skill combinations are performed. In addition, students should be

able to acquire some specialized skills basic to a movement form and to use those skills with a partner.

B. Benchmarks

1-E-1	Demonstrates mature forms in locomotor, non-locomotor, and manipulative skills (e.g., locomotor - run, jump, skip; non-locomotor - bend, stretch, lunge; manipulative - catching, throwing, kicking).	(1,3,5)
1-E-2	Combines a variety of motor skills for specific sports (e.g., catches, dribbles and passes basketball to a moving partner).	(1,3,5)
1-E-3	Exhibits ability to manipulate objects with the skills necessary to participate in games and lead-up activities (e.g., engages in simple games requiring manipulative skills).	(2,3,5)
1-E-4	Demonstrates the ability to create rhythmic movement patterns and dances (e.g., performs rhythmic body movements and communicates ideas and feelings with and without music).	(1,4)

C. Suggested Assessment Methods

1. Teacher observation
2. Event task
3. Peer observation
4. Student log
5. Performance assessment
6. Observational record

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§703. Standard 2

A. Standard 2 applies movement concepts and principles to the learning and development of motor skills.

1. Intent. The intent of this standard is to enable students to use critical elements to refine personal performance of fundamentals and selected specialized motor skills. They should be able to identify and apply concepts that impact the quality of movement performance in increasingly complex movement situations.

B. Benchmarks

2-E-1	Integrates movement concepts with other content areas (e.g., measuring distances and timing races or events).	(2,4)
2-E-2	Applies critical elements to improve personal performance in fundamental and selected specialized motor skills (e.g., describes and demonstrates body positions for each part of an overhand throw).	(1,4)
2-E-3	Recognizes and describes critical elements of more complex movement patterns (e.g., describes the use of the arms, as well as the legs, in performing the running long jump for maximum distance).	(1,4)
2-E-4	Employs the concept of efficient and effective practice to improve skills in appropriate settings (e.g., repeating the skill of basketball lay-ups in a gym or playground setting).	(2,5)

C. Suggested Assessment Methods

1. Teacher observation
2. Student log
3. Event task
4. Peer observation
5. Written test
6. Observational record

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§705. Standard 3

A. Standard 3 exhibits a physically active lifestyle.

1. Intent. The intent of this standard is to develop an awareness of participation in physical activity as a conscious decision and personal choice for both enjoyment and health-related benefits.

B. Benchmarks

3-E-1	Describes the physical, emotional, and psychological benefits of participation in health-related activities	(1,5)
3-E-2	Identifies several moderate to vigorous physical activities that provides personal pleasure (e.g., participates in youth league soccer after school, or joins in a pick-up game of basketball).	(1,4,5)
3-E-3	Selects and participates regularly in physical activities for the purpose of improving skill and health (engages in activities that promote cardiovascular fitness)	(2,4)

C. Suggested Assessment Methods

1. Student log
2. Written test
3. Group project
4. Observational record
5. Technology use

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§707. Standard 4

A. Standard 4 achieves and maintains a health-enhancing level of physical fitness.

1. Intent. The intent of this standard is to match different types of physical activity with underlying physical fitness components including moderate to vigorous physical activities in a variety of settings.

B. Benchmarks

4-E-1	Identifies several activities related to each component of health-related fitness.	(1,4)
4-E-2	Participates in self-assessment for health-related fitness and meets the standards for that particular test for their appropriate age group.	(1,2,4)
4-E-3	Selects an activity program that is designed to improve health-related fitness.	(2)
4-E-4	Adopts personal goals based upon results of fitness assessments.	(1,2,3,4,5)
4-E-5	Achieves reasonable levels in all components of health-related fitness.	(1,2,3,4,5)

C. Suggested Assessment Methods

1. Student project
2. Student log
3. Student journal
4. Written test

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§709. Standard 5

A. Standard 5 demonstrates responsible personal and social behavior in physical activity settings.

1. Intent. The intent of this standard is to develop activity-specific safe practices, rules, procedures and etiquette.

B. Benchmarks

5-E-1	Demonstrates good sportsmanship and fair play in a variety of settings	(1,2,5)
5-E-2	Recognizes and avoids unsafe practices and situations	(2,4,5)
5-E-3	Works cooperatively with teachers and peers to reach a common goal	(1,2,5)
5-E-4	Exhibits independence and ability to succeed in groups	(1,2,5)
5-E-5	Accepts and gives constructive feedback	(1,2,5)

C. Suggested Assessment Methods

1. Teacher observation
2. Event task
3. Group project
4. Student journals
5. Observational record

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§711. Standard 6

A. Standard 6 demonstrates understanding and respect for differences among people in physical activity settings.

1. Intent. The intent of this standard is to build on the foundation laid in early grades that encourages students to develop cultural/ethnic self-awareness.

B. Benchmarks

6-E-1	Displays positive attitudes toward self and others through physical activity.	(1,5)
6-E-2	Demonstrates tolerance for individual differences.	(1,5)
6-E-3	Explores the role of culture in physical activities of other countries.	(1,4,5)

C. Suggested Assessment Methods

1. Group project
2. Student log
3. Student project
4. Portfolio
5. Teacher Observation

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§713. Standard 7

A. Standard 7 understands that physical activity provides the opportunity for enjoyment, challenge, self-expression, and social interaction.

1. Intent. The intent of this standard is to identify activities that will challenge, encourage and promote the enjoyment and commitment to engaging in regular physical activities.

B. Benchmarks

7-E-1	Exhibits positive feelings about participation in physical activity.	(1,5)
7-E-2	Engages in the challenge of new activities.	(1,3,4)
7-E-3	Participates enthusiastically in independent and interactive physical activities.	(1,2,3,5)
7-E-4	Participates in and designs games, gymnastics and dance to increase skill competence.	(1,2,3,4,5)
7-E-5	Acknowledges the role of games, sports, and dance in getting to know and understand self and others.	(1,4,5)

C. Suggested Assessment Methods

1. Group project
2. Portfolio
3. Student log
4. Teacher observation
5. Student project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Chapter 9. Grades 6-8C Middle School Cluster Level §901. Standard 1

A. Standard 1 demonstrates competency in many movement forms and proficiency in a few movement forms.

B. The middle school student is expected to acquire competence in a variety of movement forms. As a result of an increased ability to vary skills, students are able to participate successfully in dance activities, outdoor pursuits, and modified versions of team and individual sports. In order to do this, students should have gained competence in the basic skills and their application to modified versions of these movement forms.

C. Benchmarks

1-M-1	Demonstrates the ability to combine locomotor, non-locomotor, and manipulative skills (e.g., combines running, stopping, throwing, shooting and kicking)	(3)
1-M-2	Exhibits basic strategies related to specific lead-up games (e.g., basic offense and defense; strategies related to cooperative activities)	(1,2,4)
1-M-3	Demonstrates basic competency in more complex motor skills and more advanced specialized skills (e.g. hand dribble and foot dribble to prevent an opponent from stealing) related to specific sports activities (e.g., participates in modified versions of team sports such as basketball, volleyball, softball, soccer)	(2,4)
1-M-4	Demonstrates the ability to create rhythmic movement patterns (e.g., performs movements and routines in activities such as square dance, line dance, modern dance, aerobics, kick boxing, Tai Chi, Yoga)	(1,2,4,5)
1-M-5	Demonstrates strategies for net and invasion games (e.g., keeping object going with partner using striking pattern, placing ball away from opponent in a racket sport, hand and foot dribble while preventing an opponent from stealing the ball)	(1,2,4,5)

D. Suggested Assessment Methods

1. Teacher observation
2. Role playing
3. Self assessment
4. Group project
5. Written test
6. Student project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§903. Standard 2

A. Standard 2 applies movement concepts and principles to the learning and development of motor skills.

B. Middle school students' increasing competence affords them opportunities to develop more advanced knowledge and understanding. This is exemplified through their growing understanding and application of more advanced movement and game strategies, critical elements of advanced movement skills, and the identification of characteristics representative of highly skilled performance. Concepts of practice in relation to performance can be understood and applied, and are indicative of the increasing complexity of discipline-specific knowledge that can be used (e.g., lengthening the lever increases linear velocity).

C. Benchmarks

2-M-1	Analyzes and applies basic concepts to improve movement, dance, fitness, game and sports skills being practiced (e.g., throws softball different distances using varied trajectories and amounts of force).	(2,4)
2-M-2	Demonstrates how practicing movement skills improves performance (e.g., maintains a log of practice attempts for throwing a softball at a target, compares differences in successful throws from first attempts to last attempts).	(4)
2-M-3	Analyzes and applies advanced movement and game strategies (e.g., guards another player who is dribbling a basketball, attempts to prevent a pass or shot; demonstrates game strategies involved in playing tennis, pickle ball, bounce ball).	(2,4)
2-M-4	Recognizes and applies principles necessary for safe and skilled physical performance (e.g., never shoot an arrow up into the air; always include a warm-up and cool-down component as part of the activity).	(2,4)

D. Suggested Assessment Methods

1. Teacher observation
2. Role playing
3. Self-assessment
4. Student log

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§905. Standard 3

A. Standard 3 exhibits a physically active lifestyle.

B. The middle school student should participate in at least one physical activity outside of the school setting on a regular basis. It is the intent of this standard to increase

awareness of the opportunities for participation and interest in participating in a superfluous of different kinds of physical activity experiences. Students should be able to independently set physical activity goals and participate in individualized programs of physical activity and exercise based on the results of fitness assessments, personal fitness goals and interest. Greater and more specific understanding of long-term health benefits and understanding the relationship of health maintenance to the quality of lifelong health is expected.

C. Benchmarks

3-M-1	Identifies opportunities in the school and community for regular participation in physical activity (e.g., rollerblading, bicycling, hiking intramural activities and extracurricular activities).	(2,3,4)
3-M-2	Explores a variety of new physical activities for personal interest in and out of physical education class (e.g., participates in games, sports, dance and outdoor pursuits both in and out of school based on individual interests and capabilities; explores new activities on the Internet).	(2,3,4)
3-M-3	Establishes and pursues personal physical activity goals through regular physical activity (e.g., participates in an individualized physical activity program designed with the help of the teacher).	(1,2,3,4)
3-M-4	Describes the elements of a healthy lifestyle (e.g., explains the health-related and skill-related components of a healthy lifestyle; uses heart rate monitors to discuss cardiovascular health).	(1,2,3,4)

D. Suggested Assessment Methods

1. Teacher observation
2. Interview
3. Self-assessment
4. Student project
5. Portfolio
6. Parental Report
7. Student log

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§907. Standard 4

A. Standard 4 achieves and maintains a health-enhancing level of physical fitness.

B. Students at this level should participate in physical activities that address each component of health-related fitness, including muscular strength and endurance flexibility, body composition, as well as cardiorespiratory endurance. They can assess their personal fitness status for each component. Students are introduced to the various principles of training (e.g., threshold, overload, specificity) and how they can be utilized in improving physical fitness. At this level, students should be able to interpret the results of physical fitness assessments and use this information to assist in the development of individualized physical fitness goals with little assistance from the teacher.

C. Benchmarks

4-M-1	Participates in and sustains moderate to vigorous physical activity in a variety of settings (e.g., activity should elevate heart rate to target heart rate zone).	(4)
4-M-2	Develops individual goals for each of the health-related fitness components (e.g., assess individual fitness levels and set individual goals based on fitness results).	(2,4)
4-M-3	Participates in self-assessment for health-related fitness and meets the standards for that particular test for their appropriate age group.	(3,4)
4-M-4	Analyzes and applies basic principles of training to improve health-related fitness [e.g., addresses development of a workout plan, warm-up, cool-down, and includes such principles as FITT (frequency, intensity time and type), overload, specificity].	(2,4)

D. Suggested Assessment Methods

1. Teacher observation
2. Written test
3. Observational record
4. Student project
5. Peer Observation

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§909. Standard 5

A. Standard 5 demonstrates responsible personal and social behavior in physical activity settings.

B. Students are beginning to seek greater independence from adults. They make appropriate decisions to resolve conflicts arising from the powerful influence of peers and to follow pertinent practices, rules and procedures necessary for successful performance. They practice appropriate problem-solving techniques to resolve conflicts when necessary in competitive activities. Students reflect on the benefits of the role of rules, procedures, safe practices, ethical behavior, and positive social interaction in physical activity settings.

C. Benchmarks

5-M-1	Participates in cooperative activities in both leadership and follower roles.	(1,2,4,5)
5-M-2	Utilizes time effectively to complete assigned tasks.	(3,4)
5-M-3	Participates in establishing and following rules, procedures and etiquette that are safe and effective for specific activity situations.	(1,2,4)

D. Suggested Assessment Methods

1. Teacher assessment
2. Group project
3. Peer observation
4. Student log
5. Self-assessment
6. Student project
7. Written test
8. Event task

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§911. Standard 6

A. Standard 6 demonstrates understanding and respect for differences among people in physical activity settings.

B. At the middle school level, the concept of physical activity as a microcosm of modern culture and society is introduced. Students should be able to recognize the role of physical activity in understanding diversity in modern culture. Students continue to include and support each other and respect the limitations and strengths of group members.

C. Benchmarks

6-M-1	Analyzes, describes and participates in simple forms of dances and games of various cultures from around the world (e.g., incorporate the history of individual sports or discuss the history of the Olympics).	(3,4)
6-M-2	Recognizes commonalities and differences in people of different genders, cultures, ethnicity, abilities and skill levels, and seeks to learn more about both.	(2,4,5)
6-M-3	Recognizes the role of sport, games and dance in getting to know and understand others of like and different backgrounds (e.g., write a report on the history and their impact today).	(3,5)

D. Suggested Assessment Methods

1. Teacher Observation
2. Student Log
3. Self-Assessment
4. Interview
5. Portfolio
6. Student Project
7. Role Playing
8. Event Task
9. Group Project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§913. Standard 7

A. Standard 7 understands that physical activity provides the opportunity for enjoyment, challenge, self-expression, and social interaction.

B. A primary reason middle school students seek physical activity is for group membership and positive social interaction. Physical activities provide a positive outlet for competition with peers and serve as a means of gaining the respect and recognition of others. Skill expertise is increasingly valued. Physical activity can increase self-confidence and self-esteem as students discover renewed enjoyment of participation. Feelings of independence are beginning to be important as well. Physical activities can provide confidence as students start to take steps toward independence. Challenge is found in both high levels of competition as well as in new or different activities. As students experience a greater awareness of feelings, the avenues of self-expression provided by dance, gymnastics and various sport activities become increasingly more important.

C. Benchmarks

7-M-1	Participation in challenging activities and in activities requiring the utilization of newly acquired skills (e.g., participates in recreational opportunities outside of school according to their abilities).	(2,4)
7-M-2	Identifies the social, emotional and physical benefits of participation in physical activities (e.g., students explain the benefits of physical activity).	(1,4)
7-M-3	Demonstrates enjoyment from participation in physical activities.	(5)

D. Suggested Assessment Methods

1. Teacher observation
2. Student log
3. Self-assessment
4. Student project
5. Portfolio
6. Event task

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Chapter 11. Grades 9-12C High School Cluster Level

§1101. Standard 1

A. Standard 1 demonstrates competency in many movement forms and proficiency in a few movement forms.

B. Students in grades 9 and above have reached a high level of competency in movement forms and are ready to attempt mastery in some chosen activities. Through observation, analysis and practice, they develop movement skills to the highest level possible for them at this developmental stage. They participate in a variety of individual, dual and team sports as well as in recreational games, dance and challenge activities.

C. Benchmarks

1-H-1	Demonstrates proficiency in applying advanced skills, strategies and rules for specific activities (e.g., plays games such as racquet, field and court sports that require advanced eye/body coordination and high levels of strategy).	(1,2,3,4,5)
1-H-2	Develops outdoor and lifelong leisure pursuits.	(1,3,4,5)

D. Suggested Assessment Methods

1. Teacher observation
2. Portfolio
3. Observational record
4. Written test
5. Performance assessment

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1103. Standard 2

A. Standard 2 applies movement and principles to the learning and development of motor skills.

B. Students at this grade level are beginning to specialize in a few movement forms leading toward proficiency. They bring together many disciplines such as physics and anatomy to gain a better understanding of how and why they move as

they do. They predict performance outcomes based on movement principles and plan their goals accordingly.

C. Benchmarks

2-H-1	Synthesizes previously learned skills and incorporates them into dynamic physical activity settings.	(1,2,3,4)
2-H-2	Identifies and applies critical elements to enable the development of movement competence/proficiency (e.g., applies biomechanical concepts and principles to analyze and improve performance of self and others).	(1,2,3,4)

D. Suggested Assessment Methods

1. Teacher observation
2. Student project
3. Observational record
4. Peer observation
5. Group project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1105. Standard 3

A. Standard 3 exhibits a physically active lifestyle.

B. Students participate in a variety of physical activities that can be continued for a lifetime. Students at this level should be able to develop sound strategies for incorporating physical activity into a comprehensive lifetime activity plan.

C. Benchmarks

3-H-1	Utilizes available community resources to promote an active lifestyle (e.g., develop strategies to deal with participation that will occur over their life span).	(1,2,3,4,5)
3-H-2	Participates in lifetime recreational activities specific to fitness components (e.g., rock climbing, backpacking, power walking, rollerblading, orienteering).	(1,2,3,4,5)
3-H-3	Participates regularly in physical activities that contribute to improved physical fitness and wellness.	(3,4,5)

D. Suggested Assessment Methods

1. Teacher observation
2. Student report
3. Observational record
4. Portfolio
5. Student journal
6. Interview
7. Group project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1107. Standard 4

A. Standard 4 achieves and maintains a health-enhancing level of physical fitness.

B. Students should begin to choose and participate on a regular basis in physical activities that enable them to achieve and maintain health-related fitness. Students should be able to interpret information from fitness tests and begin to design, with teacher guidance, a health-related fitness plan.

C. Benchmarks

4-H-1	Participates in a variety of health-enhancing physical activities in both school and non-school settings.	(3,4,5)
4-H-2	Identifies and evaluates personal physiological response to exercise (e.g., monitor body responses before, during and after exercise by checking such factors as heart rate, perceived exertion, recovery time and adequate fluid intake).	(2,3,4)
4-H-3	Designs health-related fitness programs based on accurately assessed fitness profiles.	(1,2,3,4,5)

D. Suggested Assessment Methods

1. Teacher observation
2. Written test
3. Observational record
4. Student project
5. Peer observation

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1109. Standard 5

A. Standard 5 demonstrates responsible personal and social behavior in physical activity settings.

B. Students demonstrate responsible personal and social behavior through following safe practices, rules, procedures and etiquette in all physical activity settings. Students do so with an understanding of their responsibility as a positive influence on the behavior of others. They anticipate potential conflicts and strive to prevent them from happening or quickly resolve conflicts that do occur in socially accepted ways.

C. Benchmarks

5-H-1	Demonstrates safe and appropriate use and care of equipment and facilities (e.g., anticipated potentially dangerous situations related to physical activity).	(1,3,4)
5-H-2	Identifies the inherent risks associated with physical activity in extreme environments (e.g., describe safety techniques to use to avoid dehydration, over-exertion, heat exhaustion and hypothermia during physical activity in extreme environments).	(1,2,4,5)
5-H-3	Initiates and models independent and interdependent personal behaviors in physical activity settings.	(1,2,5)

D. Suggested Assessment Methods

1. Teacher observation
2. Student project
3. Observational record
4. Student report
5. Self-assessment
6. Peer observation
7. Written tests

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1111. Standard 6

A. Standard 6 demonstrates understanding and respect for differences in physical activity settings.

B. Students recognize the influence of sport on society. They analyze the effects of cultural differences on the various types of sports activities seen in different parts of the world. They explore the history and purposes of international competitions. They compare games and physical activities in different countries and describe how multiculturalism influences these games. Students begin to develop their own feelings about inclusion of people with physical, cultural and emotional differences in the physical activities in which they participate.

C. Benchmarks

6-H-1	Explores how age, gender, ethnicity, culture and economic status affect physical activity selection and participation.	(1,2,3,4,5)
6-H-2	Develops and integrates strategies for inclusion of <i>all</i> in physical activities.	(1,2,3,4,5)

D. Suggested Assessment Methods

1. Teacher observation
2. Student report
3. Observational record
4. Group project
5. Portfolio

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

§1113. Standard 7

A. Standard 7 understands that physical activity provides the opportunity for enjoyment, challenge, self-expression, and social interaction.

B. Students enjoy expressing their feelings through play and other physical activities. Student members of competitive teams or activity groups experience positive feelings associated with individual and group successes and learn how to control feelings of disappointment in losing situations. Students seek out challenging activities without fear. They recognize and discuss the value of participation in physical activities and the social interaction it provides.

C. Benchmarks

7-H-1	Participates for enjoyment in a variety of physical activities in competitive and recreational settings (e.g., identifies participation factors that contribute to enjoyment and achievement of a team).	(1,2,4,5)
7-H-2	Identifies positive aspects of participation in several different physical and social activities with others (e.g., jogging, dancing, walking, recreational activities).	(1,2,4,5)
7-H-3	Illustrates benefits of physical education on social and emotional well-being (e.g., participates in physical activities to relax and relieve stress).	(1,2,5)

D. Suggested Assessment Methods

1. Written report
2. Student journal
3. Student projects
4. Portfolio
5. Event task

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Subpart 5. Cluster Level Charts
Chapter 15. Physical Education Standards by Levels
§1501. Standards 1-7

A. Standard I

Physical Education Standards by Levels	
Standard I: Demonstrates competency in many movement forms and proficiency in a few movement forms.	
Level P: Primary (K-2)	Level E: Elementary (Grades 3-6)
1-P-1 Performs locomotor and non-locomotor skills at a basic level progressing to simple sequences utilizing shapes, levels, directions, pathways, and ranges.	1-E-1 Demonstrates mature forms in locomotor, non-locomotor and manipulative skills.
1-P-2 Demonstrates ways to manage body weight in a variety of situations alone or within a group.	1-E-2 Combines a variety of motor skills for specific sports.
1-P-3 Performs manipulative skills using a variety of equipment in different environmental conditions.	1-E-3 Exhibits ability to manipulate objects with the skills necessary to participate in games and lead-up activities.
1-P-4 Performs basic rhythmic skills, alone, with a partner or within a group.	1-E-4 Demonstrates the ability to create rhythmic movement patterns and dances.

Physical Education Standards by Levels	
Standard I: Demonstrate competency in many movement forms and proficiency in a few movement forms.	
Level M: Middle School (Grades 6-8)	Level H: High School (Grades 9-12)
1-M-1 Demonstrates ability to combine skills.	1-H-1 Demonstrates proficiency in applying advanced skills, strategies and rules for specific activities.
1-M-2 Exhibits basic strategies related to specific lead-up games.	1-H-2 Develops outdoor and lifelong leisure pursuits.
1-M-3 Demonstrates basic competency in more complex motor and advanced specialized skills related to specific sports activities.	
1-M-4 Demonstrates the ability to create rhythmic movement patterns.	
1-M-5 Demonstrates strategies for net and invasion games.	

B. Standard II

Physical Education Standards by Levels	
Standard II: Applies movement concepts and principals to the learning and development of motor skills.	
Level P: Primary (K-2)	Level E: Elementary (Grades 3-6)
2-P-1 Integrates other content areas through movement.	2-E-1 Integrates movement concepts with other content areas.
2-P-2 Demonstrates and uses a variety of relationships with objects.	2-E-2 Applies critical elements to improve personal performance in fundamental and selected specialized motor skills.
2-P-3 Identifies fundamental movement patterns.	2-E-3 Recognizes and describes critical elements of more complex movement patterns.
2-P-4 Establishes a beginning movement vocabulary.	2-E-4 Employs the concept of efficient and effective practice to improve skills in appropriate settings.
2-P-5 Applies appropriate concepts to performance.	

Physical Education Standards by Levels	
Standard II: Applies movement concepts and principals to the learning and development of motor skills.	
Level M: Middle School (Grades 6-8)	Level H: High School (Grades 9-12)
2-M-1 Analyzes and applies basic concepts to improve movement, dance, fitness, game and sports skills being practiced.	2-H-1 Synthesizes previously learned skills and incorporates them into dynamic physical activity settings.
2-M-2 Demonstrates how practicing movement skills improves performance.	2-H-2 Identifies and applies critical elements to enable the development of movement competence/proficiency.
2-M-3 Analyzes and applies advanced movement and game strategies.	
2-M-4 Recognizes and applies principles necessary for safe and skilled physical performance.	

C. Standard III

Physical Education Standards by Levels	
Standard III: Exhibits a physically active lifestyle.	
Level P: Primary (K-2)	Level E: Elementary (Grades 3-6)
3-P-1 Participates regularly in vigorous activities outside of physical education class.	3-E-1 Describes the physical, emotional, and psychological benefits of participation in health-related activities.
3-P-2 Acknowledges that physical activity is good for personal well being.	2-E-2 Identifies several moderate to vigorous physical activities that provide personal pleasure.
3-P-4 Experiences and expressed satisfaction from participation in physical activity.	3-E-3 Selects and participates regularly in physical activities for the purpose of improving skills and health.

Physical Education Standards by Levels	
Standard III: Exhibits a physically active lifestyle.	
Level M: Middle School (Grades 6-8)	Level H: High School (Grades 9-12)
3-M-1 Identifies opportunities in the school and community for regular participation in physical activity.	3-H-1 Utilizes available community resources to promote an active lifestyle.
3-M-2 Explores a variety of new physical activities for personal interest in and out of physical education class.	3-H-2 Participates in lifetime recreational activities specific to fitness components.
3-M-3 Establishes and pursues personal physical activity goals through regular physical activity.	3-H-3 Participates regularly in physical activities that contribute to improved physical fitness and wellness.
3-M-4 Describes the elements of a healthy lifestyle.	

D. Standard IV

Physical Education Standards by Levels	
Standard IV: Achieves and maintains a health-enhancing level of physical fitness.	
Level P: Primary (K-2)	Level E: Elementary (Grades 3-6)
4-P-1 Sustains activity from moderate to vigorous intensity levels while participating in physical activity.	4-E-1 Identifies several activities related to each component of health-related fitness.
4-P-2 Identifies physiological signs of moderate physical activity.	4-E-2 Participates in self-assessment for health-related fitness and meets the standards for that particular test for their appropriate fitness.
4-P-3 Demonstrates activities that increase muscular strength and endurance.	4-E-3 Selects an activity program designed to improve health-related fitness.
4-P-4 Demonstrates moving each joint through a full range of motion.	4-E-4 Adopts personal goals based upon results of fitness assessments.

Physical Education Standards by Levels	
Standard IV: Achieves and maintains a health-enhancing level of physical fitness.	
Level M: Middle School (Grades 6-8)	Level H: High School (Grades 9-12)
4-M-1 Participates in and sustains moderate to vigorous physical activity in a variety of settings.	4-H-1 Participates in a variety of health-enhancing physical activities in both school and non-school settings.
4-M-2 Develops individual goals for each of the health-related fitness components.	4-H-2 Identifies and evaluates personal physiological response to exercise.
4-M-3 Participates in self-assessment for health-related fitness and meets the standards of that age group.	4-H-3 Designs health-related fitness programs based on accurately assessed fitness profiles.
4-M-4 Analyzes and applies basic principles of training to improve health-related fitness.	

E. Standard V

Physical Education Standards by Levels	
Standard V: Demonstrates responsible personal and social behavior in physical activity settings.	
Level P: Primary (K-2)	Level E: Elementary (Grades 3-6)
5-P-1 Demonstrates established protocols with little reinforcement.	5-E-1 Demonstrates good sportsmanship and fair play in a variety of settings.
5-P-2 Acknowledges the importance of being aware of one's surroundings and acting in a safe manner in physical activity settings.	5-E-2 Recognizes and avoids unsafe practices and situations.
5-P-3 Works cooperatively with another to complete an assigned task.	5-E-3 Works cooperatively with teachers and peers to reach a common goal.
5-P-4 Applies the elements of socially acceptable conflict resolution in physical activity settings.	5-E-4 Accepts and gives constructive feedback.

Physical Education Standards by Levels	
Standard V: Demonstrates responsible personal and social behavior in physical activity settings.	
Level M: Middle School (Grades 6-8)	Level H: High School (Grades 9-12)
5-M-1 Participates in cooperative activities in both leadership and follower roles.	5-H-1 Demonstrates safe and appropriate use and care of equipment and facilities.
5-M-2 Utilizes time effectively to complete assigned tasks.	5-H-2 Identifies the inherent risks associated with physical activity in extreme environments.
5-M-3 Participates in establishing and following rules, procedures, and etiquette that are safe and effective for specific activity situations.	

F. Standard VI

Physical Education Standards by Levels	
Standard VI: Demonstrates an understanding for differences among people.	
Level P: Primary (K-2)	Level E: Elementary (Grades 3-6)
6-P-1 Recognizes the importance of seeking out, participating with, and showing respect for people of like and different physical abilities.	6-E-1 Displays positive attitudes toward self and others through physical activity.
6-P-2 Interacts with others regardless of personal differences.	6-E-2 Demonstrates a tolerance for individual differences.
6-P-3 Demonstrates a willingness to help a fellow student who has difficulty completing a skill.	6-E-3 Explores the role of culture in physical activities of other countries.

Physical Education Standards by Levels	
Standard VI: Demonstrates an understanding for differences among people.	
Level M: Middle School (Grades 6-8)	Level H: High School (Grades 9-12)
6-M-1 Analyzes, describes and participates in simple forms of dances and games of various cultures from around the world.	6-H-1 Explores how age, ethnicity, culture and economic status affect physical activity selection and participation.
6-M-2 Recognizes commonalities and differences in people of different genders, cultures, ethnicity, abilities and skill levels and seeks to learn more about them.	6-H-2 Develops and integrates strategies for inclusion of all in physical activities.

G. Standard VII

Physical Education Standards by Levels	
Standard VII: Understands that physical activity provides opportunity for enjoyment, challenges, etc.	
Level P: Primary (K-2)	Level E: Elementary (Grades 3-6)
7-P-1 Describes the feelings that result from challenges, successes and failures in physical activity, alone or in groups.	7-E-1 Exhibits positive feelings about participation in physical activity.
7-P-2 Distinguishes feelings about and during physical activity.	7-E-2 Engages in the challenge of new activities.
7-P-3 Displays a willingness to participate in new activities.	7-E-3 Participates enthusiastically in independent and interactive physical activities.
	7-E-4 Participates in and designs games, gymnastics and dance to increase skill competence.
	7-E-5 Acknowledges the roles of games, sports, and dance in getting to know and understand self and others.

Physical Education Standards by Levels	
Standard VII: Understands that physical activity provides opportunity for enjoyment, challenges, etc.	
Level M: Middle School (Grades 6-8)	Level H: High School (Grades 9-12)
7-M-1 Participates in challenging activities and in activities requiring the utilization of newly acquired skills.	7-H-1 Participates for enjoyment in a variety of physical activities in competitive and recreational settings.
7-M-2 Identifies the social, emotional and physical benefits of participation in physical activities.	7-H-2 Identifies positive aspects of participation in several different physical and social activities with others.
7-M-3 Demonstrates enjoyment from participation in physical activities.	7-H-3 Illustrates benefits of physical education on social and emotional well-being.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:

Interested persons may submit comments until 4:30 p.m., April 11, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 102C Louisiana Physical Education Content Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of the Louisiana Physical Education Content Standards will cost the state Department of Education approximately \$10,400 for preparing and disseminating the new policy. Local school districts offer physical education courses, but the Physical Education Content Standards should improve education practices and coherence in the local physical education programs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent
0202#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A., promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Revisions to Bulletin 741, *Louisiana Handbook for School Administrators*, Standards 2.116.13 and 2.116.15, will allow students to receive 1/2 unit of Carnegie credit for GEE 21 Remediation by attending a minimum of 40 hours of summer school and will allow school districts to offer a minimum of 50 hours of instruction in GEE 21 Remediation in summer school for 1/2 unit of credit. These changes will allow students to earn Carnegie credit while getting needed remediation in an effort to increase their scores above the *Unsatisfactory* achievement level on the GEE 21.

**Title 28
Education**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10), (11), and (15); R.S. 17:7(5), (7), and (11); R.S. 17:10, and 11; R.S. 17:22(2), and (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April, 2000); LR 26:1260 (June, 2000), LR 28:

Proposed Policy

2.116.13 In order to be eligible to receive credit, summer school students shall be in attendance a minimum of 70 hours for 1/2 unit of new credit, 47 hours for 1/2 unit of repeat credit, or 40 hours for 1/2 unit of credit for GEE 21 Remediation.

2.116.15 Summer schools shall offer 90 hours of instruction for 1/2 unit of new credit, 60 hours of instruction for 1/2 unit of repeat credit, and 50 or more hours for 1/2 unit for GEE 21 Remediation.

Interested persons may submit written comments until 4:30 p.m., April 11, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741C Louisiana Handbook for
School Administrators**

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed revision to Bulletin 741, which allows local school districts to offer at least 50 hours of instruction in GEE Remediation in summer school for a 1/2 unit of Carnegie credit, will have no implementation costs or savings to state or local governmental units. The local school districts are currently offering remediation instruction. The rule merely states the number of hours of instruction a district is required to offer during summer school so students may receive Carnegie credit.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups. The rule change allows students attending 40 hours of GEE 21 Remediation instruction to be eligible to receive a 1/2 unit of Carnegie credit for GEE 21 Remediation.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0202#016

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 904C Guidelines for the Submission of a
Charter School Proposal Fiscal Oversight Procedures
(LAC 28:I.904)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions Bulletin 904C Guidelines for the Submission of a Charter School Proposal referenced in LAC 28:I.904. The proposed revisions will improve the monitoring of fiscal and programmatic compliance issues common to charter schools and improve the delivery of technical assistance to charter schools that receive state and/or federal funding from BESE or LDOE. This action is required by Act 991 (HB 1282) of the 2001 Regular Session, which revised the charter school law by adding two new subsections that deal with the fiscal practices and reporting requirements of charter schools.

§904. Charter Schools

A. Initial Budgets As Submitted In Charter School Proposals. The current guidelines approved by BESE require Type 2 charter schools to provide detailed budget data in their proposal. This data is reviewed by BESE staff, the proposal review committee, and the LDOE Division of Education Finance. The budget, as well as the entire proposal is incorporated into the charter agreement. The budget must include:

1. summary of revenues for years 1-5 (including all funding sources);
2. summary of expenditures by category, for years 1-5;
3. details of budget expenditures by object code, for years 1-5;
4. explanatory narratives by object code of budget expenditures;
5. spreadsheets comparing revenues and expenditures for years 1-5;
6. assurances that the charterer will adhere to the Local Government Budget Act (R.S. 39:1301-1315). (Each charter school will submit an annual operating budget to BESE no later than July 1 of each year using the standard budget summary forms and budget detail forms developed by BESE and LDOE, and using guidance provided in the LAUGH Handbook [Bulletin 1929].)

B. Financial Reporting

1. Each charter school will submit an Annual Financial Report to LDOE that is required around September 30 of each year.
2. Each charter school will submit quarterly reports to BESE listing revenues and expenditures for that quarter and cumulative for the fiscal year to date. Those reports will be due on October 15, January 15, April 15 and July 15, using forms developed by BESE and LDOE.

C. State And Federal Allocations By Student Membership Count. Each Type 2 charter school must include in its original proposal projections of student enrollment for the first five years.

1. State Allocations

a. Enrollment projections are verified with the school principal or other designated school representative prior to the beginning of each school year.

b. The current guidelines approved by BESE require that initial monthly allocations shall be calculated by the LDOE, Division of Education Finance, using these projected student counts each year, and

c. once the October 1 student counts are submitted, monthly allocations are re-calculated and adjusted to reflect the actual student count.

d. In order to provide for adjustments in allocations made to Type 2 charter schools, an additional pupil membership count will be conducted on or about February 15 to reflect any changes in pupil enrollment that may occur after October 1 of each year. Any allocation adjustment made pursuant to this February 15 count shall not be retroactive and shall be applicable for the period from March 1 through the end of the school year.

e. The data acquired from the pupil membership counts will be used by LDOE for trend analysis to project allocations for the next school year.

2. Federal Allocations

a. The Division of Education Finance will provide to BESE staff with a quarterly report of allocations of federal program funds made to charter schools.

b. The responsible Division/Program Directors within LDOE will provide periodic reports to BESE on the status of the federally funded program(s) at each charter school.

c. Charter schools must submit copies of invoices or similar documentation to BESE to substantiate all reimbursement requests for federal grant funds issued from the BESE office. All requests for reimbursements must be signed by the duly authorized representative of the charterer.

D. Audits of State And Federal Funds. The guidelines and the charter agreement include language notifying each charter school that it is subject to audit by BESE, LDOE, the Legislative Auditor, and any other appropriate state official.

1. The charterer must agree to follow state audit and reporting requirements established by the Legislative Auditor and R.S. 24:513-556.

E. General Fiscal Procedures

1. The charter school guidelines and/or the charter contract signed by each charterer stipulates that:

a. "The parties acknowledge that the Louisiana Department of Education is developing procedures and rules to ensure fiscal and educational accountability for charter schools, the content of which shall be incorporated into this contract upon their adoption as regulations by BESE."

b. "The charterer shall present all documentation requested by BESE or LDOE relative to compliance with law, guidelines or contract within 10 days."

c. "Charterer shall allow representatives from BESE, the Louisiana Department of Education, the Louisiana Legislative Auditor, any other appropriate state officials, and contracted evaluators to visit the school site at any time to insure that the school is being operated pursuant to its charter and applicable laws and regulations."

d. "Charterer shall allow the state officials full access to its financial and educational records, reports, files and documents of any kind."

e. "Charterer further agrees to supply timely all reports, test results and other information which are required under its charter, state law and regulations."

2. Any charter school that receives state or federal money directly from BESE or LDOE. The president or chairman of the non-profit corporation (charterer) that operates the charter school will be the official contact and duly authorized representative for all notices or inquiries issued by BESE, LDOE, or other state or federal agencies.

The board of directors of the non-profit corporation may identify and officially designate by board motion, a member of that board of directors other than the president or chairman who will serve as their duly authorized representative. Copies of all notices or inquiries will also be provided to the school principal.

3. All transactions or requests submitted by the charterer to BESE must be signed by the duly authorized representative of the charterer.

F. Technical Assistance

1. BESE and LDOE will conduct annual fiscal and programmatic inservice meetings or workshops. It is the responsibility of the charterer to send appropriate staff or representatives of the charter school to these inservice meetings.

2. BESE and LDOE will provide charterer with copies of:

a. LAUGH Guide (Louisiana Accounting and Uniform Government Handbook) (LDOE Bulletin 1929);

b. Best Financial Practices for Louisiana Local Government (Louisiana Legislative Auditor);

c. School Activity Accounts (Accounting, Auditing, and Financial Reporting) (Louisiana Legislative Auditor).

NOTE: However, it is the responsibility of the charterer to institute and implement acceptable programmatic and fiscal procedures.

G. Remedies and Penalties

1. Per BESE action in December 1999, the Board will withhold funds to charter schools that do not submit requested data by designated deadlines to Board staff, the Department, and the evaluators contracted by BESE until such time as the required information is provided.

2. Any failure by the charterer to provide required fiscal or programmatic information will be reported to BESE at its next scheduled meeting. The duly authorized representative of the charterer must then appear before BESE at that meeting to explain the failure to provide the required information.

3. R.S. 17:3992 provides for revocation of a charter upon determination by the chartering authority that the charter school or its officers or employees did any of the following:

a. committed a material violation of any of the conditions, standards, or procedures provided for in the approved charter;

b. failed to meet or pursue within the agreed timelines any of the academic and other educational results specified in the approved charter;

c. failed to meet generally accepted accounting standards of fiscal management;

d. violated any provision of law applicable to a charter school, its officers, or employees.

H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971-3973, 3981-3983, 3991-3993, 3995-3999, and 4001; and R.S. 39:75.C(1)(b).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:1683 (September 1998); amended LR 25:249 (February 1999); LR 26:460 (March 2000), LR 28:

Interested persons may submit written comments until 4:30 p.m., April 11, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 904C Guidelines for the
Submission of a Charter School
Proposal C Fiscal Oversight Procedures**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This action will have no fiscal effect other than \$162 for advertising in the *Louisiana Register*.
Act 991 (HB 1282) of the 2001 Regular Session revised some fiscal practices and reporting requirements of charter schools. The changes being made to Bulletin 904, "Guidelines for the Submission of a Charter School Proposal," reflect legislative and policy changes which will improve the monitoring of fiscal and programmatic compliance issues common to charter schools and improve the delivery of technical assistance to charter schools.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action will have no effect on revenue collections of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action will have no effect on cost and/or economic benefits to directly affected persons of nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action will have no effect on competition and employment.

Weegie Peabody
Executive Director
0202#014

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566C Guidelines for Pupil Progression
(LAC 28:XXXIX.905 and 1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1566, *Guidelines for Pupil Progression*, referenced in LAC 28:1.907.A. The rule change mandates the number of required hours per subject for the fourth and eighth grade Summer Remediation Program at 50 hours. Prior to this rule change, the minimum number of instructional hours per subject was recommended at 50 to 60, but actually ranged from 27 to 145 hours. The action is necessary to ensure statewide uniformity in the Summer Remediation Program.

**Title 28
EDUCATION**

**Part XXXIX. Bulletin 1566C Guidelines for Pupil
Progression**

§905. Definition and Purpose

A. - B.3. ...

4. Beginning in the summer of 2000, remediation in the form of summer school shall be provided to students who score at the *unsatisfactory* level on LEAP 21st Century (LEAP 21) English language arts or mathematics tests. Summer remediation shall consist of a minimum of 50 hours of instruction per subject.

5. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2073 (November 1999), amended LR 28:

Chapter 13. Appendix B

**§1301. LEAP for the 21st Century, High Stakes Testing
Policy**

A.1. - 2. ...

3. LEAs shall offer a minimum of 50 hours per subject of summer remediation and retest opportunities in English language arts and mathematics at no cost to students who did not take the spring LEAP 21 tests or who score at the *unsatisfactory* level on the spring tests.

B.1. - 2. ...

3. LEAs shall offer a minimum of 50 hours per subject of summer remediation and retest opportunities in English language arts and mathematics at no cost to students who did not take the spring LEAP 21 tests or who score at the *unsatisfactory* level on the spring tests.

4. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, IR 27:1008 (July 2001), amended LR 28:

Interested persons may submit comments until 4:30 p.m., April 11, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1566C Guidelines for Pupil
Progression**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The local school districts are required to offer summer remediation to students who score at the "Unsatisfactory" level on the LEAP 21 tests at the fourth and eighth grade levels. The proposed rule requires each district to provide a minimum of 50 hours of instruction per subject of summer remediation. There may be an increase in cost to local school districts that are required to increase the number of instructional hours. It is not possible to determine the cost at this time.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units. Summer remediation is offered free of charge to eligible students.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

School Systems personnel, students and the general public will be affected by the policies in *Bulletin 1566* because of better accountability and a more informed public. The rule change ensures uniformity in instructional time for all students in Summer Remediation Programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0202#017

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Teacher Certification Appeals Council
(LAC 28:I.107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to the Louisiana Administrative Code, Title 28:I.107.A. The proposed revisions change the composition and terms of office of the Teacher Certification Appeals Council.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 1. Organization**

§107. Board Appeals Councils

A. Teacher Certification Appeals Council

1. Authority: Title 28:I.105, Chapter 1, *Louisiana Administrative Code*.

2. Membership: nine members representing the following categories/organizations:

a. three from universities
Recommendations made by the Dean's Council:

i. at least one must represent a nonpublic university; and

ii. at least one must represent a university participating in a Practitioner Teacher Program;

b. three classroom teachers from the following teacher organizations:

i. Associated Professional Educators of Louisiana (APEL);

ii. Louisiana Association of Educators (LAE); and

iii. Louisiana Federation of Teachers (LFT);

c. three from administrator organizations (one from each of the following):

i. Louisiana Association of Principals (LAP);

ii. Louisiana Association of School Personnel Administrators (LASPA); and

iii. Louisiana School Supervisors Association (LSSA).

3. Referrals/Responsibilities

a. Evaluate the appeals of persons seeking Louisiana certification under the standards in Bulletin 746, Louisiana Standards for State Certification of School Personnel, whose appeals cannot be processed according to the guidelines in §315.D.

b. Submit a written record of its findings and recommendations to the appropriate Standing or Special Committee, composed of Board members, for its review and recommendation to the full Board.

c. Evaluate the appeals documents, including the transcripts of appellants, for consideration of Bulletin 746 (minimum requirements) waiver.

d. Make recommendations to the appeals committee on waivers of minimum certification standards.

e. The Appeals Council, in the absence of mitigating circumstances, shall not be required to consider appeals of persons who are non-degreed and/or lack the required NTE/PRACTIS Scores.

f. All matters referred by the Board.

4. Terms of Office

a. Representatives must be active members of the category and organization being represented. Once a member retires and/or becomes employed in a different capacity, the member would become ineligible to continue to serve and would be replaced by the organization.

b. Members shall serve three-year terms, renewable once.

c. Terms of the three categories of membership shall be staggered to provide continuity to the appeals process.

5. Expenses

a. Travel expenses shall be paid by the Board in accordance with state travel regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:359 (October 1978), LR 5:346 (November 1979), LR 15:962 (November 1989), LR 16:297 (April 1990), LR 22:1124 (November 1996), LR 24:283 (February 1998), LR 24:1093 (June 1998), LR 28:

Interested persons may submit written comments until 4:30 p.m., April 11, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Teacher Certification Appeals Council

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action will have no fiscal effect other than \$81.00 for advertising in the State Register. BESE is revising the composition and terms of office for the Teacher Certification Appeals Council.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This action will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action will have no effect on cost and/or economic benefits to directly affected persons of nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

Weegie Peabody
Executive Director
0202#015

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Architectural Examiners**

**Election of Nominees to Fill Vacancy
(LAC 46:I.Chapter 4)**

Under the authority of R.S. 37:144.C and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners ("Board") gives notice that rule-making procedures have been initiated for the adoption of LAC 46:I.Chapter 4 pertaining to the election of the nominees for the architectural members of the board to be appointed by the governor pursuant to R.S. 37:142.B. Act 231 of 2001 provided that these architectural members shall be appointed by the governor from a list of three nominees elected from each of the five districts established therein. The proposed rule sets forth a procedure for the election of these three nominees.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part I. Architects

Chapter 4. Election of Nominees to Fill Vacancy

§401. Vacancy

A. This Chapter concerns the election of the three nominees to be submitted to the governor for the filling of a vacancy on the board of one or more of the five architectural members to be appointed by the governor pursuant to R.S. 37:142.B. This Rule shall be applicable whether the vacancy occurs as a result of withdrawal, disability, death, completion of the term of appointment, or any other reason. This Rule shall not be applicable to the board members selected by the governor pursuant to R.S. 37:142.C or D.

B. If a vacancy occurs, or is about to occur, the executive director shall publish notice thereof in the official journal of the state for a period of not less than 10 calendar days. The published notice need not appear more than 3 times during the 10-day period. The published notice shall identify the district where the vacancy has occurred and state that any licensed architect domiciled in that district desiring to fill that vacancy shall send a letter by certified mail to the director of the board indicating his or her intent to be a candidate, which letter shall be accompanied by a curriculum vitae and shall certify that, if elected, the architect will serve. The deadline for receipt of the certified letter shall be at least 20 calendar days subsequent to the

publication of the last notice appearing in the official journal of the state. Confirmation of receipt shall be the sole responsibility of the candidate.

C. The board shall also provide notice of any vacancy to anyone who has requested same by certified mail within 90 days of the occurrence thereof. However, any failure to provide such notice shall not effect the results any election conducted to fill the vacancy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:

§403. Waiver of Election

A. If three or fewer eligible architects from any district seek nomination, no election shall be held in that district, and the names of those three or fewer candidates shall be submitted to the governor without any further board action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:

§405. Ballots

A. If an election is necessary, an official ballot and an official return envelope shall be mailed to each licensed architect residing in Louisiana. The ballot shall contain the names of the candidates printed in alphabetical order for each district, the date for the return of the ballots, and any other information or instructions the board believes may be helpful in the election process. Biographical information may be attached to the ballot.

B. If the ballot mailed by board is lost, misplaced or not received, an architect desiring to vote may request from the board a substitute or replacement ballot. This substitute or replacement ballot may be used in the election, provided the requirements of §407.C are satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:

§407. Voting

A. Only licensed architects residing in Louisiana shall have the right to vote. A licensed architect may vote in one or more but less than all district elections, and no ballot shall be voided for that reason. However, any ballot containing more than three votes or fewer than three votes for candidates in any one district will be voided in its entirety. No write-in candidates will be allowed, and any ballot containing a vote for a write-in candidate will be voided in its entirety.

B. Ballots shall be returned in the official return envelopes provided by the board to the board office in Baton Rouge. The voting architect shall sign and provide his or her license number in the upper left-hand corner of the return envelope.

C. The ballot shall not be valid unless:

1. the signature and license number appear on the return envelope; and

2. the return envelope is received by the board office on or before the deadline.

D. Ballots returned in an envelope other than the official return envelope provided by the board shall not be voided for that reason, provided:

1. the signature and license number of the voting architect appear on the return envelope; and

2. the return envelope is received by the board office on or before the deadline.

E. The deadline for returning the ballots will be fixed by the president and will be at least 14 calendar days after the ballots are mailed to all licensed architects. Ballots received after the deadline shall not be counted.

F. Upon receipt, each return envelope shall be stamped by the board office showing the date received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:

§409. Tabulation

A. Within 14 calendar days of the deadline for receipt of ballots, tellers appointed by the president, including at least one board member, shall meet at the board office for the purpose of tabulating the ballots. Following a determination that each return envelope contains the required signature and license number, and was timely received, the tellers shall open and count all ballots properly prepared. The executive director will notify the governor and the candidates of the results.

B. Alternatively, when in the discretion of the president the manual tabulating of the ballots by tellers in accordance with the preceding paragraph would be burdensome, or for some other reason should be performed by an outside person, the president may refer the entire tabulating of the ballots, or any part thereof, to an accounting firm, data processing company, or other such qualified person in addition to one board member. The outside person may use such clerical or other assistance, including whatever assistance from the board staff, as he or she deems necessary. The outside person shall:

1. determine that each return envelope contains the required signature and license number, and was timely received;

2. count all ballots properly prepared; and

3. certify the number of votes received by each candidate to the board president and the executive director, who shall notify the governor and the candidates of the results.

C. The three candidates receiving the highest number of votes in each district shall have their name submitted to the governor as nominees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:

§411. Tie

A. In the event the three candidates receiving the highest number of votes cannot be determined because of a tie, a run-off election will be held. The only candidates in the run-off election will be those candidates who received the same number of votes so that the outcome of the election cannot be fully determined.

B. If a run-off election is necessary, an official ballot and an official return envelope will be mailed to each licensed architect residing in Louisiana approximately two weeks after it has been determined that such an election is necessary.

C. The official ballot shall contain the information set forth in §405, except only the names of and the information for those candidates in the run-off election shall be included.

D. The rules for voting, for determining the person or persons elected as nominees, and for tabulating votes set forth elsewhere in this rule shall be applicable.

E. In the event the run-off election does not decide the three candidates receiving the highest number of votes, the procedure set forth herein shall be repeated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:

§413. Vacancies

A. If a vacancy occurs with respect to a person elected as a nominee, that vacancy shall be filled in the following manner. The executive director shall give notice of the vacancy to all of the other candidates in that district and to anyone who has requested notice of any such vacancy in writing by certified mail within 90 days of the election; however, any failure to provide such notice shall not effect any election conducted subsequently held to fill the vacancy. The executive director shall also publish notice of the vacancy in the official journal of the state for a period of not less than 10 calendar days. The published notice need not appear more than 3 times during the 10-day period. The published notice shall identify the district where the vacancy has occurred and state that any licensed architect domiciled in that district desiring to fill that vacancy shall advise the board in writing before the deadline determined by the president, and may contain other information. The board may then either call another election to fill that vacancy or submit to the governor all of the architects who request nomination in accordance with this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:

§415. Election Contest

A. The executive director will notify the candidates of the results of the election by U.S. Mail. The 10 calendar days for contesting an election shall commence three work days (excluding Saturdays, Sundays, and legal holidays) after the results of the election are deposited in the mail by the executive director.

B. Any candidate desiring to contest an election shall, within the time period mentioned in the preceding paragraph, file a written petition addressed to the board stating the basis of the complaint. Upon receipt of such petition, the president shall call a special meeting of the board to hear the complaint, which meeting shall be held within 10 calendar days from the date the petition is received and at a time and place to be designated by the president. At the hearing the board shall consider any evidence offered in support of the complaint. The decision of the board shall be announced within 72 hours after the close of the hearing.

C. All ballots shall be preserved until the expiration of the time allowed for the filing and hearing of a contest. After such period has elapsed, if the election be not contested, the executive director shall destroy the ballots. If the election is contested, the executive director shall maintain the ballots until the contest is concluded, after which the executive director shall destroy the ballots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 28:

Interested persons may submit written comments on this proposed rule to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Election of Nominees to Fill Vacancy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

An election to fill a vacancy on the LSB AE of one or more of the architectural members to be appointed by the governor pursuant to R.S. 37:142.B is now required by Act 231 of 2001, and it is estimated that the proposed rule (which sets forth the procedures to be followed in this election) will result in implementation costs to the LSB AE of approximately \$1,625 per year. This estimate is based upon a projection of one election per year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state or local governmental units associated with this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no cost or economic benefits to directly affected persons or nongovernmental groups. The proposed rule merely establishes the procedures for the election of the nominees to fill the vacancies of the architectural members of the LSB AE to be appointed by the governor pursuant to R.S. 37:142.B.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed rule. The proposed rule merely establishes the procedures for the election of the nominees to fill the vacancies of the architectural members of the board to be appointed by the governor pursuant to R.S. 37:142.B.

Mary "Teeny" Simmons Robert E. Hosse
Executive Director General Government Section Director
0202#077 Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Certified Public Accountants**

**Uniform CPA Exam Maximum Fees
(LAC 46:XIX.319 and 709)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and of R.S. 37:74, the Board of Certified Public Accountants of Louisiana hereby gives notice of intent to revise LAC 46:XIX. The objective of this action is to amend rules to

implement certain provisions of Act 108 of 2000. The action is necessary because of anticipated future increases in the costs and fees for the Uniform CPA Examination. No preamble has been prepared with respect to the revised rules, which appear below.

Implementation of the proposed rules will have no known effect upon family stability, functioning, earnings, budgeting; the responsibility and behavior of children; or, upon parental rights and authority, as set forth in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XIX. Certified Public Accountants

**Chapter 3. State Board of Certified Public
Accountants of Louisiana**

**§319. Assessment of Application, Annual and Other
Fees**

A. Examination, certification, firm permit application, renewal, and other fees shall be assessed by the board in amounts not to exceed the following:

Application fees:	
CPA examination feeC written	\$ 280
CPA examination feeC computerized	\$ 600
Service charge for refund of examination feeC written exam	\$ 50
	* * *

B. - C. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), LR 13:13 (January 1987), and LR 15:619 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1968 (September 2000); LR 28:

**Chapter 7. Qualifications; Application for CPA
Examination**

§709. Fees

Each application for examination, certification, or firm permit shall be accompanied by a fee set by the board. In no event may the examination fee timely filed exceed the lesser of cost or the maximum amounts provided for in §319. Should such application be rejected, the fee less any service charge shall be refunded. If a Louisiana candidate requests that he be allowed to sit in a state that requires a proctoring fee, he shall be required to pay the proctoring fee. Additional information on fees is included in Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 26:1972 (September 2000), LR 28:

Interested persons may submit written comments regarding the contents of the proposed rule by mail or in person to the State Board of Certified Public Accountants of

Louisiana, Attn: Executive Director, 601 Poydras Street, Suite 1770, New Orleans, LA 70130. All comments must be received by March 20, 2002 at 4:30 p.m.

Michael A. Henderson
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Uniform CPA Exam Maximum Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings to state or local governmental units are anticipated as a result of implementation of the proposed rule changes other than one-time costs for printing, publication, and dissemination. The revised rules will not cause a change in Board staffing requirements. There are no other expected significant expenditures for fees, materials, equipment, or other charges.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No material effect on revenue to state or local governmental units is anticipated as a result of implementation of the revised rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No immediate material effect on costs or economic benefits to CPA examination candidates, i.e., those who are directly affected by the proposed rules, is anticipated as a result of implementation of the revised rules. But, candidate costs of taking the CPA examination will increase modestly through 2003. When the CPA examination becomes computer-based possibly in late 2003, the fees are subject to a further increase. However, the four part examination will be available more frequently, by candidate appointment, and at more locations. The candidate will be able to schedule the four sections of the exam on different dates, rather than having to take all unpassed sections on the same or on consecutive days, as is the case now. No other significant effects are anticipated on workload or on additional paperwork.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no significant effect on competition and employment that will directly result from the implementation of the revised rules.

Michael A. Henderson, CPA Executive Director 0202#072	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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**NOTICE OF INTENT
Office of the Governor
Indigent Defense Assistance Board**

Indigent Defense Assistance and Representation
of Defendants Sentenced to Death
(LAC 22:XV.Chapters 1 - 5)

The Louisiana Indigent Defense Assistance Board proposes to adopt rules and guidelines for direct and indirect assistance of judicial district indigent defender boards within the regulations established by R.S. 15:151 et seq. The Louisiana Indigent Defense Assistance Board proposes to adopt rules and guidelines relative to the appointment and

certification of qualified counsel to represent indigent defendants sentenced to death within the regulations established by R.S. 15:149.1 and 15:151 et seq.

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and in order to implement R.S. 15:149.1, 15:150, and 15:151, et seq., the Louisiana Indigent Defense Assistance Board hereby gives notice of its intent to adopt rules and regulations relative to direct and indirect assistance of judicial district indigent defender boards and to adopt rules and regulations relative to appointment and certification of qualified counsel to represent indigent defendants sentenced to death.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

**Part XV. Indigent Defense Assistance Board
Chapter 1. Purpose and Definitions**

§101. Purpose

A.. The purpose of these guidelines is to effectuate an equitable distribution of state funds to the 41 judicial district indigent defender boards based on articulated, quantifiable, and verifiable criteria and improve the delivery of defense services to the poor within the authority of the Constitution of the United States and the Constitution and laws of the State of Louisiana. The Louisiana Indigent Defense Assistance Board has adopted these rules pursuant to R.S. 15:151.2 (F).

1. The purpose of these guidelines is to effectuate a program of legal representation to indigent individuals sentenced to death within the authority of the Constitution of the United States and the Constitution and laws of the State of Louisiana.

2. These rules and guidelines are designed to provide for prompt representation on appeal and curb the acute problems of unnecessary delay in the filing of an application for post-conviction relief in capital cases; to instill public confidence in the process of appellate and post-conviction review; to construct a financially sound and publicly accountable programmatic approach for the delivery of defense services to indigent individuals sentenced to death; and, to efficiently and effectively provide for judicial review and finality of capital appellate and post-conviction proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151 through 15:151.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:

§103. Definitions

A. For the purposes of this rule, the following definitions shall apply.

*Appellate Case*Ca criminal proceeding in which a review as of right is exercised by or on behalf of an individual seeking judicial redress of a final judgment in accordance with Const. Art. I, Sec. 19 (1974), C.Cr.P. Arts. 911-913, and Ch.C. Arts. 330 and 710(B).

*Arrest*Cthe taking of one person into custody by another. To constitute an arrest, there must be an actual restraint of the person. The restraint may be imposed by force or may result from the submission of the person arrested to the custody of the one arresting him or her.

*Capital Case*Ca criminal proceeding involving the arrest or indictment of an individual whereby the accused, if found guilty, may be sentenced to death.

CaseCa statistical construct used to report the number of defendants to be represented by a judicial district indigent defender board for a period of time exceeding one hour in a single proceeding of the number of bills of information, indictments, charges, or petitions brought against an individual in a single proceeding.

CaseloadCthe total number of cases handled by a district indigent defender board or individual attorney. Caseloads are reported to the LIDAB in the caseload categories established by the LIDAB. These categories include, but are not limited to: Capital Trial Cases; Capital Appellate Cases; Capital Post-Conviction Cases; Non-Capital Felony Trial Cases; Non-Capital Felony Appeal Cases; Non-Capital Felony Post-Conviction Cases; Misdemeanor Trial Cases; Traffic Trial Cases; Juvenile Delinquency Cases; Child In Need of Care Cases; Families In Need of Services Cases; Juvenile Appellate Cases; Mental Health Cases; Probation Revocation Cases; and Other Cases.

Certification ProgramCthe combination of all procedures, regulations, guidelines and rules of the LIDAB mandated by La. S.Ct. Rule XXXI. Unless otherwise indicated, this term applies to both the Capital and Appellate Certification Programs.

Certified CounselCan attorney that has been authorized through the appropriate certification program to serve as lead or associate counsel in capital trial cases and/or felony appellate cases on behalf of an indigent client.

ConfinementCthe placement of an individual into physical custody by authority of law pursuant to Titles 14, 15, 32, and 40 of the Louisiana Revised Statutes, the Louisiana Code of Criminal Procedure, the Louisiana Children's Code, and all other laws providing criminal penalties for violation of their provisions. Confinement shall include physical custody arising from an arrest, a conviction, a finding of delinquency, an order of commitment to a juvenile shelter or detention facility, or an order of commitment to a public or private mental institution or institution for the mentally retarded.

Criminal ProceedingAny litigation involving the investigation or commission of any offense punishable by imprisonment, confinement, or custody.

CustodyCthe detention or confinement of an individual as a result of, or incidental to, an instituted or anticipated criminal, mental health, or juvenile proceeding.

Defense ServicesCinclude all reasonable and necessary steps involved in representing an individual in accordance with constitutional and statutory law, rules of the Louisiana Supreme Court, and the Louisiana State Bar Association Rules of Professional Conduct.

Direct AssistanceCfinancial aid provided to a judicial indigent defender board by the Louisiana Indigent Defense Assistance Board, including grant-in-aid programs, technical assistance grants, and reimbursement of expenses for defense experts and specialized scientific tests.

Expert WitnessCan individual recognized as an authority on a subject based on the person's knowledge, skill, experience, training, or education. To be considered an expert witness under this rule, it is not necessary that the individual be called to testify at a criminal, mental health, or juvenile proceeding.

Grant ApplicationCthe formal process whereby a judicial district indigent defender board requests assistance

from the LIDAB for financial or technical assistance for a specific need or purpose.

Grant-in-Aid ProgramCformal procedures, rules, and regulations established by the LIDAB to provide direct financial assistance to a judicial district indigent defender board based on the LIDAB's funding levels, the judicial district indigent defender board's demonstrated need, and compliance with the LIDAB's guidelines.

ImprisonmentCconfinement of a person in a jail or state correctional facility.

Independent Financial AuditCa formal review of all financial records of a judicial district indigent defender board by an independent certified public accountant in accordance with government approved accounting practices.

Indigency StandardsCthose procedures provided in R.S. 15:147-149.

Indirect AssistanceCnon-financial support provided by the LIDAB to a judicial district indigent defender board. Such support includes, but is not limited to, assistance in the development and improvement of administrative and management practices, the sharing of technical information, and the provision of specialized continuing legal education programs.

Judicial District Indigent Defender BoardCa public entity established pursuant to R.S. 15:144-146.

Juvenile ProceedingsCthose proceedings instituted pursuant to provisions of the Louisiana Children's Code wherein the services of a judicial district indigent defender board are specifically required.

Local CounselCcounsel that is certified by the Louisiana Indigent Defense Assistance Board as qualified to represent indigents in capital cases within a judicial district wherein he or she resides or regularly practices law.

Louisiana Indigent Defense Assistance BoardCa nine-member board established within the office of the governor pursuant to R.S. 15:151, et seq. for the purpose of providing supplemental assistance to judicial district indigent defender boards to the extent required by the Constitution and laws of Louisiana or the Constitution of the United States of America.

MayCpermissive.

Regional Defense Service CentersCregional service centers established pursuant to R.S. 15:151.

Shall Cmandatory.

Specialized Continuing Legal EducationCincludes courses and seminars primarily focused on criminal defense-oriented issues and skills and approved by the Mandatory Continuing Legal Education Committee for continuing legal education credit.

Specialized Scientific TestingCincludes any specialized testing outside the ken of lay persons that is carried out on behalf of an indigent person and authorized by a court of competent jurisdiction as necessary to the defense.

Supplemental AssistanceCincludes direct and indirect financial support and non-financial support of defender programs, including, but not limited to, improvement of administrative procedures, exchange of information, budgetary management and continuing legal education.

AUTHORITY NOTE: Promulgated by the Louisiana Indigent Defense Assistance Board in accordance with R.S. 15:151.2 (D)-(F)]

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:

Chapter 3. Guidelines and Eligibility Criteria

§301. Eligibility Criteria for Direct and Indirect Supplemental Assistance

A. A district indigent defender board shall not be eligible to receive supplemental assistance from the Indigent Defense Assistance Board unless the following criteria are met.

1. All courts within the judicial district are assessing at least \$25 in court costs in accordance with R.S. 15:146, provided the amount of court costs being assessed shall not bar supplemental assistance to cover the costs of defense services in capital cases.

2. The judicial district indigent defender board has instituted and is complying with a system to assure that defense services are limited only to those who meet indigency standards after reasonable inquiry, including compliance with R.S. 15:147. In all proceedings where defense services are provided by a judicial district indigent defender board, the board shall file, in the record of the proceedings, a written certification attesting to the individual's indigency, signed by the client or a representative of the judicial district indigent defender board.

3. A judicial district indigent defender board is providing legal services and related expenses only to the extent required by the Constitution of Louisiana or the Constitution of the United States of America or specific statutory provisions affording the right of counsel to indigents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:

§303. Guidelines for Direct and Indirect Supplemental Assistance

A. The Louisiana Indigent Defender Assistance Board provides direct and indirect supplemental assistance to the state's 41 judicial district indigent defender boards in accordance with R.S. 15:151 et seq. and the following guidelines.

1. Supplemental assistance to be provided shall take into account the provision of defense services by the judicial district indigent defender board for indigent persons arrested or detained in connection with the investigation or commission of any offense or charged with an offense punishable by imprisonment, custody, or confinement.

2. Supplemental assistance to be provided shall take into account the employment by the judicial district indigent defender board of other than trial counsel or counsel from within the judicial district to provide services for appeals. A district indigent defender board shall institute and comply with a policy for providing certified counsel in appellate cases in accordance with S.Ct. Rule XXXI.

3. Supplemental assistance to be provided shall take into account the failure of the judicial district indigent defender board to provide local counsel in capital cases. A judicial district indigent defender board shall institute and comply with a policy for providing certified counsel in capital cases in accordance with S.Ct. Rule XXXI.

4. Supplemental assistance to be provided shall consider the cost to a judicial district indigent defender board of specialized scientific testing and expert witnesses.

5. Supplemental assistance to be provided shall consider the administrative expenses and management practices and efficiencies of the judicial district indigent defender board, including its level of cooperation with the Louisiana Indigent Defense Assistance Board.

6. Supplemental assistance to be provided shall consider compensation rates set by the judicial district indigent defender board to remunerate an attorney retained to handle a specific case or class of cases.

7. Supplemental assistance to be provided shall consider the provision by the judicial district indigent defender board of financial, caseload, staffing, and other information reasonably necessary to carry out the enumerated powers of the Louisiana Indigent Defense Assistance Board.

8. Supplemental assistance to be provided shall consider the number of capital and appellate cases, the use of expert witnesses and specialized testing, and other clearly demonstrated needs of a judicial district indigent defender board. The provision of these defense services by a judicial district indigent defender board shall be handled in accordance with the certification programs mandated by S.Ct. Rule XXXI.

9. Supplemental assistance to be provided shall consider the participation of a judicial indigent defender board in regional defense service centers as provided in R.S. 15:150.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151.2 (D), (F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:

§305. General Certification Guidelines for Capital Appellate and Post-Conviction Counsel

A. The following standards shall be applied to contract attorney certification under any part of this Rule.

1. The attorney shall be familiar with the practice and procedure of the criminal courts of Louisiana and shall be a member in good standing of Louisiana State Bar Association or admitted to practice pro hac vice.

2. The attorney shall be familiar with the use of expert witnesses and evidence, including but not limited to, psychiatric and forensic evidence.

3. Within one year of an initial application for certification by the Louisiana Indigent Defense Assistance Board, the attorney shall complete a minimum of 12 hours of Board-approved training primarily involving advocacy in the field of capital appellate or post-conviction defense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:

§307. Certification Guidelines for Capital Appellate Counsel

A. To be certified to serve as counsel in the appeal of a capital case, an attorney shall satisfy the following minimum standards.

1. Be familiar with the practice and procedure of the Louisiana Supreme Court in the appeal of capital cases and the practice and procedure of the United States Supreme Court in the application for writs of certiorari in capital cases;

2. Be an experienced and active trial or appellate practitioner with at least five years experience in the field of criminal defense;

3. Have prior experience within the last five years as counsel of record in the appeal of no fewer than three felony convictions in federal or state court; and

4. Have prior experience within the last five years as counsel of record in the appeal or post-conviction application, in federal or state court, of at least one case where a sentence of death was imposed.

5. In cases in which applicants lack the requirements of A, B, C or D above, the Chair of the Board of the Louisiana Indigent Defense Assistance Board may grant permission for that applicant to be certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:

§309. Certification Guidelines for Capital Post-Conviction Counsel

A. To be certified to serve as counsel for purposes of state post-conviction, an attorney shall satisfy the following minimum standards.

1. Be familiar with the substantive law and the practice and procedure of the courts of Louisiana in the review of capital post-conviction applications.

2. Be familiar with federal habeas corpus statutory law, practice and procedure, particularly including federal review of state capital post-conviction procedures.

3. Be an experienced and active trial, appellate, or post-conviction practitioner with at least three years experience in the field of criminal defense; and,

4. Have prior experience within the last three years as counsel of record in a capital post-conviction application, in state or federal court, or at least one case where a sentence of death was imposed, demonstrating clear competence and diligence in the representation provided.

5. In cases in which applicants lack the requirements of A, B, C or D above, the Chair of the Board of the Louisiana Indigent Defense Assistance Board or Director of the Capital Post-Conviction Project of Louisiana may grant permission for that applicant to be certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:

Chapter 5. Procedure for Supplemental Assistance and Appointment of Counsel for Indigent Defendants Sentenced to Death

§501. Grant-in-Aid Programs

A. The Louisiana Indigent Defense Assistance Board may provide direct assistance to judicial district indigent defender boards based on the LIDAB's funding levels, a judicial district indigent defender board's demonstrated need, and compliance with the following guidelines. Grant-in-aid programs established by the LIDAB are intended to provide supplemental assistance to qualifying district indigent defender boards for all criminal and juvenile proceedings where the right to the assistance of counsel provided by the state has been established. All judicial district indigent defender boards willing to comply with the standards, guidelines, and policies of the Louisiana Indigent Defense

Assistance Board are eligible to apply for supplemental assistance.

1. Supplemental assistance is available to a judicial district indigent defender board to assist it in improving the quality of indigent defense on a continuing basis. The major goals of these programs are the following:

a. to lower public defender workloads to levels consistent with recognized standards of professionalism and national caseload standards;

b. to increase the availability of trained and qualified attorneys certified to handle capital and appellate matters on behalf of indigent clients;

c. to provide more effective attorney unit support in the form of investigators, paralegals, secretaries, technology, and other forms of office support;

d. to improve criminal defense knowledge and skill through training, specialized continuing legal education, and improved supervision;

e. to defray the costs of expert witnesses and specialized scientific testing; and

f. to improve the process by which an individual is determined to be in need of state-provided defense services.

2. Supplemental assistance provided to a judicial district indigent defender board under these programs may be used for any or all of the following purposes:

a. hiring or retaining attorneys for the provision of defense services;

b. adjusting attorney salaries in accordance with the guidelines established by the Louisiana Indigent Defense Assistance Board;

c. defraying the costs of attorney unit support in accordance with the guidelines established by the Louisiana Indigent Defense Assistance Board;

d. defraying the costs of expert witnesses and specialized scientific testing in accordance with the guidelines established by the Louisiana Indigent Defense Assistance Board; and

e. defraying the costs of defense-oriented continuing legal education and specialized training programs.

3. Supplemental assistance provided to a judicial district indigent defender board under these programs may not be used for any of the following purposes:

a. the acquisition of land and/or buildings;

b. the construction or renovation of buildings;

c. the purchasing of furnishings and/or decorations;

d. the payment of non-defense-oriented continuing legal education or specialized training programs;

e. the provision of defense services to an individual not eligible to receive state-provided services;

f. the payment for out-of-state travel, food, and/or lodging not relating to the defense of a client in a particular case;

g. the payment for automobile rental, purchase, maintenance, or repair;

h. the payment for lobbying efforts in the legislature or any other governmental body for funding or changes in the law; and

i. the payment for any item or service not specifically approved by the Louisiana Indigent Defense Assistance Board in a judicial district indigent defender board's grant application.

4. A judicial district indigent defender board applying for supplemental assistance shall certify the following to the Louisiana Indigent Defense Assistance Board:

a. that a minimum of \$25 in court costs is assessed and being collected within the district in accordance with R.S. 15:146;

b. that the district board is willing to comply with the guidelines, policies, and procedures of the Louisiana Indigent Defense Assistance Board relative to the management and administrative practices of district indigent defender boards;

c. that the district indigent defender board is maintaining monthly, verifiable caseload statistics and will provide them to the Louisiana Indigent Defense Assistance Board on a calendar-year quarterly basis;

d. that the district indigent defender board is maintaining monthly financial statements, providing total revenues by type, total expenditures by type, fund balances by type, and the amount of compensation paid to staff, contract, and/or appointed counsel and will provide this information to the Louisiana Indigent Defense Assistance Board on a calendar-year quarterly basis;

e. that the district indigent defender board has prepared an independent financial audit on an annual basis and will provide this audit report to the Louisiana Indigent Defense Assistance Board in a timely manner; and

f. That the district indigent defender board has submitted complete and accurate information in its application for supplemental assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151.2 (D)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:

§503. Appointment of Appellate and Post-Conviction Counsel in Death Penalty Cases

A. The Louisiana Indigent Defense Assistance Board, through its director, shall, within 30 days of formal notice from a court having jurisdiction over the appeal of the capital case of an indigent, cause to have counsel enrolled to represent the defendant on direct appeal.

B. The Louisiana Indigent Defense Assistance Board, through its director, shall, within 30 days of finality of an indigent capital defendant's appeal, cause to have counsel enrolled to represent the defendant for purposes of state post-conviction proceedings.

C. To the extent funding is available, the Louisiana Indigent Defense Assistance Board may create, manage, and/or contract with a separate entity, with such staff and support personnel as are necessary, to provide counsel to represent capital defendants on direct appeal to the Supreme Court of Louisiana and/or to seek post-conviction relief, if appropriate, in state and federal court, subject to Paragraph E below.

D. In the event staff counsel of said separate entity is not available for appointment on an appeal or in post-conviction proceedings, the Louisiana Indigent Defense Assistance Board shall cause to have counsel enrolled certified by it in accordance with the applicable provisions of §§107-110 below, provided that in no event shall contract counsel be remunerated at a rate in excess of salary levels of any staff attorneys of said entity as determined by the Louisiana Indigent Defense Assistance Board.

E. Counsel appointed by the Louisiana Indigent Defense Assistance Board may accept appointments from a federal court to represent capital defendants, provided funding for these defense services is provided by the appointing federal court and provided no state-appropriated funds are expended for the representation of capital defendants in federal court.

F. Any attorney who desires to be certified under the guidelines of this Rule shall do so in accordance with the policies and procedures established by the Louisiana Indigent Defense Assistance Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:

§505. Monitoring and Removal of Certification of Capital Appellate and Post-Conviction Counsel

A. Attorneys certified by the Louisiana Indigent Defense Assistance Board within the guidelines of this Rule shall be monitored to ensure eligibility.

1. An attorney who fails to maintain his or her status and educational requirements as defined in §107 above shall not be considered certified for purposes of appointment in capital cases, provided an attorney may seek re-certification once the criteria of that section are satisfied.

2. Where there is compelling evidence that an attorney has inexcusably ignored basic responsibilities of an effective lawyer, resulting in prejudice to an indigent client's case, the attorney shall not be considered certified for purposes of appointment in capital cases. In this instance, an attorney shall be given an opportunity to respond in writing to specific charges of ineffectiveness.

3. Representation of a capital client establishes an inviolable attorney-client relationship. Thus, an attorney's eligibility to represent an indigent client may not be reviewed, except by a court of proper jurisdiction, on the basis of conduct involving a case in which the attorney is presently actively representing the client.

4. An attorney decertified under this Rule shall not be re-certified unless the decertification is shown to have been erroneous or it is established to the satisfaction of a majority of the Board that the cause of the failure to meet basic responsibilities has been identified and corrected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:

§507. Workload

A. The following standards shall serve as guides to attorneys eligible for appointment as capital appellate or post-conviction counsel.

1. Attorneys accepting appointments pursuant to this Rule should provide each indigent client with quality representation in accordance with constitutional and professional standards. Capital counsel should not accept workloads which, by reason of their excessive size, interfere with the rendering of quality representation or lead to the breach of professional obligations.

2. To determine maximum workload, an attorney should consider, among other factors, quality of representation, speed of turnover of cases, percentage of cases being litigated, extent of support services available, court procedures, and involvement in complex litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:

§509. Support Services in Capital Appellate and Post-Conviction Cases

A. Counsel appointed in accordance with this Rule shall secure all proper and necessary support services, including, but not limited to, investigative, expert, mitigation, and any other support services necessary to prepare and present an adequate defense. An attorney should use all available support services and facilities needed for an effective performance at every stage of the proceedings. Counsel should seek financial and technical assistance from all possible sources, provided expenses are within the guidelines established by the Louisiana Indigent Defense Assistance Board.

B. Funds to pay for reasonably necessary services, to the extent funds are available, shall be provided only upon a written showing to the director or supervisor of any entity responsible for capital appellate or capital post-conviction representation pursuant to §106, specifically identifying the nature of the services, the cost of such services, and the need for such services.

C. A written application for support services which requests funding in excess of the Louisiana Indigent Defense Assistance Board's established guidelines must be submitted to the Louisiana Indigent Defense Assistance Board, through its Director, for review and must be accompanied by specific justification for additional funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board. LR 28:

Family Impact Statement

1. How will this rule affect the stability of the family? These rules will have no effect on stability of the family.

2. How will this rule affect the authority and rights of parents regarding the education and supervision of their children? These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. How will this rule affect the functioning of the family? These rules will have no effect on the functioning of the family.

4. How will this rule affect family earnings and family budget? These rules will have no effect on family earnings and family budget.

5. How will this rule affect the behavior and personal responsibility of children? These rules will have no effect on the behavior and personal responsibility of children.

6. How will this rule affect the ability of the family or a local government to perform the function as contained in this proposed rule? These rules will have no effect on the ability of the family or a local government to perform the function as contained in these proposed rules.

Interested persons may submit written opinions, data, and/or comments on this proposed rule no later than March 22, 2001, at 5 p.m. to Marsha Austun Oliver, Staff Attorney,

Louisiana Indigent Defense Assistance Board, 1010 Common Street, Suite 2710, New Orleans, LA 70112.

Edward R. Greenlee
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Indigent Defense Assistance and Representation of Defendants Sentenced to Death

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no cost or savings to the state as a result of the implementation of the proposed rules. The proposed rules are merely a codification of the Louisiana Indigent Defense Assistance Board's current practices for the distribution of assistance to judicial district indigent defender boards and for appointment of counsel to represent defendants sentenced to death in accordance with R.S. 15:151 et seq.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no impact on state or local revenue collections. The requirement of these rules that judicial district indigent defender boards assess a minimum of \$25 in court costs in accordance with R.S. 15:146 to be eligible for supplemental assistance is already being met by all districts.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The distribution of supplemental assistance from the Louisiana Indigent Defense Assistance Board to judicial district indigent defender boards will not result in an economic benefit to individuals receiving defense services beyond the cost of the services mandated by law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of these proposed rules.

Edward R. Greenlee
Director
0202#069

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Elderly Affairs**

Incorporation of Older Americans Act 2000 Amendments
(LAC 4:VII.Chapter 11)

In accordance with Revised Statute 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual effective May 20, 2002. The legislative authority and provisions of this amendment became effective upon the signing of the Older Americans Act Amendments of 2000 by President Clinton on November 13, 2000. The purpose of the rule change is to update current policies to reflect requirements of the Older Americans Act 2000 amendments.

**Title 4
ADMINISTRATION**

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter A. State Agency on Aging

§1101. Office of Elderly Affairs

A. - C.2. ...

3. Service Systems Development Functions

a. - g. ...

h. to develop Elder Rights Protection Systems focused on protecting the rights of vulnerable older individuals who reside in the community and in institutional settings. It includes the provision of Long Term Care Ombudsman services; Legal Assistance Development; Elder Abuse, Neglect and Exploitation prevention.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, OAA Sections 203, 305, 307, 701 and 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2199 (November 1999), LR 28:

§1105. State Plan on Aging

A. ...

B. Content of the State Plan

1. - 6. ...

7. The projected costs of providing services for older individuals residing in rural areas (including the cost of providing access to such services) for each fiscal year to which the plan applies.

8. The methods used to meet the needs for services for older individuals residing in rural areas in the fiscal year preceding the first year to which such plan applies.

9. A grievance procedure for older individuals who are dissatisfied with or denied services under Title III of the Older Americans Act.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931, R.S. 49:432, OAA Section 203(b), OAA Section 306, 307, OAA Section 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2205 (November 1999), LR 28:

Subchapter B. Area Agency on Aging

§1121. Definitions

* * *

Native American Any person who is a member of an Indian tribe or any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

* * *

AUTHORITY NOTE: Promulgated in accordance with OAA Section 102 (20), 305(a)(2)(A).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:70 (January 2000), LR 28:

§1125. Area Agency on Aging Standards

A. - B. ...

C. Pooling/Coordination

1. - 3. ...

4. Each area agency on aging shall coordinate services described in OAA Sec. 321(a) of the Older Americans Act with other community agencies and voluntary organizations providing the same services. In coordinating the services, the area agency on aging shall make efforts to coordinate the services with agencies and organizations carrying out intergenerational programs or projects.

5. Where possible, the AAA shall enter into arrangements with organizations providing day care services for children or assistance to older individuals caring for relatives who are children, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families.

6. The AAA shall facilitate the coordination of community-based, long-term care services designed to enable older individuals to remain in their homes, by means including:

a. development of case management services as a component of the long-term care services, consistent with the requirements of Sec. 306(a)(8) of the Older Americans Act;

b. involvement of long-term care providers in the coordination of such services; and

c. increasing community awareness of and involvement in addressing the needs of residents of long-term care facilities.

7. The AAA shall establish procedures for coordination of services with entities conducting other Federal or federally assisted programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b) within the planning and service area.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(1), 306(a)(6)(C)(i), 306(a)(7), 306(a)(12), 321(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:71 (January 2000), LR 28:

§1133. Area Plan

A. - B. ...

C. Content of the Area Plan

1. - 2. ...

3. Each area plan shall designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations providing day care services for children or assistance to older individuals caring for relatives who are children, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families as such focal point).

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306, and Section 307.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:57 (January 1991), LR 18: 1376 (December 1992), LR 26:75 (January 2000), LR 28:

§1141. Priority Services

A. General Rules

- 1. - 1.a. ...
- b. in-home services, including supportive services for families of elderly victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction: 15 percent; and
- c. ...

2. The area agency on aging shall report annually to the state agency in detail the amount of funds expended for each such category during the fiscal year most recently concluded.

3. GOEA shall waive the requirement in §1141.A.1 of this manual for any category of services described in such Paragraph if the AAA demonstrates to GOEA that services being furnished for such category in the area are sufficient to meet the need for such services in such area and had conducted a timely public hearing upon request.

4. If a waiver is issued by the Governor's Office of Elderly Affairs for any category of priority service, the area agency must assure that an adequate proportion of its supportive services funds are allocated to the remaining priority services categories.

B. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2), Section 306(b), and Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 18:610 (June 1992), LR 26:77 (January 2000), LR 28:

§1143. Service Procurement

A. - B. ...

B.1. Area agencies may directly deliver Information and Assistance, and Outreach.

2. - 3. ...

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section OAA Sec. 307(a)(8)(C), 307(a)(10), OMB Circular A-110.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:621 (June 1885), LR 11:1078 (November 1985), LR 16:503 (June 1990), amended LR 18:610 (June 1992), LR 26:77 (January 2000), LR 28:

Subchapter E. Uniform Service Requirements

§1229. Office of the State Long Term Care Ombudsman

A. - B. ...

C. Functions of the Office of the State Long Term Care Ombudsman

1. - 8. ...

9. to coordinate services with state and local law enforcement agencies and courts of competent jurisdiction.

D. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:2010.4 and OAA Section 712.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:35 (January 1985), LR 11:1078 (November 1985), LR 13:742 (December 1987), LR 15:379 (May 1989), LR 17:600 (June 1991), LR 18:267 (March 1992), LR 24:1928 (October 1998), LR 28:

§1231. Senior Community Service Employment Program

A. Purpose. The purpose of the Senior Community Service Employment Program is to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are 55 years or older and who have poor employment prospects, and in order to foster individual economic self-sufficiency and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 502, 20 CFR Part 674 and Part 89.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 24:1766 (September 1998).

Family Impact Statement

This rule change will have no known impact on family formation, stability, and autonomy as set forth in R.S. 39:321.

A public hearing on this proposed rule will be held on Thursday, March 28, at 412 North Fourth Street, First Floor Conference Room, Baton Rouge, LA 70802 at 10 a.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments may be addressed to Mary Tonore, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. Written comments will be accepted until 5 p.m., March 28, 2002.

P.F. "Pete" Arceneaux, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Incorporation of Older Americans Act 2000 Amendments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Subchapter A, "Office of Elderly Affairs;" Subchapter B, "Area Agency on Aging;" and Subchapter E, "Uniform Service Requirements" of the GOEA Policy Manual are being revised to reflect changes in the Older Americans Act of 1965, as Amended. The legislative authority and provisions became effective upon the signing of the Older Americans Act Amendments of 2000 by President Clinton on November 13, 2000. The proposed rule will not result in costs or savings to any state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of any state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule expands and clarifies specifications for area plans (grant applications) developed and administered by area agencies on aging in order to receive and expend Older Americans Act funds. This rule change will not affect receipts or income of the area agencies on aging.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect of the proposed rule change upon competition and employment in the public and private sectors is not known at this time, but is not anticipated to be significant.

P.F. "Pete" Arceneaux, Jr. Robert E. Hosse
Executive Director General Government Section Director
0202#042 Legislative Fiscal Office

NOTICE OF INTENT
Office of the Governor
Office of Elderly Affairs

Eligibility Requirements and Definition of Legal Assistance (LAC 4:VII.1215, 1223, and 1225)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend Subchapter E, "Uniform Service Requirements" of the GOEA Policy Manual effective May 20, 2002. The purpose of the rule change is to update current policies to correct irregularities identified during the monitoring process.

Title 4
ADMINISTRATION
Part VII. Governor's Office

Chapter 11. Elderly Affairs
Subchapter E. Uniform Service Requirements
§1215. Service Recipient Priorities and Eligibility Requirements

A.1. Persons who are 60 years of age or older may receive services provided using Older Americans Act and state senior center funds.

2. No one is entitled to services by virtue of age alone. GOEA's uniform intake and assessment instrument shall be used to determine the order in which older individuals will be served.

3. Persons age 60 and over who are frail, homebound by reason of illness or incapacitating disability, or otherwise isolated, shall be given priority in the delivery of services.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 102(29), Section 102(30), Section 305(a)(2)(E), Section 306(a)(1), Section 307(a)(24), and 45 CFR 1321.65 and 1321.69.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:868 (May 1999), LR 28:

§1223. Title III-C Nutrition Services

A. A.4. ...

B. Participant Eligibility

1. - I.d....

2. Home-Delivered Nutrition Services

a. Eligible participants include:

i. ...

ii. the spouse residing with the recipient, regardless of age or condition, may receive a home-delivered meal if, according to criteria determined by the AAA, receipt of the meal is in the best interest of the homebound older person.

B.2.b. - R. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(13), Section 313, and Section 336 and 45 CFR 1321.69(b).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 15:384 (May 1989), LR 16:505 (June 1990), LR 24:1930 (October 1998), LR 28:

§1225. Legal Assistance Program

A. - A.1. ...

B. Definition

Legal Assistance Cprovision of legal advice, counseling and representation by an attorney or other person acting under the supervision of an attorney.

C. - G ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(15), and Section 307(a)(18).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), amended LR 25:869 (May 1999), LR 28:

Family Impact Statement

This rule change will have no known impact on family formation, stability, and autonomy as set forth in R.S. 39:321.

A public hearing on this proposed rule will be held on Thursday, March 28, at 412 North Fourth Street, First Floor Conference Room, Baton Rouge, LA 70802 at 10 a.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments may be addressed to Mary Tonore, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. Written comments will be accepted until 5 p.m., March 28, 2002.

P.F. "Pete" Arceneaux, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Eligibility Requirements and Definition of Legal Assistance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in costs or savings to any state or local governmental units. The State receives a formula grant for services for the elderly under the Older Americans Act of 1965, as amended (OAA). All Federal and state funds allocated for the program will continue to be expended to serve eligible participants.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of any state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons with disabilities under the age of 60 residing with eligible recipients are not eligible to receive OAA funded home-delivered nutrition services unless they are married to the recipient. This will not reduce the number of individuals receiving OAA services. Vacated slots have been filled from waiting lists of eligible participants.

Area agencies on aging are required to expend a minimum of 5 percent of the OAA Title III-B allotment for Legal Assistance. The Administration on Aging (AOA) has defined

Legal assistance as "legal advice, counseling and direct representation by an attorney or other person acting under the supervision of an attorney." This change will not affect the dollar amount of contracts for Legal Assistance awarded by area agencies on aging. It may affect the number of units of Legal Assistance provided to eligible OAA Title III participants. Legal education provided in group settings can be paid for using other Title III-B funds under public education or counseling.

Persons receiving OAA Title III-B Legal Assistance services may also receive legal education in group settings under public education or counseling.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect of the proposed rule change upon competition and employment in the public and private sectors is not known at this time, but is not anticipated to be significant.

P.F. "Pete" Arceneaux, Jr. Robert E. Hosse
Executive Director General Government Section Director
0201#078 Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners for Speech-Language Pathology and Audiology

Supervision Requirements for Audiology Aides
(LAC 46:LXXV.103, 107, 301)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et. seq., notice is hereby given that the Louisiana Board of Examiners for Speech-Language Pathology and Audiology proposes to amend rules, regulations and procedures to establish supervision requirements for Audiology Aides pursuant to its authority under R.S. 37:2656.C., and based on changes to the laws for Identification of Hearing Impairment in Infants, R.S.46:2261 et seq.

The proposed rules establish minimum supervision requirements and outline the duties that aides can perform for audiologists who use aides in their practice. The rules are consistent with the existing rules for speech-language pathology aides.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXV. Speech Pathology and Audiology

Chapter 1. General Rules

§103. Definitions

* * *

AidesCindividuals not licensed by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology, who after appropriate training, perform tasks that are prescribed, directed, and supervised by speech-language pathologists or audiologists licensed in accordance with LSA R.S. 37:2659(A). Licensed speech-language pathologists and licensed audiologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:

§107. Qualifications for Licensure

A. - I.2.b. ...

c. work with a communication or related disorder unless s/he has had sufficient coursework with appropriate supervised practicum in that area obtained through a regionally accredited educational institution or its cooperating program,

I.2.d. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:

Chapter 3. Aides

§301. Qualifications and Duties

A. - B.2.e. ...

f. administration of hearing screening tests

C. Supervision

1. The licensed speech-language pathologist or audiologist shall provide periodic direct observation for each aide at least once per month during the initial year of the aide's employment. Speech-language pathology aides are required to undergo direct supervision by a licensed speech-language pathologist, licensed in the area in accordance with R.S. 37:2659.A. Audiology aides are required to undergo direct supervision by a licensed audiologist, licensed in the area in accordance with R.S. 37:2659.A. Speech-language pathology aides and audiology aides may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

2. The direct observation in subsequent years shall be established by the supervising speech-language pathologist or audiologist on an individual basis but shall be no less than once every three months.

C.3. - 5. ...

D. The speech-language pathology aide may engage in activities limited to those that are planned and directed by the supervising speech-language pathologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to speech-language pathology aides:

D.1. - 2. ...

3. preparing materials (such as making copies, typing forms) for use by the speech-language pathologist;

D.4. - 8. ...

E. The audiology aide may engage in activities limited to those that are planned and directed by the supervising audiologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to audiology aides:

1. setting up room and equipment;

2. clearing room and storing equipment;

3. preparing materials (such as making copies, typing forms) for use by the audiologist;

4. checking equipment to determine if the equipment is performing adequately;

5. transporting patients/clients to and from sessions;
6. assisting with field trips;
7. performing hearing screening tests and pure-tone air conduction threshold tests without interpretation;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient/client's performance.

F. Only the speech-language pathologist or audiologist shall exercise independent judgment in the provision of professional services. Specifically, the speech-language pathologist or audiologist may not delegate any of the following to the aide:

1. speech-language screening;
2. evaluation, diagnosis, or therapy with individuals with speech, language or hearing disorders;
3. interpretation of test results or discussion of confidential information despite the fact that this information may have been requested by the patient/client, parent or referring agency;
4. performance of any procedure for which the aide has not been trained.

G. Exemption. Aides employed on or before April 1996 may continue to operate under the provisions of Chapter 3, §§301-305 of the Louisiana Register 16:409 (May 1990) of the Louisiana Board of Examiners for Speech Pathology and Audiology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 16:409 (May 1990), amended LR 22:355 (May 1996), LR 27:201 (February 2001), LR 27:1690 (October 2001), LR 28:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Interested persons may direct their comments to Suzanne L. Pevey, Administrator, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, 18550 Highland Road, Suite B, Baton Rouge, Louisiana 70809, telephone 225-756-3480. She is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, March 28, 2002 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for receipt of all written comments is 4 p.m. on Thursday, March 28, 2002.

Glenn M. Waguespack, L-AUD
Chairperson

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Supervision Requirements for Audiology Aides

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana State Board of Examiners for Speech-Language Pathology and Audiology estimates that it will cost approximately \$3,900.00 to implement the proposed amendments to the Board's Rules, Regulations and Procedures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments to the Louisiana Board of Examiners for Speech-Language Pathology and Audiology's Rules, Regulations and Procedures will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The costs to directly affected persons will be minimal since audiologists who use audiology technicians in their practice, currently provide direct supervision and training according to recent surveys.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment related to the proposed rules.

Suzanne L. Pevey
Administrator
0202#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Supervision of Occupational Therapy Assistants
by Occupational Therapists
(LAC 46:XLV.4903 - 4925)

Notice is hereby given in accordance with R.S. 49:953 that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and particularly R.S. 37:1270.B, as well as the Louisiana Occupational Therapy Practice Act, R.S. 37:3001-3014, intends to amend its administrative rules governing supervision of certified occupational therapy assistants by occupational therapists, LAC 46:XLV, Subpart 3, Chapter 49, Subchapters A and B, §§4903-4925. Such amendments will provide greater clarity and direction to occupational therapists and certified occupational therapy assistants concerning the supervision requirements prescribed by law in any health care setting, further insure the capability of certified occupational therapy assistants to perform all occupational therapy services required, provide for ongoing

dialogue between occupational therapists and certified occupational therapy assistants respecting individuals receiving occupational therapy services, and allow for more timely access to clients' occupational therapy records by certified occupational therapy assistants. The proposed rule amendments have no known impact on family, formation, stability or autonomy as described in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Chapter 49. Occupational Therapists and Occupational Therapy Assistants

Subchapter A. General Provisions

' 4903. Definitions

A. As used in this chapter, the following terms shall have the meanings specified:

*Client*Ca person, group, program, organization or community for whom the occupational therapy practitioner is providing service (American Occupational Therapy Association, adopted 1995).

*Client Care Conference*Ca meeting between the supervising occupational therapist and an occupational therapy assistant to discuss client progress or lack thereof, client issues, revision of goals, initiation, modification or termination of an individual program plan, assessment of utilization of additional resources, discharge and any other information which may affect a client's plan of care. Except when specifically required in this Chapter to be conducted by face to face conference, such meeting may be undertaken by telephone or other means of telecommunication but in no instance shall be undertaken by written documentation.

*Close Client Care Supervision*Cface to face observation of an occupational therapy assistant administering occupational therapy to a client, accompanied or followed in a timely fashion by verbal discussion of client goals, the individual program plan and other matters which may affect the client's plan of care.

*Evaluate/Evaluation*Cthe process of collecting and interpreting data through direct observation, interview, record review, or testing of a client.

*Face to Face*Cdirect communication between the occupational therapist supervising client care and an occupational therapy assistant, which is conducted in the physical presence of one another.

*Practice-Experience*C1600 hours of documented work as an occupational therapy practitioner is equivalent of one year of practice experience.

*Re-Evaluate/Re-Evaluation*Cthe process of periodically and systematically reviewing and interpreting the effectiveness and efficiency of client goals, the treatment plan, intervention and any other aspect of an individual's occupational therapy program.

*Service Competency*Cwith respect to an occupational therapy assistant, means one who is appropriately trained

and qualified to perform occupational therapy in accordance with the current standards of practice, as identified by the American Occupational Therapy Association.

*Supervising Occupational Therapist*Can occupational therapist responsible to the client for occupational therapy who observes, directs, consults with and retains responsibility for the service competence and performance of an occupational therapy assistant in the administration of occupational therapy to such client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270.B(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986); amended LR 28:

Subchapter B. Standards of Practice

§4915. Individual Program Implementation

A. ...

B. Occupational therapists shall implement the program according to the program plan. Occupational therapy assistants may assist in program implementation under the supervision of and in consultation with a supervising occupational therapist, as prescribed by §4919 and §4925.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270.B(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986); amended LR:28:

' 4919. Quality Assurance

A. - B. ...

C. Following acceptance of responsibility to supervise an occupational therapy assistant, but prior to utilization of such assistant in the implementation of any client program plan or other administration of occupational therapy to a client, the supervising occupational therapist shall initially evaluate and document the occupational therapy assistant's service competency to administer all occupational therapy services which are to be performed under his or her supervision and direction. Following such an initial evaluation the supervising occupational therapist shall thereafter annually conduct and document a service competency evaluation to assess the occupational therapy assistant's performance during the preceding year. Such documentation shall include the date the evaluation was performed, a description of the tasks evaluated, and the name, signature and Louisiana license number of the supervising occupational therapist conducting the evaluation. A supervising occupational therapist shall cause such documentation to be maintained by each clinic, facility or home health agency at or for which an occupational therapy assistant practices under his or her supervision.

D. A supervising occupational therapist is responsible for and must be capable of demonstrating compliance with the requirements of this Chapter respecting supervision of occupational therapy assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270.B(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:767 (November 1986); amended LR 28:

§4925. Supervision of Occupational Therapy Assistants

A. The rules of this Section, together with those specified in §4915 and §4919, govern supervision of an occupational therapy assistant by a supervising occupational therapist in any clinical setting.

B. An occupational therapy assistant may assist in implementation of a client program plan in consultation with and under the supervision of an occupational therapist. Such supervision shall not be construed in every case to require the continuous physical presence of the supervising occupational therapist provided, however, that the supervising occupational therapist and the occupational therapy assistant must have the capability to be in contact with each other by telephone or other telecommunications device. Supervision shall exist when the occupational therapist responsible for the client gives informed concurrence of the actions of the occupational therapy assistant and strictly adheres to all requirements set forth in this Chapter.

C. Prior to Implementation of Program Plan. Prior to the administration of occupational therapy by an occupational therapy assistant, the supervising occupational therapist shall:

1. perform an evaluation, as prescribed by §4911;
2. identify and establish occupational therapy needs, goals and an individual program plan, pursuant to §4913;
3. ensure that the documents created pursuant to §4925.C.1 and §4925.C.2 are made part of the client's record and accessible to the occupational therapy assistant prior to his or her the first treatment session with the client; and
4. be available for a client care conference.

D. Throughout the Duration of Program Plan. Following implementation and throughout the duration of the program plan:

1. a supervising occupational therapist shall periodically and systematically re-evaluate the appropriateness of all services delivered in conformity with §§4911-4919. Such information shall be documented in the client's record, which shall be made available to the occupational therapy assistant. The supervising occupational therapist preparing such revisions shall communicate any critical aspect or significant change in the program plan to the occupational therapy assistant by means of a client care conference prior to the occupational therapy assistant's next treatment session with the client.

2. At all times during which an occupational therapy assistant assists in program plan implementation, the supervising occupational therapist shall be immediately accessible for a face-to-face client care conference.

3. An occupational therapy assistant shall not administer occupational therapy to any client whose physical, cognitive, functional or mental status differs substantially from that identified by the supervising occupational therapist's individual program plan in the absence of re-evaluation by, or an immediate prior client care conference with, the supervising occupational therapist.

E. In addition to the terms and conditions specified in §4919 and §4925.A.-D, the following additional requirements are applicable to an occupational therapy assistant's administration of occupational therapy under the supervision of an occupational therapist:

1. In any clinical setting, other than specified by §4925.E.3:

a. an occupational therapy assistant with less than one year of practice experience shall receive close client care supervision in each clinical setting for not less than one of every four, or 25+ percent, of those clients to whom he or she has administered occupational therapy during an average weekly case load. In addition, a client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy; or

b. an occupational therapy assistant with more than one but less than two years of practice experience shall receive close client care supervision in each clinical setting for not less than one of every ten, or 10 percent, of those clients seen during an average weekly case load. In addition a client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy; or

c. an occupational therapy assistant with more than two years of practice experience shall receive a client care conference with respect to each client to whom the occupational therapy assistant administers occupational therapy.

2. School System, Long-Term Psychiatric and Non-Skilled Nursing Home Facility Settings. In addition to the requirements prescribed in §4925.E.1, clients in school system, long-term psychiatric or non-skilled nursing home facility settings shall be re-evaluated or treated by the supervising occupational therapist not less frequently than the earlier of once a month or every sixth treatment session.

3. Home Health Setting. The terms and conditions prescribed by §4925.E.1 shall not be applicable to a home health setting. An occupational therapy assistant may assist in implementation of a client program plan in a home health setting under the supervision of an occupational therapist provided all the following terms, conditions and restrictions of this Chapter, except §4925.E.1, are strictly observed:

a. an occupational therapy assistant shall have had not less than two years practice experience in providing occupational therapy prior to administering occupational therapy in a home health environment;

b. each client in a home health setting to whom an occupational therapy assistant administers occupational therapy shall be re-evaluated or treated by the supervising occupational therapist not less frequently than the earlier of once every two weeks or every sixth treatment session; and

c. a face-to-face client care conference shall occur not less frequently than once every two weeks to discuss all clients to whom the occupational therapy assistant has administered occupational therapy in a home health setting. Such conference shall be documented by the supervising occupational therapist in a supervisory log and maintained by or at the home health entity.

F. Mutual Obligations and Responsibilities. A supervising occupational therapist and occupational therapy assistant shall bear equal reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in this Chapter.

G. The administration of occupational therapy other than in accordance with the provisions of this section and §4919 shall be deemed a violation of these rules, subjecting the

occupational therapist and/or an occupational therapy assistant to suspension or revocation of licensure pursuant to §4921.A.18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270.B.(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:340 (March 1993), amended LR 28:

Interested persons may submit written data, views, arguments, information or comments on the proposed rule amendments until 4 p.m., March 21, 2002, to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130).

John B. Bobear, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Supervision of Occupational Therapy
Assistants by Occupational Therapists**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the rule publication costs, which are estimated to be \$580.00 in FY 2002, it is not anticipated that implementation of the proposed rule amendments will result in any costs to the Board of any other state or local governmental unit. The Board does not anticipate that adoption of the proposed amendments will result in either an increase or reduction in workload or any additional paperwork.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

As the proposed rule amendments will not affect Board revenues, no increase or decrease in revenues will result from the proposed rule amendments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Certified occupational therapy assistants are authorized to administer occupational therapy under the supervision of a Louisiana licensed occupational therapist. The proposed amendments clarify the supervision and other obligations imposed upon both occupational therapists and the occupational therapy assistants they may supervise, provide for greater dialogue and exchange of information between and among these licensees concerning persons receiving occupational therapy services, provide a mechanism to further insure the ability of certified occupational therapy assistants to perform all services required, and provide for more timely access to clients' occupational therapy records. It is not anticipated, however, that the proposed amendments will have any material economic effect on costs of such groups attributable to changes in workload or additional paperwork.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is not anticipated that the proposed rule amendments will have any impact on competition and employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0202#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

School Annual Report Fees (LAC 46:XLVII.3505)

Notice is hereby given, in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., that the Board of Nursing pursuant to the authority vested in the Board by R.S. 37:918 and R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to schools' annual report fees. The proposed amendments of the rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35 Nursing Education Programs

§3505. Approval

A. ...

B. Notwithstanding any other provisions of this Chapter, the Board shall collect in advance fees for education services as follows:

1. - 2. ...

3. School Annual Report Fee \$50.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), repromulgated LR 24:1293 (July 1998), amended LR 26:83 (January 2000), LR 28:

Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed rule related to the Board's appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S.49:972.

Interested persons may submit written comments on the proposed rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd, Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on March 11, 2002.

Barbara L. Morvant
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: School Annual Report Fees**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The fee will assist in offsetting the extensive time spent by professional staff in analyzing reports and preparing data tables and summaries for the public on the statutes of Registered Nurse education in Louisiana. Only implementation cost is the cost to publish the rule in the Louisiana Register at \$45.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Board is proposing a \$50 annual fee for the processing of the Nursing Schools Annual reports. There are 22 programs reporting at \$50 per program for a total income of \$1,100. The fee is already specifically cited in R.S.37:927.B.2.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The cost to the 22 individual schools of nursing will be \$50 annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Barbara L. Morvant
Executive Director
0202#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

**Continuing Education Requirements
(LAC 46:LXXXV.403)**

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.403 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et. seq. The proposed rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendments to the rule are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 4. Continuing Veterinary Education

§403. Continuing Veterinary Education Requirements

A.1. - 2. ...

3. A maximum of four hours of practice management courses or alternative medicine/therapy topic sessions may be taken.

B. Proof of attendance, which shall include the name of the course/program, name of sponsor, date(s) of attendance, hours attended, and specific subjects attended, shall be attached to the annual re-registration form.

C. All hours shall be obtained in the twelve months preceding the renewal period of the license. Hours taken prior to the twelve-month continuing education period will not be accepted. Hours taken after the beginning of the renewal period will require payment of the late fee, and may require the payment of a fine of up to \$50, as set forth in §413.D. Hours submitted as the late continuing education, if accepted by the Board in accordance with §413.D, cannot be applied to other renewal periods.

D. Employment at an accredited school or college of veterinary medicine will not be accepted in lieu of performance of the required hours of continuing education.

E. Presenters of approved continuing education programs may not submit hours for their presentation of, or preparation for, the program as continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated as §405 by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March, 1990); amended LR 19:1427 (November 1993), LR 23:1147 (September 1997), LR 28:

Interested parties may submit written comments to Kimberly B. Barbier, Administrative Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on March 21, 2002. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on March 28, 2002, at 10 am at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, Louisiana.

Kimberly B. Barbier
Administrative Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Continuing Education Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated at \$100 in FY 2002). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which result in minimal costs to the Board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as no increase in fees will result from the amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups. All licensees are presently required to obtain continuing education to renew licensure annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

Kimberly B. Barbier
Administrative Director
0202#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Veterinary Medicine**

**Preceptorship Program
(LAC 46:LXXXV.1103 and 1115)**

The Louisiana Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.1103 and 1115 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et. seq. The proposed rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendments to the rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 11. Preceptorship Program

§1103. Definitions

* * *

Intern Program Repealed

* * *

Preceptorship Program Ca preceptorship program approved by the Louisiana Board of Veterinary Medicine.

1. - 2. ...
3. Repealed
4. Repealed
5. Repealed

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990); amended LR 19:208 (February 1993), LR 23:968 (August 1997), LR 24:1293 (July, 1998), LR 27:543 (April 2001), LR 28:

§1115. Preceptorship Practice Requirements

A. - C.2. ...

3. All practices must be equipped or have the availability to provide a full radiographic service without hazardous exposure and must comply with all state and federal radiological standards.

4. Clinical pathology diagnostic services must be utilized.

5. The case load must be of such nature as to provide good exposure for the preceptee while allowing time for preceptor -preceptee interaction.

6. The preceptor must be willing to provide supervised, hands-on experience.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990); amended LR 27:544 (April 2001), LR 28:

Interested parties may submit written comments to Kimberly B. Barbier, Administrative Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, Louisiana 70801. Comments will be accepted through the close of business on March 21, 2002. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on March 28, 2002, at 10 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, Louisiana.

Kimberly B. Barbier
Administrative Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Preceptorship Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units, except for those associated with publishing

the amendment (estimated at \$140 in FY 2002). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which result in minimal costs to the Board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as no increase in fees will result from the amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups. All applicants for veterinary licensure are currently required to perform a preceptorship program at a Board-approved facility as a pre-requisite to licensure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

Kimberly B. Barbier
Administrative Director
0202#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Board of River Port Pilot Commissioners and Examiners
Calcasieu River Waterway**

Calcasieu River Waterway River Port Pilots
(LAC 46:LXXVI.Chapter 6)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Calcasieu River Waterway Board of River Port Pilot Commissioners and Examiners hereby gives Notice of Intent to promulgate rules as to definitions, appointments of commissioners and examiners, records of meetings, examination of apprentice pilots, ability of pilots to form an association, minimum applicant requirements, examination, appointments, performance, and enforcement procedures relative to the commission of pilots and maintaining those commissions.

In accordance with state law and in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any possible imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services, the Board of Commissioners and Examiners proposes to adopt the following actions pertaining to the rules and regulations of the board.

This action would establish rules, which are formulated using existing Louisiana statutes as a foundation for effecting the system for oversight of the pilotage under the board's jurisdiction.

In general, the rules would clarify the method and guidelines for making recommendations to the Governor for the commissioning of pilots, define the board's authority and funding, establish the criteria for rulemaking and application, record keeping, notices and meetings and provide for standards and qualifications for pilot apprentice applicants and associations. The rules would clearly define the board's legal authority and duties relating to oversight

processes for investigative, enforcement and other specified board functions.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXXVI. Pilots

Chapter 6. Calcasieu River Waterway River Port Pilots

§601. Definitions

Agent Can authorized representative of the vessel owner.

Apprentice Pilot Review Committee Ca committee selected by the general membership of the Associated Branch Pilots of the Port of Lake Charles to receive and review applications, interview pilot candidates, and monitor training progress. Membership on this committee is determined by vote of the association.

Associated Branch Pilots of the Port of Lake Charles Fee Commission Cthe fee commission established under R.S. 34:1121 et seq. composed of eight members and eight alternates to represent the respective interests of the association and the steamship industry.

Association Cpilot members of the Associated Branch Pilots of the Port of Lake Charles who have incorporated the association permitted by R.S. 34:1175 as "Lake Charles Pilots, Inc."

Board of Commissioners and Examiners C(hereinafter used interchangeably as Board of Examiners, Board, Commission, Examiners or Board of Examiners) the Board of River Port Pilot Commissioners and Examiners for the pilotage area defined in R.S. 34:1072.

Examiners Cthose individuals appointed pursuant to R.S. 34:1072.

Harbormaster Cthe Lake Charles Harbor and Terminal District agent who acts as authorized by R.S. 34:215(2), to operate the navigable Calcasieu River Waterway system, coordinate and implement necessary navigation operating controls and, through liaison, cooperation and mediation, establish priorities for safe, secure and efficient waterway system operation.

Louisiana Public Service Commission Cthe body, which constitutes the fee commission (see R.S. 34:1121.C) for the purpose of making fee decisions in the event of unresolved disputes within the Associated Branch Pilots of the Port of Lake Charles Fee Commission.

Marine Casualty Cany occurrence involving a vessel which results in damage by or to the vessel, its apparel, gear, or cargo, or injury or loss of life of any person; and includes among other things, collisions, allisions, strandings, groundings, founderings, heavy weather damage, fires, explosions, failure of gear and equipment and any other damage which might affect or impair the seaworthiness of a vessel. Momentarily touching soft bottom while maintaining headway is considered a "near-miss" grounding within the dredged channel project reaches of the pilotage area.

Master License Cthe license issued by the U.S. Coast Guard.

Nepotism Cfavoritism shown to a relative as designated in R.S. 42:1119 of the Code of Governmental Ethics.

Pilot Ca river port pilot as designated in R.S. 34:1073.

Pilotage Area Cnavigable streams, channels and boundary waters, including the Intracoastal Canal, Calcasieu River and the Calcasieu Ship Channel, within the Parishes of Calcasieu

and Cameron, and across bars and passes, and on the adjacent waters of the Gulf of Mexico, the latter being out to a distance beyond the state's geographic boundary to any point in the Gulf of Mexico at which pilot assistance may be required by the master of a vessel.

Port Cwaterways and facilities under the jurisdiction of the Lake Charles Harbor and Terminal District.

Service Time Cthe applicant's service time on the designated pilotage area, inland waters of the United States, or the oceans of the world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§603. Board of River Port Pilot Commissioners and Examiners

A. Commissioners and examiners shall be selected as members of the board in accordance with R.S. 34:1072.

B. The officers of the board shall be chairman, vice-chairman, and secretary.

C. The chairman shall preside at all meetings of the board. Except as otherwise authorized by resolution of the Board of Commissioners of the Board of River Port Pilot Commissioners and Examiners, the chairman shall sign all contracts, deeds and other instruments made by the Board of River Port Pilot Commissioners and Examiners. At each meeting, the chairman shall submit such recommendations and information as he or she may consider proper concerning the business, affairs and policies of the board.

D. The vice-chairman shall perform the duties of the chairman in the absence or incapacity of the chairman; and in case of the resignation or death of the chairman, the vice-chairman shall perform such duties as are imposed on the chairman until such time as the Board of Commissioners of the River Port Pilot Commissioners and Examiners shall select a new chairman.

E. The secretary shall have general supervision over the administration of board business and affairs, subject to the direction of the board. The secretary shall keep the records of the board, record all votes, and shall keep a record of board proceedings in a journal of proceedings and shall perform all duties incident to the office. All meetings shall be transcribed for placement in the journal. The secretary shall have the care and custody of all funds of the board and shall deposit the same in the name of the Board of River Port Pilot Commissioners and Examiners in such bank or banks as the board may select. The secretary shall sign all orders and checks for the payment of money and shall disburse such monies under the direction of the board. All checks for the payment of money in excess of \$750 shall be co-signed by the chairman. The secretary shall keep regular books of accounts showing receipts and expenditures and such books of accounts shall be open to inspection by any commissioners at any time upon request.

F. The officers of the board shall perform such other duties and functions as may from time to time be required by the board of commissioners or the by-laws or rules and regulations of the board or as may be designated by the chairman.

G. The officers of the board shall be elected by affirmative vote of a majority of the board annually at the first regular meeting in January of each year and such

election shall automatically be placed upon the agenda of such meeting. Such officers shall serve a term of one year. There shall be no prohibition on the same individual being elected to the same office in successive years. Should an officer resign or otherwise vacate office by death, resignation or removal from the board or otherwise, then an election to replace such officer, subsequent to the governor's appointment as necessary, shall be held at the next regularly scheduled meeting of the board or, at a specially called meeting, whichever occurs first. If a vacancy in an office occurs and a replacement is elected as provided herein, then that person who is elected to the vacated office shall serve only the unexpired term of the office.

H. In the case of the absence of any officer of the board, or for any other reason that the board may deem sufficient as to any officer, the board may delegate, for the time being, the powers or duties, or any of them, of such officer to any other officer, or to any member of the board, provided a majority of the entire board concurs therein.

I. The board shall conduct business as is necessary to fulfill legislative mandates or as may be required by the rules herein.

J. All officers shall serve without compensation.

K. The board members, in the performance of their statutory duties, have the exclusive and complete authority to determine their work schedule. Further, board members shall not suffer any loss of benefits or compensation while they are performing their duties.

L. Reasonable ordinary and necessary operating and administrative costs and expenses, incurred by the board while performing its duties, shall be paid or reimbursed by the system described herein. Expenses shall be approved monthly by the board and submitted to the association. The association shall pay or reimburse expenses of the board with 15 days of receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§605. Rules, Records, Meetings, Associations

A. The board issues these rules and regulations to administer, implement, and enforce R.S. 34:1072. The procedure for proposing, amending, repealing, and promulgating a rule or regulation shall be in accordance with the Administration Procedure Act, R.S. 49:950 et seq.

B. These rules and regulations include, but are not limited to:

1. establishing procedures for conducting investigations; and hearings by the board;

2. requiring procedures governing applications and examination for apprentice pilots' appointments and pilots' commissions;

3. establishing required education, experience, and training of applicants;

4. requiring a mandatory drug and alcohol testing program, to comply with 46 CFR 16 and 49 CFR 40, Procedures for Transportation Workplace Drug Testing Programs, including random tests, post-incident tests, and tests based upon reasonable cause;

5. requiring a mandatory periodic physical examination and, for reasonable cause, a physical and/or

mental examination to determine the fitness of pilots to perform duties;

6. ensuring required integrity, professional competence, and physical standards for apprentices and pilots;

7. clarifying the duties owed by a pilot to the owner(s) of the vessel, agent(s), and the owner(s) of the cargo; and

8. addressing any other matter which the board may deem necessary or appropriate for the administration, implementation, and enforcement of R.S. 34:1072.

C. All rules must be adopted by a majority of the Board of Commissioners. Further, rules must receive legal review before final approval and adoption. The board shall maintain records in accordance with the Public Records Law, R.S. 44:1 et seq., and other applicable state laws. The board shall file an annual report of investigations, findings, actions, and accident data in accordance with applicable state laws. The board shall conduct its meetings in accordance with the Open Meetings Law R.S. 42:4 et seq. and any other state laws.

D. The board shall hold a regular monthly meeting, which shall be held on the second Monday of each month at 10 a.m. at the board meeting room of the Lake Charles Harbor and Terminal District, 150 Marine Street, Lake Charles, LA. The president alone or two members of the board may cancel any regular meeting if the board has no business to conduct. The president alone or two members of the board has/have the prerogative of calling additional meetings as needed to conduct business on giving notice as required by law.

E. These rules shall apply to all pilots commissioned as pilots by the governor upon recommendation of the board and who are engaged in the performance of the duties of a pilot within the pilotage area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§607. Minimum Requirements, Applicants, Examination, Appointments

A. The pilot apprentice applicant shall be a graduate from either the U.S. Merchant Marine Academy (deck curriculum), the U.S. Coast Guard Academy and qualified as officer-in-charge of a navigational watch, the U.S. Naval Academy and qualified as officer-in-charge of a navigational watch, the Great Lakes Maritime Academy (deck curriculum) or any other maritime academy approved by and conducted under rules prescribed by the Federal Maritime Administrator and listed at Title 46, Code of Federal Regulations, Part 310. Five years of experience as master or commanding officer of naval vessels or merchant ships including USNS or MSC ships, ocean tugs, harbor tugs, integrated tug/barge units, or dredge ships may be substituted for the requisite educational requirement with approval of the board.

B. Candidates seeking to participate in a pilot apprentice training program shall hold a U.S. Coast Guard issued license authorizing service as master, steam or motor vessels of at least 1,600 gross tons upon oceans or near coastal and be reasonably expected to be able to eventually comply with federal regulatory requirements specified at 46 CFR Subpart

G, Professional Requirements for Pilot Licenses, which are considered by the board to be minimum requirements for commissioning pilots under the board's jurisdiction. These requirements include:

1. time-in-service;
2. route familiarization;
3. examination;
4. physical requirements;
5. tonnage service requirements; and
6. capability to acquire and maintain knowledge of waters to be navigated.

C. Application Process

1. Prospective candidates of good character who meet the aforementioned requirements may submit applications evidencing these requirements to the Apprentice Pilot Review Committee, 710 West Prien Lake Road, Suite 201, Lake Charles, LA 70601. A copy of the application shall also be submitted to the Board of Commissioners and Examiners, c/o Port of Lake Charles, P.O. Box 3753, Lake Charles, LA 70602.

2. Applications should be accompanied by:
 - a. a personal resume;
 - b. photograph;
 - c. birth certificate;
 - d. three letters of recommendation,
 - e. health profile conducted by a recognized health

professional evidencing probable ability to comply with 46 CFR 10.205(d); and

- f. a U.S. Coast Guard Information Release Form signed and notarized, in any format, to authorize personnel involved in the selection process to investigate and/or obtain applicant's records from the U.S. Coast Guard or from any other person or entity deemed appropriate, including but not limited to licenses, casualty involvement, or any disciplinary information.

3. Applications will be kept on file until an opening for an apprentice pilot is anticipated, or a maximum of two years, unless updated. When the association anticipates openings for apprentice pilots, the Apprentice Pilot Review Committee will review all current applications and contact best-qualified selected applicants to appear for interviews.

4. The Apprentice Pilot Review Committee, subsequent to reviewing applications and interviewing applicants, will present their findings and recommendations to association members for their vote on apprentice candidate acceptance.

5. The board shall provide oversight and final approval over the pilot candidate application and selection process and shall approve and make recommendations to the Governor for subsequently awarding pilot commissions.

D. Prior to being recommended for a State commission, applicants must have completed, and maintain current, Ship Handling Simulator courses and Bridge Resource Management courses and any other industry related courses that the association and Examiners may deem relevant and necessary.

E. Qualified applicants desiring to become pilots shall not have reached their forty-fifth birthday before being accepted into the apprenticeship program and an applicant shall not be under the age of 30 when accepted as an apprentice.

F. A person applying for an appointment under this section shall not have been convicted of a felony offense involving either drugs or the personal consumption of alcohol in the 60 months prior to the date of application.

G. Applicants must submit to and pass a drug screen test prior to being accepted into the apprenticeship program and agree to participate in mandatory drug and alcohol-testing programs, required by 46 CFR 16 and conducted in compliance with 49 CFR 40.

H. Any signed obligation to abide by the charter, by-laws, rules and regulations of the association or of the Lake Charles Pilots, Inc., shall not be contrary to established rules and regulations of the board.

I. Applicants must serve an orientation period over the route, as an apprentice pilot, for not less than 12 months, which may be extended up to one additional year as may be determined by the board, if recommended by currently commissioned pilots who actively train any apprentice. If, after the one year extension apprenticeship period, the applicant fails to meet the criteria and standards of the examiners, the said applicant shall be released from the apprenticeship program. The criteria and standards of the board include but are not limited to:

1. applicant's competency and display of good judgment;
2. regard for federal, state, and local laws and regulations;
3. fitness for the position and duties of a river pilot;
4. moral integrity, veracity, capability, and satisfactorily addressing any other such issues or questions brought by any responsible party to the attention of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§609. Examination

A. Pilot candidates must successfully complete an oral or written examination or both to be conducted by the Examiners.

B. Pilot candidates who have complied with all of the provisions herein shall be examined as to knowledge of pilotage and shall demonstrate proficiency and capability to serve as a commissioned pilot. This examination shall be given in such a manner and shall take such form, as the board, in its sole discretion, from time to time, shall determine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§611. Pilotage Certification

A. Commissioned pilots shall comply with all requirements to maintain current their Louisiana State commission and such other certifications as determined necessary by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§613. Association of Pilots

A. River port pilots may form themselves into an association or associations, not in conflict with the rules and regulations of the board.

B. The formation of any association, incorporated or non-incorporated, which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1075, must be submitted to the board for approval. Such applications must meet all legal requirements, provide for a stable, reliable, efficient, and safe pilotage system, protect the life and property of the region and serve the best interest of the majority of pilots.

C. The board hereby recognizes the fact that the Lake Charles pilots have formed themselves into a legal registered corporation known as the Lake Charles Pilots, Inc., intending to operate in compliance with all state laws and which shall comply with the regulations and directives of the board.

D. No pilot association may impose any custom, rule, by-law or charter provision on the board or its authority. Further, any attempt to exercise any authority over or affecting the board's authority shall be deemed a violation of Chapter 6 of Title 34 of the Louisiana Revised Statutes governing pilotage.

E. Pilots shall not discontinue duties without permission. Except for reasons of health, satisfactory evidence of which shall be furnished to the board when requested, no commissioned pilot or apprentice shall discontinue to act as such nor remove himself/herself, at any time, from a duty status, without first obtaining the permission of the group of pilots with which associated or of some duly authorized official of that group, and no such permitted discontinuance or absence for a period of more than three months shall be valid without additionally obtaining, in advance, the written authorization of the board. Any pilot or apprentice neglecting or refusing to comply with such requirement as to presence and performance of duties may be subject to association-imposed sanction and have, respectively, his/her commission, appointment or apprenticeship, as the case may be, either suspended or revoked by board recommendation, depending on the board's judgment and evaluation of the circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S.34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§615. Enforcement

A. In any case, where a vessel under pilotage shall go aground or collide with another vessel or allide with any object or meet with any marine casualty, or be injured or damaged in any way or in the event of a near-miss of any of the above, the board shall cause to be conducted a preliminary investigation into the casualty or the near-miss to determine if there are any violations of the law or board's rules.

B. When probable cause relating to any event set forth in §615.A involving a pilot is preliminarily determined, the board may conduct or order an investigation.

C. All board investigations shall be conducted in accordance with R.S. 49:950 et seq.

D. In any case, where a vessel under pilotage is involved in any event set forth in §615.A, any pilot providing piloting

services relating to such vessel shall report such event as follows:

1. report the casualty to the board by whatever means available to the pilot as soon as practical but not later than 24 hours after the occurrence of such event;

2. be available within 24 hours of such event for interview by the board and furnish complete details of the casualty;

3. make a written report regarding such event to the board as soon as practical but not later than forty-eight hours after such event.

E. Any pilot who shall neglect, or refuse to make any required report to the board as required by these rules, shall be subject to the board-imposed sanctions provided in §615.J.

F. Any pilot requested or summoned to testify before the board shall appear in accordance with said request or summons and shall make answers under oath to any questions put to him/her related to or in any way connected with the pilot's service.

G. In any case, where the board finds or suspects a violation of the law or applicable regulation, or a violation of its rules, the board may charge the pilot appropriately. If the charge is proven, the board may take action as authorized by R.S. 34:1077. However, this rule shall not abrogate any pilot rights pursuant to all applicable laws. Specific enforcement parameters are included in §615.J-N herein.

H. When an investigation or any other information source reveals dangerous and/or unsafe conditions and/or conditions that may jeopardize the interests, safety, health, or welfare of the pilots, vessels, cargo, property or individuals, the board may make recommendations to vessel owners, operators, agents or any other involved persons/entities including the Lake Charles Harbor and Terminal District and the U. S. Coast Guard regarding corrective measures.

I. Marine casualties, accident, and required reports are defined in Title 46 Code of Federal Regulations, Part 4 (46 CFR 4). Required reports shall be made to the U.S. Coast Guard by the owners, operators, masters or agents of vessels so involved. This federally-imposed requirement affects all U.S. commercial vessels sailing worldwide and every foreign flag vessel operating on or present within U.S. waters within the pilotage area, as relating to these rules. Hazardous conditions are defined in 33 CFR 160.203 and must be reported to the U.S. Coast Guard. Navigation safety regulations prescribed in 33 CFR 165 shall be followed. Every pilot must immediately report all marine casualties, near-miss incidents, hazardous conditions, and violations of navigation safety regulations to the U.S. Coast Guard and to the board. Action on near-miss reports, absent a showing of violation of navigation rules or negligence, is without attribution toward preventing similar future incidents.

J. After notice and a hearing, the board may, as authorized by R.S. 34:1077, and at their discretion, remove, suspend or reprimand a commissioned pilot, impose civil penalties and/or recommend, to the governor, revocation of the pilot's commission. Suspensions shall not last more than one year, and must be followed by a period of reorientation of not less than 14 days and not to exceed 60 days.

K. The board may take such enforcement action specified in §615.J, upon a finding that one or more of the following grounds exists:

1. neglecting or refusing to perform any pilot duty;
2. failing to board a vessel at a designated point and time without good cause;
3. threatening to fail to perform or actually failing to perform any duty of a pilot in a manner consistent with established marine customs and practices;
4. performing any duty as a pilot while under the influence of alcohol or drugs;
5. engaging in conduct prejudicial to the safety of the vessel, and/or its officers or crew, and/or its cargo;
6. engaging in conduct prejudicial to a local port, vessel owner or agent, or private shipper or consignee;
7. having a physical or other disability, which inhibits the pilot's ability to board a vessel or perform the duties of a pilot while aboard a vessel;
8. exhibiting incompetency as a pilot;
9. engaging in fraud, perjury, or deceit to obtain or renew a certification or in any other proceeding before the board;
10. engaging in dishonesty, fraud, or negligence in the performance of pilot services;
11. having his or her license cancelled, revoked, or suspended or being denied a license or the renewal of a license for disciplinary reasons by another state or by the U.S. Coast Guard for any cause, including other restrictions imposed by such other licensing authority;
12. revocation or suspension of, or a voluntary consent decree revoking or suspending, a license, which concerns pilotage duties before any other state or a federal agency;
13. engaging in efforts to deceive or defraud the owner of a vessel or the owner of the cargo or their agents;
14. attempting to usurp, or actually usurping, the authority of the master of a vessel;
15. failing to maintain a current U.S. Coast Guard license;
16. entering a plea of guilty or nolo contendere or being convicted of a felony or of any other crime, an element of which is dishonesty or fraud, under the laws of the United States, this state, or any other state;
17. failing to notify the board in writing immediately, after the occurrence of any issuance, denial, revocation, or suspension of a pilot's commission, license, or other similar grant of authority by another state or the U.S. Coast Guard;
18. violating applicable traffic separation schemes and vessel traffic service regulations and any other applicable regulation published by the U.S. Coast Guard or any other federal, state or local agency;
19. violating any of the Navigational Rules; International-Inland;
20. failing to take cognizance of local notice to mariners and marine information disseminated by the U.S. Coast Guard;
21. violating any provision of this regulation or any other adopted by the board.

L. In lieu of an adverse action pursuant to this section, the pilot may tender his/her commission. The board may, for stated reasons, impose such terms and conditions as it deems appropriate as part of its acceptance of the commission tender.

M. The board may suspend a pilot without notice or hearing when it clearly appears from an affidavit of an interested party that further piloting by a commissioned

individual poses a threat of immediate injury, loss, or damage before notice and a hearing can be arranged. Notice shall be given to the pilot and the association with all deliberate speed and in the most expeditious manner available. A hearing with notice shall be arranged at the earliest possible date, allowing a reasonable amount of time for the pilot to prepare a defense.

N. The board shall establish policies and procedures to address violations in a formal and consistent manner.

O. Rules of the board may be enforced, in accordance with R.S. 1072, by any court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§617. Pilot Charges and Fees

A. Pilotage charges and rates shall be fixed, without board involvement, in accordance with established procedures of the appointed Associated Branch Pilots of the Port of Lake Charles Fee Commission and the Louisiana Public Service Commission, pursuant to R.S. 34:1121, et seq., as may be necessary following disputes.

B. The association shall be due payment, at rates in effect at the time of pilot service, for pilotage charges and fees within 45 days of invoice receipt, except when the association elects to extend credit to such vessel owner, vessel operator, principal agent or local agent. When credit is not extended, payment is due upon vessel departure or upon receipt of invoice, whichever is earlier.

C. Any agent or other non-vessel owner who makes arrangements for credit for pilotage shall be held responsible by the pilots for the amount credited if that amount is not paid within the 45-day period.

D. Pilotage charges are based upon the services of one pilot unit. No additional charges may be imposed for other pilots or apprentices taken aboard a vessel for the purpose of training or route familiarization. However, nothing shall prohibit additional pilotage charges whenever additional pilots are proved to the board's satisfaction to be required to assure the safe maneuvering of the vessel. In such cases, one additional pilot unit may be charged for every additional pilot so embarked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§619. Vessel Scheduling System (VSS)

A. The association will act upon all requests for pilot services without delay; provided, they have been notified a minimum of four hours prior to any vessel's expressed intended need of pilot(s).

B. Pilots shall consult and cooperate with the Lake Charles Harbor and Terminal District to assist best operation of the navigable waterway system under the District's jurisdiction.

C. Individuals other than vessel crewmembers may be aboard transiting vessels only at the discretion and approval of the U.S. Customs Service and vessel owners/agents and shall not interfere with pilots' duties and responsibilities.

D. Responses to inquiries voiced to the association or its members from current or prospective Calcasieu River

Waterway customers regarding marine services coordination and channel-use priorities shall be coordinated with the Lake Charles Harbor and Terminal District toward developing appropriate responses.

E. Calcasieu River Waterway systemic navigation controls are reserved for federal, state and local authorities. Vessel draft and beam width restrictions deemed necessary by pilots may be imposed only after consulting with, and upon approval of, the Lake Charles Harbor and Terminal District. The U.S. Army Corps of Engineers' (USACE) most current channel surveys and recommendations are generally relied upon in determining if limiting vessel drafts to less than 40 feet may be warranted.

F. The U.S. Coast Guard recognizes and supports State of Louisiana authorized efforts of the Lake Charles Harbor and Terminal District, with local Harbor Safety Committee (HSC) coordination, to safely and efficiently operate the Calcasieu River navigable waterway system. Codification of additional specific Lake Charles Harbor and Terminal District Calcasieu River navigable waterway operating controls at 33 CFR 165.807 may be appropriate if controls go beyond routine navigation priority determinations.

G. Positive control of Calcasieu River navigation is exercised through vessel traffic scheduling procedures accessible at <http://www.lakecharlespilots.com/vtssafety/> or by calling (337) 436-0372 when pilotage is required and otherwise through liaison with the Lake Charles Harbor and Terminal District (Harbormaster) by calling (337) 493-3620 to request priority transit or to address extraordinary navigation evolutions which might be expected to adversely affect other navigation.

H. The board recognizes and supports the appropriateness of these aforementioned navigation controls and scheduling procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§621. Traffic Guidelines

A. Efficient and safe pilotage area traffic movement is dependent upon pilots exercising good professional skill and judgment with respect to visibility, vessel draft, vessel speed, state of tide, wind speed and direction, channel depth, direction and speed of currents, individual vessel maneuvering characteristics, presence of other vessels, and width of channel. Systemic controls may be established and published only after consultation with the Lake Charles Harbor and Terminal District.

B. Meeting and passing situations involving two vessels with combined beams exceeding 50 percent of the available channel width shall be restricted, unless both involved pilots agree, with Lake Charles Harbor and Terminal District concurrence, that conditions are such that meeting or passing can be accomplished safely.

C. In fog, or any condition that restricts visibility, vessels will not normally be moved until conditions improve to a point where one-mile visibility is available, throughout the route to be transited.

D. All vessels transiting the channel must be ballasted to a condition that keeps the propeller and rudder submerged to a sufficient degree to maintain control of the vessel.

E. Liquefied Natural Gas (LNG) vessels transiting within the pilotage area shall be piloted in accordance with the current U. S. Coast Guard Liquefied Natural Gas (LNG) Vessel Management and Emergency Plan promulgated by the cognizant USCG Captain of the Port. Safety Zones and/or Regulated Navigation Area (RNA) requirements may, from time to time, be established and published at 33 CFR 165.

G. The board recognizes and supports the aforementioned traffic guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§623. U.S. Coast Guard Investigations/Proceedings

A. The association shall provide to the board of Commissioners copies of all U.S. Coast Guard investigations, notices, and actions pertaining to pilotage area accidents, marine casualties, complaints, and disciplinary actions including federal suspension and revocation proceedings and civil penalty actions.

B. Pilots are required to keep their respective licenses current and to notify the board of any changes or proceedings concerning all appointments, certifications and licenses, which the respective pilots may hold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§625. Appeals

A. Any person or organization that has any complaint or other grievance with the actions of the board, or of local pilots, shall submit a written complaint to the board which then shall take any action required by statute and/or these rules.

B. Appeals to board-initiated pilot enforcement proceedings action may be submitted to the board for reconsideration.

C. The owners or operators of any vessel adversely affected by a pilot's decision regarding its movement may request the board to review that decision for ensuring compliance with these rules and sound piloting principles and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§627. Nepotism/Equal Opportunity Policy

A. The Association and board shall not discriminate in applicant selection or examination in favor of individuals related to pilots or to governing authorities by blood or marriage, or based on race, color, religion, sex, national origin, age, disability, political affiliation or belief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§629. Ethics

A. All pilots and board members shall comply with the Louisiana Code of Governmental Ethics Chapter 15 of Title 42 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

§631. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid and unenforceable for any reason whatsoever, that it may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:

Family Impact Statement

These proposed rules should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children;
6. the family's ability or that of the local government to perform the function as contained in the proposed rules.

Interested parties may submit written comments to James L. Robinson, P.O. Box 3753, Lake Charles, LA 70602. Comments will be accepted through the close of business on March 12, 2002.

Captain James L. Robinson, USCG
Board Designee

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Calcasieu River Waterway River Port Pilots

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no incremental cost increase associated with implementing these state-mandated rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no effect on revenue collection of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule establishes rules regarding local pilotage. No additional costs to the general public are related to this rulemaking. Qualification requirements and governance are comparable to standards of other similar pilot associations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule change would have no appreciable effect on competition and employment other than to establish clear guidelines and requirements for the Calcasieu River Waterway pilotage area.

Capt. James L. Robinson Board Designee 0202#074	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Pardons**

Discretionary Powers of the Board
(LAC 22:V.105)

The Louisiana Board of Pardons, in accordance with R.S. 49:950 et seq., hereby gives notice of its intent to amend LAC 22:V.105, Discretionary Powers of the Board. This text is being amended to facilitate the handling of favorable recommendations from the Louisiana Risk Review Panel.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 1. Applications

§105. Discretionary Powers of the Board

A. - D. ...

E. When the Louisiana Board of Pardons receives a favorable recommendation from any of the three existing Louisiana Risk Review Panels (South, Central and/or North Louisiana Risk Review Panel), said recommendation shall be accepted and, with a completed application, may be processed in the same manner as a favorable decision by the Board of Pardons on any application considered under the provisions of this section without the necessity for further consideration. A Risk Review Panel recommendation and application may be set for a hearing at a time and date designated by the chairman, at his sole discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1133 (June 1998), LR 28:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953.A.(1)(a)(viii) and R.S. 49:972, the Louisiana Board of Pardons hereby provides the Family Impact Statement.

Adoption of this amendment to the rules of the Louisiana Board of Pardons regarding the handling of applications via the Louisiana Risk Review Panel process will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule amendment.

Interested persons may submit written comments to Robert B. Barbor, Counsel to the Board of Pardons, c/o Department of Public Safety and Corrections, 504 Mayflower Street, Baton Rouge, LA 70802, or by facsimile to (225) 342-3094. All comments must be submitted by 4:30 p.m., March 20, 2002.

Irvin L. Magri, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Discretionary Powers of the Board**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings. These applications will be handled in the normal manner, the rule merely clarifies the authority of the board to set these for hearing without delay.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on revenue collections for the above stated reasons.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rule does not impose any additional costs on an applicant for clemency. The only costs are for advertising of a hearing. Applications are submitted voluntarily and the applicant must comply with current rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Robert B. Barbor
Executive Counsel
0202#075

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

**Home Incarceration/Electronic Monitoring Pilot Program
(LAC 22:I.401)**

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:571.35 as amended by Act 1139, 2001 Regular Session, and with the Administrative Procedure Act, R.S. 49:950 et seq., hereby publishes its Notice of Intent to promulgate a new rule, to be published as LAC 22:I.401, Home Incarceration/Electronic

Monitoring Pilot Program, to be administered under the Division of Probation and Parole.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

**Chapter 4. Home Incarceration/Electronic
Monitoring Pilot Program**

**§401. Home Incarceration/Electronic Monitoring Pilot
Program**

A. Authority. Director of Probation and Parole as per R.S. 15:571.35, as amended by Act 1139 of the 2001 Regular Session of the Legislature.

B. Purpose

1. To establish guidelines and procedures for implementation of a pilot program of home incarceration and electronic monitoring for selected, eligible, first time offenders as an alternative to traditional imprisonment as required by Act 1139.

2.a. To establish and implement a program evaluation process in regard to the below listed factors:

- i. security;
- ii. beneficial and detrimental effects on the inmate;
- iii. projected probable effects on deterrence;
- iv. cost;
- v. labor intensiveness; and
- vi. other related measures of effectiveness.

b. This evaluation shall provide the required information on the pilot program, as well as a comparison with traditional imprisonment and be presented to the Joint Legislative Committee on the Budget, the Senate Committee on the Judiciary, Section C, and the House Committee on the Administration of Criminal Justice no later than 30 days prior to the first day of the 2003 Regular Session of the Legislature.

C. Applicability. All personnel of the Division of Probation and Parole involved in this pilot program.

D. Definitions. Definitions of key terms are as follows.

Sex Crimes for the purpose of this policy, *sex crimes* are defined as those crimes listed in R.S. 15:542.E, including attempts to commit the crime.

Crimes of Violence for the purpose of this policy, *violent crimes* are defined as those crimes listed in R.S. 14:2(13), including attempts to commit the crime.

Entry Points offender selection can occur at two entry points in the judicial process: initial sentencing or during the violation process.

Eligibility defendants convicted of a non-violent, first offense are eligible for program participation with two exceptions:

- a. sex crimes;
- b. producing, manufacturing, distributing or dispensing a controlled dangerous substance or possession with the intent to produce, manufacture, distribute or dispense a controlled dangerous substance under the provisions of the Uniform Controlled Dangerous Substance Law, R.S. 40:961 et seq.

Home Incarceration Can alternative to traditional imprisonment in which the offender is supervised in the community under the conditions of probation as set forth in

CCrP Article 895 and may include any other condition reasonably related to implementing or monitoring a sentence of home incarceration including electronic monitoring, curfews, and limitations of the offender's activities outside the home.

Electronic Monitoring—the use of electronic monitoring technologies as a tool to enhance supervision and control of participating offenders in the community, compatible with our mission of public safety.

Traditional Imprisonment—term of incarceration an offender is sentenced to by the court at the time of their initial sentencing or as a result of the probation violation process.

E. Policy

1. It is the policy of this division to develop and implement a pilot program of home incarceration and electronic monitoring as an alternative to traditional imprisonment for eligible offenders.

2. This program will commence on November 1, 2001, and continue until appropriated funding is exhausted or further legislative action is taken.

3. Rules and regulations for the development, implementation and administration of this pilot program will be developed, adopted and promulgated in compliance with the provisions of the Administrative Procedure Act. These rules and regulations are set forth in the "procedures" section of this policy.

4. This program will be evaluated as required by Act 1139 and the results of this evaluation will be reported to the legislative committees as required.

F. Procedures

1. Participation

a. The selection of districts to participate in the pilot program will require that a sufficient number of offenders meeting the eligibility requirements are available and have concurrence of the court and district attorney to participate in the program.

b. Once the participating districts have been chosen, they will develop an offender identification and selection process involving the participation of the court and district attorney. Since the screening process will involve the court and district attorney, it is left to each district to develop a process acceptable to all parties.

2. Identification and Screening of Potential Participants. Eligible and suitable offenders will be identified and screened for participation in the program prior to initial sentencing and during the violation process prior to the revocation hearing.

a. Identification at Initial Screening. The most difficult aspect of the selection process will be in identifying which eligible offenders due for sentencing are likely to receive a sentence of traditional incarceration. When the court orders a pre-sentence investigation, it will be used to screen for and recommend eligible and suitable candidates for this pilot program. The pre-sentence investigation format summary and recommendation section has been revised to facilitate this process. However, most offenders are sentenced without the benefit of a pre-sentence investigation. Participating districts will develop an offender identification and selection process involving the participation of the court and district attorney that is acceptable to all parties. Most courts normally place

offenders who are eligible for this program on probation since they are non-violent, first offenders. Some examples of appropriate candidates from this group would be those who are uncooperative while on bond, those who are re-arrested for minor offenses while awaiting sentencing or who are otherwise non-compliant and present an enhanced risk which can be addressed through this program with electronic monitoring.

b. Identification at Violation Process. The court may be more willing to place an offender in this program pursuant to the violation process. Screening would be required for all eligible offenders in the violation process prior to the revocation hearing with our focus on offenders who are likely to receive a sentence of incarceration. We should recommend violators who may be safely maintained in the community with this enhanced form of supervision and electronic monitoring.

3. Selection Process

a. Once an offender has been identified as a potential, suitable participant in the program, the concurrence of the court and district attorney that the offender is likely to respond affirmatively to this program must be obtained.

b. The offender must have a willingness and ability to participate in this program. Participation in home incarceration and electronic monitoring programs have a number of unique requirements, such as a suitable residence. Since the offender will be required to remain in the residence during specified periods which will likely be longer than normal, the environment in the residence must be conducive to the offender's successful participation in this program. For example, the other residents must be agreeable to and supportive of the offender's participation in the program. They cannot be involved in criminal activity, such as drug use. The residents must also comply with the needs of the electronic monitoring system, such as a telephone and other restrictions. The offender must understand and agree to comply to all requirements of the program prior to placement.

4. Processing

a. The processing of an offender into the pilot program will consist of two basic steps:

i. the offender must be explained the specific requirements and restrictions of the home incarceration and electronic monitoring program and given this information in writing with a signed copy for our file, the same as the general conditions of probation;

ii. secondly, the offender must be entered into the electronic monitoring program, that is having the home base unit installed in the offender's home and the electronic bracelet connected.

b. The processing of an offender for the program should be performed with the same urgency and thoroughness as with Specialized Sex Offenders. The first step of the processing should be completed on the date of sentencing, if possible. If not, then it should be completed as soon as possible afterward. The second step of actually "hooking" the offender to the electronic monitoring system may not be completed that same day, due to geographic or other considerations. However, it is our policy to enter the offender in the electronic monitoring phase of the program as quickly as possible.

5. Supervision

a. The supervision policy for the Home Incarceration/Electronic Monitoring Pilot Program is set forth in the Probation & Parole Officer's Manual in Chapter 3C Alternative Community Based Programs; #4C Home Incarceration/Electronic Monitoring Pilot Program Act 1139. This policy details all aspects of the Home Incarceration and Electronic Monitoring Program, including the use of electronic monitoring as a supervision and monitoring tool, curfews, home visits by the supervising officer, limitations of offender activities outside the home and various requirements which may be imposed, such as maintaining employment, attending substance and/or mental health treatment, vocational and/or educational programs, etc.

b. Initially, curfews and other restrictions will be structured to seriously limit the offender's time and activities outside the home. These restrictions will be adjusted according to the offender's performance and adjustment in the program. It is the goal of the program to ease these restrictions consistent with the offender's positive adjustment to supervision until the offender can be transitioned into traditional supervision.

6. Violations

a. Minor Violations. Minor violations will be handled by the supervising officer. Sanctions for minor violations can be an extension of existing restrictions and the addition of new restrictions.

b. Major Violations or Continued Minor Violations. All major violations of this program or any other condition of probation will result in the offender being placed in the violation process and the matter being referred back to the court.

c. Continued minor violations that undermine the effectiveness and purpose of this program will also be handled through the formal violation process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Adult Services, LR 19:657 (May 1993), amended LR 28:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953.A.(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Adoption of this rule by the Department of Public Safety and Corrections, Corrections Services, regarding the establishment of rules and procedures for a pilot program of home incarceration and/or electronic monitoring in lieu of traditional imprisonment for qualified, first time offenders will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the functions as contained in the proposed rule amendment.

Interested persons may submit written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Corrections Services, 504 Mayflower Street, Baton Rouge, LA 70802, or by facsimile to (225)

342-3095. All comments must be submitted by 4:30 p.m., March 20, 2002.

Richard L. Stalder
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home Incarceration/Electronic
Monitoring Pilot Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated savings to the state with the implementation of this Rule are indeterminable at this time. The Rule will allow non-violent offenders to be electronically monitored at home in lieu of incarceration. This savings cannot be determined due to the uncertainty of utilization by the courts.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue in the form of supervision fees payable to the department will be increased by the number of offenders participating in the program. At 300 offenders and fees of \$50 a month, the annual revenue is \$180,000. The department estimates that collections will not exceed 50 percent for a net annual revenue of \$90,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Some participants may be required to pay supervision fees under this program because they are on probation rather than incarcerated in a prison. This cost is \$50/month. When fully implemented it is estimated that 300 offenders will participate for a total cost annually to offenders at \$180,000. It is estimated that approximately 50 percent will not pay the required fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No estimated effect on competition and employment.

Bernard E. "Trey" Boudreaux, III
Undersecretary
0202#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Concealed Handgun Permit
(LAC 55:I.1305, 1307, 1311, and 1313)

The Department of Public Safety and Corrections, Office of State Police, Concealed Handgun Permit Section, in accordance with R.S. 40:1379.3, 40:1379.3.1, 40:1381, 40:1382, and the Administrative Procedure Act R.S. 49:950 et seq., hereby gives notice of its intent to amend LAC 55, Part I Chapter 13, Issuance of Concealed Handgun Permits. This text is being amended in response to legislative amendments and to address administrative needs. The changes will provide for two year permits, redefines residency, reduces fee for applicants 65 or older, and will reflect statutory changes in eligibility requirements.

**Title 55
PUBLIC SAFETY**

Part I. State Police

Chapter 13. Issuance of Concealed Handgun Permits

§1305. Definitions

* * *

Permit Cthe authorization issued by the deputy secretary of the Department of Public Safety and Corrections pursuant to R.S. 40:1379.3 and these rules, which shall be valid for either two or four years from the date of issuance unless revoked, suspended, or otherwise invalidated, and shall contain a permit number, date of expiration, and the name, address, date of birth, physical description, and photograph of the permittee.

* * *

Pistol Ca handgun that has a short barrel and can be held, aimed, and fired with one hand and is capable of only firing a single round each time the trigger is pulled, which includes semi-automatic handguns.

Resident Ca person who maintains a dwelling in this state and is physically present in this state at least 51 percent of each calendar year. However, a person who maintains a dwelling in this state but is not physically present in this state at least 51 percent of each calendar year is still considered to be a resident for purposes of this Section if he is on U.S. military duty in another state or is attending school in another state.

Revolver Ca pistol that has a rotating cylinder containing a number of firing chambers. The action of the trigger or hammer will line up a chamber with the barrel and firing pin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 28:

§1307. Applications and Permits

A. - B.4. ...

5.a. For purpose of proof that the applicant has resided within the state of Louisiana for at least six months prior to his application for a permit, the applicant shall submit with his application a photocopy of his valid Louisiana driver's license or Louisiana identification card.

i. An applicant must have a Louisiana driver's license or identification card.

ii. In the event the applicant's Louisiana driver's license or Louisiana identification card has been issued within six months of application, proof of residency must be established by any one of the following:

(a). United States passport;

(b). Louisiana voter registration card;

(c). any other documentation, which may adequately satisfy proof of compliance with the qualifications for residency.

b. For purposes of proof of residency, a business address or post office box shall not suffice.

c. Applicants that are on U.S. military duty in another state shall submit a copy of their orders detailing them to such duty station, along with a copy of their military identification card.

d. An applicant that is attending school in another state shall submit a copy of his school registration form and

fee bill for each semester during the permit period that is applicable.

6. - 14. ...

15. All applicants shall submit with the application a non-refundable fee in the form of a certified check or money order. The applicable fees are as follows:

a. for a four-year concealed handgun permit the fee shall be \$100;

b. for a two-year concealed handgun permit the fee shall be \$50;

c. the above fees shall be reduced by one-half if the applicant is 65 years of age or older on the date the application is received by the department;

d. Any applicant that has not continuously resided within the state of Louisiana for the 15 years preceding the submission of the initial application shall enclose an additional non-refundable \$50 fee. This additional fee shall not be reduced for applicants 65 years of age or older.

C. - C.2. ...

3. not suffer from a mental or physical infirmity due to disease, illness, or retardation which, prevents the safe handling of a handgun and shall submit a medical clearance form completed by the treating physician;

4. - 13. ...

14. not have a history of engaging in violent behavior. There shall be a rebuttable presumption that an applicant has a history of engaging in violent behavior upon proof that, within a 10-year period immediately preceding the date of the application, the applicant has been arrested or charged on three or more occasions for any crime of violence as defined in R.S. 14:2(13), or has been arrested or charged on two or more occasions for any crime of violence that may be punished by death;

15. not be ineligible to possess a firearm under 18 U.S.C. 922(g).

D. Renewal of Permits

1. A permittee wishing to renew his concealed handgun permit shall file a renewal application no more than 120 days prior to the expiration of the permit and no later than the sixtieth day after expiration. Renewal applications submitted after the sixtieth day from expiration will not be accepted and the permittee shall complete a new original application with all documentation required for an original application. All renewal applications shall include a new photograph of the applicant as specified in LAC 55:I.1307.B.3.

2.a. A renewal application shall be considered filed with the department when the department receives the application and the fees are processed. The applicable renewal fees are as follows:

i. for a four-year concealed handgun permit the fee shall be \$100;

ii. for a two-year concealed handgun permit the fee shall be \$50;

iii. the above fees shall be reduced by one-half if the applicant is 65 years of age or older on the date the application is received by the department.

b. In the event an applicant that has resided outside of Louisiana during the permit period less than 51 percent of the calendar year he will be required to submit proof of a criminal history check conducted by the sheriff of the county in which he resided and the local police department. In the

case of military personnel the Provost Marshall's Office, Naval Criminal Investigative Service, Air Force Office of Special Investigations, or other similar section and the Sheriff of the county in which he resided should conduct the check.

c. If necessary to show proof of eligibility, an applicant that has not resided in Louisiana for the last 15 years may be required to submit a fingerprint card and pay an additional \$50 non-refundable fee to defray the cost of the background check.

3. An incomplete renewal application may be denied by the department for failure to provide requested documents or appropriate fees. Proof of residency shall conform to LAC 55:I.1307.B.5.a.

4. - 4.f.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 28:

§1311. Handgun Training Requirements

A. - B.2. ...

C. Any teaching or training required under this Part must be conducted by a current NRA-certified or POST-certified instructor who has registered his name and certification with the department. In order to become registered and maintain that registration with the department an instructor shall:

1. submit a course syllabus that includes the curriculum described in LAC 55:I.1311.A and LAC 55:I.1307.D;

2. keep up to date his name, address, phone number, an e-mail address, and instructor certificates (on a yearly basis);

3. submit a contact number that may be released to applicants to schedule courses. The listing of an e-mail address will be optional. In the event that the instructor's contact information is not valid, or certification expires, the instructor will be removed from the department's approved instructor list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:849 (September 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 28:

§1313. Code of Conduct of Permittees

A. - B.5. ...

6. When a permittee ceases to reside within this state, the permit automatically becomes invalid and the permittee shall return the concealed handgun permit to the department within five business days from the date he ceases to reside within this state. Upon receipt of the permit, the permit will enter a canceled status. A new application must be completed if the permittee resumes his resident status.

7. ...

8. A permittee shall immediately inform the department in writing of any handgun related accident, discharge, incident, injury, or death involving any permittee. Failure to do so may be grounds for suspension or revocation of an existing permit or denial of a renewal application.

9. ...

10. Any permittee or applicant who is subject to any preliminary or permanent injunction in any family or domestic dispute, or any other protective order issued pursuant to law, shall notify the department of the caption of the suit including the suit or proceeding number, the date of the issuance of the injunction or court order, and provide a signed copy of the court's order within three days of the issuance of any such order. Upon the issuance of the injunction or court order, the permit shall be automatically suspended and the department may revoke or deny the permit in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:850 (September 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 28:

Family Impact Statement

1. The effect of these rules on the stability of the family. These rules should have a positive effect on the stability of the family as said rules will reduce the fees for those persons age sixty-five or older by one half.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These rules should have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family. These rules should have a positive effect on the functioning of the family as the passage of these rules will reduce the fees for those persons age 65 or older by one half.

4. The effect of these rules on family earnings and family budget. These rules will have a positive effect on family earnings and family budget as the rules will reduce the fees for those persons age 65 or older by one half.

5. The effect of these rules on the behavior and personal responsibility of children. These rules should have no effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. The rules should have no effect on the ability of the family or local government to perform the function as contained in the proposed rules as neither families or local governments perform this function.

Interested persons may submit written comments to Sergeant Paul Edmonson, Box 66375, Baton Rouge, LA 70896. Comments will be accepted through the close of business on March 10, 2002.

Jerry Jones
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Concealed Handgun Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no implementation costs or savings to the department. The proposed new rules are necessary as a result of passage of legislation. The rule change concerning the reduction in fees is as a result of Legislation passed in 1999.

There will be no new fiscal impact. Additionally, the proposed new and amended rules are necessary to address operational issues, which would result in an increased ability to serve the public.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There may be a minimal effect on revenue collection for the department. The proposed new rules will reflect the decrease in permit fees for those applicants sixty-five years of age or older by one-half. The new rule simply updates the current rules as a result of Legislation passed in 1999. There will be no new fiscal impact. There will be no effect on revenue collections of local governments as the programs for which these rules are being adopted and/or amended are not utilized by local governments. The revenue impact is estimated to be less than \$100,000 as per the Fiscal Note that accompanied House Bill 1119 of the 1999 Regular Legislative Session.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be economic benefits to those applicants 65 years of age or older in that the fees shall be reduced by one half. Legislation requiring the reduced fees was passed in 1999. The new rule simply updates the current rules. There will be no new fiscal impact. As noted on the Fiscal Note, prepared by the Legislative Fiscal Office, the fiscal impact if any is less than \$100,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Jerry Jones
Undersecretary
0202#053

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Department of Revenue
Policy Services Division

Definition of Sale for Sales Tax Purposes
(LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301 relative to the definition of the term "sale" for sales tax purposes.

These proposed amendments to LAC 61:I.4301 provide guidance concerning the definition of a "sale" under R.S. 47:301(12). They also explain the appropriate sales tax treatment of tips and gratuities that restaurants, hotels, catering facilities, taverns, and other sellers of prepared food and drink include in the charges to their customers.

Title 61
REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

Sale—

a. R.S. 47:301(12) defines a *sale* as receiving or giving consideration in return for:

i. transferring title or ownership of tangible personal property;

ii. transferring possession of tangible personal property when the seller retains legal title to the property as security to ensure full payment of the selling price;

iii. fabricating materials into tangible personal property when the materials are supplied by the customer; and

iv. furnishing, preparing or serving tangible personal property that is consumed on the premises of the seller.

b. Fabricating or fabrication, for sales tax purposes, means to make, build, create, produce, or assemble components of tangible personal property, or to make tangible personal property work in a new or different manner.

c. A *sale* includes, but is not limited to, transactions where:

i. tangible personal property is transferred on a conditional basis (i.e., the customer has the option of returning the property and obtaining a refund of the sales price); and

ii. payment is made in a form other than money, as in a barter agreement, an exchange of property, or a promissory note.

d. When tangible personal property, like food, is served on the vendor's premises, the vendor is required to charge sales tax for:

i. the total price of preparing and serving the food even if these charges are billed separately; and

ii. tips and gratuities, if the vendor fails to separately list these charges on the bill, or if any portion of these amounts (except reimbursement for credit card processing fees) is retained by the vendor. Sales tax is not charged on tips and gratuities if they are separately stated and the total amounts collected are distributed to the employees that prepare and serve the food.

e. When tangible personal property, like food, is served at the customer's premises, sales tax is not charged for preparing and serving the food, provided these charges are separately stated from the sale of the food.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), amended by the Department of Revenue, Policy Services Division, LR 28:

Family Impact Statement

1. The effect on the stability of the family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed rule will have no effect on the functioning of the family.

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Electronic Systems for Withholding Exemption Certificates
(LAC 61:I.1505)

Under the authority of R.S. 47:112.G.(6), R.S. 47:112.N.(6), R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1505 relative to electronic systems for withholding exemption certificates.

Louisiana Revised Statute 47:112.G.(6) states that "Withholding certificates shall be in such form and contain such information as the collector may prescribe by regulation." The adoption of LAC 61:I.1505 will provide a process, consistent with federal withholding regulations, by which an employer may establish a system for its employees to file withholding exemption certificates electronically.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

**Chapter 15. Income: Withholding Tax
§1505. Electronic Systems for Withholding Exemption
Certificates**

A. Electronic Form L-4 or L-4E in general. An employer may establish a system for its employees to file withholding exemption certificates electronically.

B. Requirements for Electronic Form L-4 or L-4E

1. In General. The electronic system must ensure that the information received is the information sent, and must document all occasions of employee access that result in the filing of a Form L-4 or L-4E. In addition, the design and operation of the electronic system, including access procedures, must make it reasonably certain that the person accessing the system and filing the Form L-4 or L-4E is the employee identified in the form.

2. Same Information as Paper Form L-4 or L-4E. The electronic filing must provide the employer with exactly the same information as the paper Form L-4 or L-4E.

3. Perjury Statement and Signature Requirements. The electronic filing must be signed by the employee under penalties of perjury.

a. Perjury Statement. The perjury statement must contain the language that appears on the paper Form L-4 or L-4E. The electronic program must inform the employee that he or she must make the declaration contained in the perjury statement and that the declaration is made by signing the Form L-4 or L-4E. The instructions and the language of the perjury statement must immediately follow the employee's income tax withholding selections and immediately precede the employee's electronic signature.

4. The effect on family earnings and family budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 15409, Baton Rouge, LA 70895-5409 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Tuesday, March 26, 2002. A public hearing will be held on Thursday, March 28, 2002, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, Louisiana.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Definition of Sale for Sales Tax Purposes**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS(Summary)**

Implementation of this proposed rule will have no impact on state or local governmental units' cost. This proposal would furnish greater detail about the definition of "sale" for sales tax purposes. This is being done to assist taxpayers by clarifying the Department's current policy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed regulation would have no costs or economic benefits to businesses that sell tangible personal property, fabricate tangible personal property, or serve tangible personal property on their own premises or on premises provided by the customer.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0202#011

H. Gordon Monk
Staff Director
Legislative Fiscal Office

b. Electronic Signature. For purposes of this provision, the electronic signature must identify the employee filing the electronic Form L-4 or L-4E and authenticate and verify the filing. For purposes of this provision, the terms "authenticate" and "verify" have the same meanings as they do under federal provisions concerning Form W-4. An electronic signature may be in any form that satisfies the foregoing requirements. The electronic signature must be the final entry in the employee's Form L-4 or L-4E submission.

4. Copies of Electronic Form L-4 or L-4E. Whenever a Form L-4 or L-4E is requested by the Department of Revenue, or required to be submitted to the Department of Revenue, the employer must supply a hardcopy of the electronic Form L-4 or L-4E and a statement that, to the best of the employer's knowledge, the electronic Form L-4 or L-4E was filed by the named employee. The hardcopy of the electronic Form L-4 or L-4E must provide exactly the same information as, but need not be a facsimile of, the paper Form L-4 or L-4E.

C. Electronic Filing by All Employees. An employer is permitted to adopt a system under which all employees file Forms L-4 and L-4E electronically, however, it is expected that an employer will make a paper option reasonably available upon request to any employee who has a serious objection to using the electronic system or whose access to, or ability to use, the system may be limited (for example, as a result of a disability). The paper option would be satisfied, for example, if the employer informs employees how they can obtain a paper Form L-4 or L-4E and where they should submit the completed paper Form L-4 or L-4E. The Louisiana Department of Revenue also expects that employers will comply with all applicable law governing the terms and conditions of employment, such as the Americans with Disabilities Act (42 U.S.C. §12112(a)).

D. Record Retention. Electronic systems for collecting and maintaining Form L-4 and L-4E data have the same status as paper Forms L-4 and L-4E. Therefore, guidance that applies to retention of paper Forms L-4 and L-4E also applies to electronic Forms L-4 and L-4E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:112.G.(6), R.S. 47:112.N.(6), and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division LR 28:

Family Impact Statement

The proposed adoption of LAC 61:I.1505, regarding electronic systems for withholding exemption certificates should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. The implementation of this proposed rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy

Services Division, Office of Legal Affairs by mail to P.O. Box 15409, Baton Rouge, LA 70895-5409. All comments must be submitted no later than 4:30 p.m., March 28, 2002. A public hearing will be held on March 29, 2002, at 2:30 p.m. in the River Room located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana 70802.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Electronic Systems for Withholding
Exemption Certificates**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of this proposed rule will have no impact on state or local governmental unit's cost. This proposal would provide a process, consistent with federal withholding regulations, by which an employer may establish a system for its employees to file withholding exemption certificates electronically. This action is required in order to make Louisiana's electronic systems for withholding exemption certificates consistent with federal withholding regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collection of state or local governmental units as a result of this proposed regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs or economic benefits that directly affect persons or non-governmental groups as a result of this proposed regulation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0202#052

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**FITAP and Food Stamp Program C Vehicle Exclusion
(LAC 67:III.1235 and 1949)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP), and Subpart 3, Food Stamps.

FITAP and Food Stamp program regulations were amended in July 2001 pursuant to Public Law 106-387 and the Temporary Assistance to Needy Families (TANF) Block Grant to Louisiana. The Public Law provided an option which allowed states to apply a more liberal method for valuing vehicles based on its TANF-funded cash assistance program. The agency chose to exclude the value of vehicles,

other than recreational vehicles, from consideration as a resource.

Upon further consideration, the agency now chooses to exclude the value of all vehicles from the FITAP and Food Stamp Program resource limits for eligibility. In doing so, the agency will further decrease barriers to FITAP and food stamp eligibility as well as simplify policy for clients and staff, thereby decreasing the risk of errors that could lead to federal sanctions.

**Title 67
SOCIAL SERVICES**

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

- 1. - 19. ...
- 20. vehicles;
- 21. - B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001), LR 27:866 (June 2001), LR 28:

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§1949. Exclusions from Resources

- A.1. - 3. ...
- 4. the value of all vehicles.
- B. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 13:656 (November 1987), amended in LR 13:249 (August 1987), LR 17:953 (October 1991), amended by the Department of Social Services, Office of Family Support in LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 28:

Family Impact Statement

This Rule will have no impact on the authority and rights of parents. It may contribute to the stability of the family unit for those families that may not have previously been eligible for cash assistance or food stamp benefits due to ownership of a recreational-type vehicle.

Interested persons may submit written comments on the proposed rule by April 2, 2002, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed rule will be held on April 2, 2002, at the Department of Social Services, A.Z.

Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: FITAP and Food Stamp
ProgramC Vehicle Exclusion**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed action will increase state costs by making more FITAP and Food Stamp applicants eligible. However, FITAP funds are available from the TANF Block Grant to Louisiana and food stamps are 100 per cent federally funded. The number of households that could become eligible is small: only 26 food stamp cases and one FITAP case were closed or rejected because of vehicle resources during the period 9/01 through 11/01. Although each household's benefit varies depending on several eligibility factors; it is estimated that federal food stamp benefits could increase by \$257,088 per fiscal year and that an additional \$9,600 could be spent in federal TANF dollars as a result of this change. Relative to administrative costs, the exclusion of all vehicles will simplify policy and some savings to state government should be realized by eliminating both client and worker error in this area of eligibility. The minimal cost of publishing the rule and printing policy changes and forms revisions are routinely included in the agency's annual budget. There will be no costs to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs to any persons or non-governmental groups. A small number of applicants will become eligible for FITAP and Food Stamp Program benefits as a result of the vehicle exclusion. Only 27 cases were rejected or closed because of excess resources involving vehicles over a three-month period in late 2001. The previous resource policy was implemented effective July 1, 2001. The systems do not capture information with the required specificity to identify vehicle rejections/closures so a special computer run was completed for the months of September, October, and November 2001 and this was the only accurate data available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0202#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury Teachers' Retirement System

Deferred Retirement Option Plan (DROP) Accounts (LAC 58:III.509 - 519)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Board of Trustees of Teachers' Retirement System of Louisiana approved an amendment to policies governing the withdrawal of funds from Deferred Retirement Option Plan (DROP) accounts.

Title 58 RETIREMENT

Part III. Teachers' Retirement System of Louisiana Chapter 5. Deferred Retirement Option Plan (DROP)

§509. Withdrawal of Funds from a Drop Account

A.1. - 5. ...

6. One-Time Partial Account Balance Withdrawal at the Beginning of, or During the Term of, Monthly or Annual Withdrawals Selected in Accordance with §509.A.2, 3, 4, or 5. If the one-time partial account balance withdrawal is made before any other withdrawals, the balance of the account will be paid as determined by the withdrawal method selected in accordance with §509.A.2, 3, 4, or 5. If withdrawals have already begun, the duration of the remaining monthly and or annual withdrawals will be redetermined and the appropriate federal tax laws will be applied. If the one-time partial account balance withdrawal is to be made after the monthly or annual withdrawals have begun, the retiree must meet one of the following conditions:

a. one must have been at least age 55 on the date of his retirement; or

b. one must be at least 59 1/2 at the time he chooses the one-time single lump sum withdrawal.

In all cases the monthly or annual withdrawals may not be decreased once they have begun, although they maybe increased in accordance with §511.A.

7. Total DROP account balance withdrawal at any time after monthly or annual withdrawals have begun.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), LR 28:

§511. Change of DROP Withdrawal Method

A. The participant will have one opportunity per 12-month period to change the chosen withdrawal method if the original method selected was either §509.A.2, 3, 4, 5, or 6. Any change in the withdrawal method must be made in accordance with the life expectancy of the participant, and at no time may the disbursement from the account be less than the amount of the originally selected periodic payment.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020

(September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), amended LR 24:961 May 1998), LR 28:

§513. Termination of DROP Participation

A. ...

B. In the event of the death of the DROP participant/retiree, a spousal beneficiary shall select a withdrawal method from the options listed in §509.A, and may make changes in accordance with §511. If the disbursements from the account began prior to the participant's death, the spousal beneficiary may make changes in accordance with §511.

C. In the event of the death of the participant during DROP participation, or after the end of the period of participation, but before total distribution of the DROP account balance, a beneficiary(ies) other than the participant's surviving spouse shall immediately receive a lump sum equal to the participant's balance in the DROP account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), LR 28:

§519. Application for DROP

A. A member shall not begin his DROP participation until TRSL has received a fully completed, signed, and witnessed Application for DROP, Form 11F. TRSL must receive both sides of the Form 11F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:499 (March 1998), amended LR 24:962 (May 1998), LR 28:

Interested persons may comment on the proposed rule in writing until 4:30 p.m., April 19, 2002, to Bonita B. Brown, Assistant Director, Teachers' Retirement System of Louisiana, P. O. Box 94123, Baton Rouge, LA 70804-9123.

James P. Hadley, Jr.
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Deferred Retirement Option Plan (DROP) Accounts

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to state or local government units. This amended rule allows Deferred Retirement Option Plan (DROP) retirees to withdraw part of their DROP account and take the balance of the DROP account out in a series of monthly or annual payments. It also allows the submission of fax copies of DROP applications, requires lump sum distributions to nonspousal DROP beneficiaries, and makes withdrawal methods for spousal beneficiaries more flexible.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local government units. No revenue is currently being collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No change is being made to the method by which DROP account balances and interest payments are being calculated. The withdrawal schedule is being made more flexible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment because no changes are being made in the compensation or fringe benefits being paid to DROP participants/retirees.

James P. Hadley, Jr.
Director
0202#012

H. Gordon Monk
Staff Director
Legislative Fiscal Office