

LOUISIANA ADMINISTRATIVE CODE/LOUISIANA REGISTER

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Executive Orders

EXECUTIVE ORDER MJF 96-69

JTPA Program Merger

WHEREAS: the Department of Education administers, through two separate Bureaus, the Job Training Partnership Act (hereinafter "JTPA") 8% Program and the JTPA Title III Program with funds allocated from the Louisiana Department of Labor;

WHEREAS: the JTPA 8% Program is a separate appropriation from the JTPA Title III Program which is budgeted through an appropriation of the Office of Vocational Education;

WHEREAS: the administrative and fiscal reporting requirements of and the administrative services provided by both programs are similar, and combining the programs would be more cost effective than if the two programs are kept separate; and

WHEREAS: both the Secretary of Labor (the funding source) and the State Superintendent of Education (the recipient of the funds) support the merger of the JTPA 8% Program and the JTPA Title III Program within the Department of Education;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The services, the reporting requirements and the functions of the JTPA 8% Program and the JTPA Title III Program are authorized to be merged and/or remain merged, within the Vocational Education Budget Unit of the Department of Education.

SECTION 2: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 3: Upon signature of the Governor, the provisions of this Order shall be made retroactive to August 11, 1996, and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of December, 1996.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9701#011

EXECUTIVE ORDER MJF 96-70

Louisiana Occupational Information Coordinating Committee

WHEREAS: the United States has enacted the Job Training Partnership Act of 1982 (hereafter "JTPA"), 29 U.S.C.A. §1501 et seq.; the Vocational Education Act of 1963 (hereafter "VEA"), 20 U.S.C.A. §2301 et seq.; and the Wagner-Peyser Act of 1933, 29 U.S.C.A. §49 et seq.; and

WHEREAS: to receive federal assistance under these acts, the State of Louisiana must establish a state occupational information coordinating committee to provide and manage a statewide comprehensive labor market and occupational information system to facilitate the implementation of a career information delivery system in accordance with the JTPA and VEA;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana Occupational Information Coordinating Committee (hereafter "LOICC") is hereby re-created and re-established within the Department of Labor. The LOICC shall be composed of federally mandated members and at-large members who shall be appointed by and serve at the pleasure of the governor.

The federally mandated members are as follows:

A. a representative of the Board of Elementary and Secondary Education;

B. the assistant secretary of the Office of Employment Security, Department of Labor;

C. a representative of the Department of Economic Development;

D. the director of the Job Training Partnership Act Program, as representative of the governor's State Job Training Coordinating Council;

E. a representative of Louisiana's institutions of higher education, selected by the chair of the Board of Regents; and

F. the director of Rehabilitation Services, Department of Social Services.

At large associate members shall be selected in accordance with LOICC bylaws.

SECTION 2: The LOICC shall be responsible for the planning, the development, and the management of a statewide occupational information system consistent with the objectives and functions of the National Occupational Information Coordinating Committee, pursuant to 29 USCA §2422a, including the design and oversight standards of the JTPA. The LOICC shall serve as the state liaison to the National Occupational Information Coordinating Council and shall have exclusive responsibility for the state's coordination of occupational information.

SECTION 3: The Office of Management and Finance, Department of Labor, shall be the fiscal agent for the LOICC. The Office of Employment Security, Department of Labor, shall be responsible for oversight of the statewide

comprehensive labor market and occupational information system for the LOICC.

SECTION 4: The duties of the LOICC federally mandated members and the secretary of the Department of Labor, or the secretary's designee, shall include, but are not limited to, reviewing and giving approval to the following: 1) the LOICC Basic Assistance Grant proposal prior to its submission to the National Occupational Information Coordinating Committee; 2) the occupational information system prior to its release; 3) all major contracts for services; and 4) any changes in basic operating policy prior to implementation.

SECTION 5: Committee members shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, members may receive reimbursement for actual travel expenses in accordance with state guidelines and procedures, and upon the approval of the commissioner of administration.

SECTION 6: Support staff for the committee and facilities for its meetings shall be provided by the Department of Labor.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, and any political subdivisions thereof, are authorized and directed to cooperate with the Department of Labor and the LOICC in implementing the provisions of this order.

SECTION 8: Upon signature of the governor, the provisions of this order shall be made retroactive to August 11, 1996, and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 11th day of December, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9701#012

EXECUTIVE ORDER MJF 96-71

Postsecondary Review Commission

WHEREAS: federally guaranteed student loans made to students for their attendance at colleges, universities, trade schools, and proprietary schools within the State of Louisiana are of vital importance to the citizens and the economic development of this state;

WHEREAS: 20 USCA §1099a provides that, in order to be eligible for federal funding, each state shall designate a postsecondary review entity for performing a review of institutions of higher education; and

WHEREAS: the federal government has authorized the United States Secretary of Education (hereafter "secretary") to enter into agreements with states and to provide funding for the state's postsecondary review entity;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana Postsecondary Review Commission (hereafter "commission") is reestablished and recreated within the Executive Department, Office of the Governor.

SECTION 2: The commission shall, on behalf of the State of Louisiana, conduct and coordinate the review of institutions of higher education pursuant to 20 USCA §1099a-3, and ensure that each institution remains in compliance with the standards required by 20 USCA §1099a-3.

SECTION 3: The commission is designated as the state entity authorized to enter into agreements with the secretary, on behalf of the State of Louisiana, as provided in the guidelines set forth in 20 USCA §1099a-1.

SECTION 4: The commission shall have the authority to apply for federal funding, as provided for by 20 USCA §1099a-2, and for other federal funding or reimbursements made available to the states.

SECTION 5: The members of the commission shall be appointed by and serve at the pleasure of the governor. The membership of the commission shall be composed as follows:

- A. the governor, or the governor's designee;
- B. the chair of the Louisiana Board of Regents, or the chair's designee;
- C. the chair of the Louisiana Association of Independent Colleges and Universities, or the chair's designee;
- D. the chair of the Proprietary School Commission, or the chair's designee;
- E. the chair of the Louisiana Bankers' Association, or the chair's designee;
- F. the chair of the Board of Secondary and Elementary Education, or the chair's designee; and
- G. the chair of the Louisiana Office of Student Financial Assistance, or the chair's designee.

SECTION 6: The chair of the commission shall be appointed by the governor from its membership.

SECTION 7: Commission members shall not receive compensation or a per diem, nor shall they be reimbursed for travel expenses for their attendance at meetings.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the commission in implementing the provisions of this order.

SECTION 9: Upon signature of the governor, the provisions of this order shall be made retroactive to August 11, 1996, and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 11th day of December, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9701#013

EXECUTIVE ORDER MJF 96 - 72

French Heritage—Joint Committees

WHEREAS: the State of Louisiana, through its Council for the Development of French in Louisiana (hereafter "CODOFIL") and through its Consortium of Louisiana Universities (hereafter "Consortium"), has committed itself to the preservation of its French heritage;

WHEREAS: the State of Louisiana, through CODOFIL and the Consortium, has developed considerable expertise in the promotion of the French language and culture, and has managed numerous programs related to the teaching of all levels of the French language and to the training of Louisiana teachers about the French language and culture;

WHEREAS: the State of Louisiana is deeply interested in maintaining and continuing to pursue opportunities to share its French heritage with the French-speaking countries and provinces of the world with whom it has enjoyed general relations over the years, which include France, Belgium, Quebec, and the Canadian Maritime Provinces of New Brunswick, Nova Scotia and Prince Edward Island;

WHEREAS: in a spirit of international friendship and understanding, the people of France, Belgium, Quebec, and the Canadian Maritime Provinces, have supported the efforts of the State of Louisiana in developing its French cultural heritage; and

WHEREAS: over the years, representatives of France, Belgium, Quebec, and the Canadian Maritime Provinces, and the State of Louisiana have met at regular intervals in joint commission meetings to arrange for and organize educational, cultural, and touristic exchanges;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The France-Louisiana Joint Committee, the Quebec-Louisiana Joint Committee, the Maritime Provinces-Louisiana Joint Committee, and the Belgium-Louisiana Joint Committee (hereafter "Joint Committees") are recreated and re-established.

SECTION 2: The four Joint Committees shall each be composed of the following members: the Governor, or his designee; the Lieutenant Governor, or her designee; the Chair of CODOFIL; the Chair of the Consortium of Universities, or

the Chair's designee; the Director of CODOFIL; the Superintendent of Education, or the Superintendent's designee; and the President of the State Board of Elementary and Secondary Education, or the President's designee.

SECTION 3: The Chair of CODOFIL shall also be the Chair of each of the four Joint Committees.

SECTION 4: Each of the four Joint Committees shall meet at least once prior to December 31, 1999.

SECTION 5: The members of the Joint Committees shall not receive a per diem or compensation for their services. Contingent upon the availability of funds, members may be reimbursed for actual expenses incurred for travel and accommodations while attending meetings, by the appropriate agencies of state government, in accordance with state guidelines and procedures, and upon the approval of the Commissioner of Administration.

SECTION 6: Support staff for the Joint Committees and facilities for their meetings shall be provided by CODOFIL.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, and any political subdivisions thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 8: This Order is effective upon signature of the Governor and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana at the Capitol, in the City of Baton Rouge on this 11th day of December, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9701#014

EXECUTIVE ORDER MJF 96-73

School Based Health Center Investigation

WHEREAS: Subsection A of R.S. 40:31.3 directs the Office of Public Health, Department of Health and Hospitals to establish an adolescent school health initiative program to facilitate and encourage development of comprehensive health centers in public middle and secondary schools in the State of Louisiana to provide preventive health services, counseling, acute health services, and appropriate referral for acute health services;

WHEREAS: Subsection C of R.S. 40:31.3 specifically prohibits personnel at school based health centers (hereafter "SBHC") from "counseling or advocating in any way or referring any student to any organization for counseling or advocating abortion" and from "distributing at any public

school any contraceptive or abortifacient drug, device or other similar product";

WHEREAS: allegations have surfaced that some personnel at SBHC may be violating the foregoing provisions of Subsection C of R.S. 40:31.3, thereby jeopardizing public and legislative approval and support for the program; and

WHEREAS: due to such concerns, certain members of the Legislature were opposed to the appropriation in the General Appropriations Act, Act Number 17 of the 1996 Regular Session of 1996, of \$2.65 million to fund 15 SBHC for the 1996-97 fiscal year, and the governor received numerous requests to make a line-item veto of the \$2.65 million appropriation;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The secretary of the Department of Health and Hospitals (hereafter "secretary") shall head an investigation regarding the allegations of violations of Subsection C of R.S. 40:31.3 by a few of the personnel employed by SBHC, and if the secretary finds evidence of violations of the statutory prohibition, the secretary shall take appropriate action against those who violated the statute.

SECTION 2: The secretary's investigation shall be conducted in such a manner as not to violate the right to privacy, as established by Article I, Section 5 of the Louisiana Constitution of 1974, of those students who have availed or who will avail themselves of the services of SBHC.

SECTION 3: The secretary shall determine the most effective means of preventing future violations of R.S. 40:31.3(C) and shall immediately implement those means or procedures consistent with state law.

SECTION 4: The secretary shall issue a report on the findings of the investigation to the governor, the House and Senate Committees on Health and Welfare, and the School Based Health Clinic Task Force, no later than February 15, 1997.

SECTION 5: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Department of Health and Hospitals in implementing the provisions of this order.

SECTION 6: The provisions of this order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of December, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9701#015

EXECUTIVE ORDER MJF 96-74

School Based Health Clinic Task Force

WHEREAS: the school based health care program, known as the adolescent school health initiative, operates under the direction of the Office of Public Health within the Department of Health and Hospitals, pursuant to R.S. 40:31.3;

WHEREAS: school based health clinics (hereafter "SBHC") were created under this program;

WHEREAS: the number of SBHC have expanded from the three clinics in two parishes in 1987, to 15 clinics in 10 parishes in 1996, each of which is overseen by a local advisory council that consists of parents, medical professionals, and community members;

WHEREAS: the Louisiana Legislature has provided \$2.65 million in funding for SBHC in its 1996-97 fiscal budget; and

WHEREAS: some members of the Louisiana Legislature and the public-at-large have questioned whether the medical services provided by SBHC are an unnecessary duplication of the services already available to low-income families who are Medicaid eligible or an unnecessary service for middle income families, and whether there are negative aspects of the program which could be eliminated without detrimentally affecting the effectiveness of SBHC;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: An advisory task force known as the School Based Health Clinic Task Force (hereafter "task force") shall be created and established within the Executive Department, Office of the Governor.

SECTION 2: The primary objectives and duties of the Task Force are to develop and recommend a uniform parental consent form which takes into consideration public mores, the concerns of the community, and the needs of adolescent students to have appropriate medical attention or counseling; and to evaluate the types of services offered by SBHC, advise whether the services offered by SBHC adequately meet the needs of the adolescent students they serve, recommend whether any services offered by the SBHC should be limited or eliminated, and evaluate whether any services offered by SBHC are unnecessary because they duplicate other public services.

As an additional primary objective and duty, the task force shall make recommendations regarding the type of counseling which may be provided to adolescent students at SBHC, giving due consideration to the needs of the students and the parameters placed on school curricula by R.S. 17:281(A)(3) and (4) which promote and encourage sexual abstinence between unmarried persons.

SECTION 3: The secondary objectives and duties of the task force shall be to propose Adolescent School Health Initiative Program guidelines relative to the staffing and conduct of personnel employed at SBHC; and to recommend whether SBHC should be licensed and, if so, propose licensing criteria and guidelines.

SECTION 4: The task force shall prepare and submit a report to the governor on the progress and/or fulfillment of its primary objectives and duties, no later than March 15, 1997, and on the progress and/or fulfillment of its secondary objectives and duties, no later than May 15, 1997.

SECTION 5: The members of the advisory task force shall be appointed by and serve at the pleasure of the governor. The membership of the task force shall be selected from the following:

A. the secretary of the Department of Health and Hospitals, or the secretary's designee;

B. the assistant secretary, Office of Public Health, Department of Health and Hospitals, or the assistant secretary's designee;

C. the director of Adolescent and School Health, Office of Public Health, Department of Health and Hospitals, or the director's designee;

D. the president of the Senate, or the president's designee selected from the membership of the Senate;

E. the speaker of the House of Representatives, or the speaker's designee selected from the membership of the House;

F. a member of a school board in a school system which has at least one SBHC;

G. a member of a school board in a school system which applied for acceptance to the School Based Health Center program, but voluntarily withdrew its application after investigating the program or conducting public meetings on the issue;

H. a physician who practices at a SBHC;

I. four at-large members who are residents of the State of Louisiana;

J. a representative from the membership of a SBHC volunteer advisory board; and

K. the governor, or the governor's designee selected from his executive staff.

SECTION 6: The governor shall select the chair of the task force from its membership.

SECTION 7: Support staff for the task force and facilities for its meetings shall be provided by the Department of Health and Hospitals.

SECTION 8: Task force members shall not receive compensation or a per diem, but may receive reimbursement for actual travel expenses, in accordance with state guidelines and procedures, contingent upon the availability of funds, and the approval of the commissioner of administration.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Department of Health and Hospitals and the task force in implementing the provisions of this order.

SECTION 10: The provisions of this order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of

Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of December, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9701#016

EXECUTIVE ORDER MJF 96-75

Forest Products Industry Development Task Force

WHEREAS: timber is the State of Louisiana's largest and highest grossing agricultural crop;

WHEREAS: in terms of gross income and value-added processing, the solid wood forest products industry, which is supported by the harvesting and processing of timber, consists of 700 primary and secondary manufacturing establishments;

WHEREAS: forest product related industries employ over 25,000 workers, making it one of the state's top employers;

WHEREAS: the State of Louisiana produces only \$0.97 of value-added product for every \$1 of lumber created by sawmills operating within the state; and

WHEREAS: for the State of Louisiana to attain its potential in the area of job creation and resource utilization within the timber industry sector, the state must develop a comprehensive program to modernize, revitalize, and maximize its forest products industries;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Governor's Forest Products Industry Development Task Force (hereafter "task force") shall be created and established within the Departments of Economic Development and Agriculture and Forestry.

SECTION 2: The objectives and duties of the task force shall consist of the following:

A. identify opportunities for, and barriers to, growth and development of the value-added forest products industry in this state;

B. develop ideas and plans that foster the growth of the forest products companies existing in this state, that encourage corporate recruitment, that maximize the value of Louisiana's forest resources, and that provide additional economic and employment opportunities for Louisiana citizens in the forest product industry; and

C. provide aide for the establishment of a comprehensive program which develops Louisiana's forest products industry.

SECTION 3: The task force shall prepare a report on the progress and/or fulfillment of its primary objectives and duties for the review of the secretary of the Department of Economic Development and the commissioner of Agriculture and Forestry, no later than March 15, 1997.

SECTION 4: The task force shall be composed of not less than 10 members appointed by and serving at the pleasure of the governor. The membership shall be selected as follows:

A. the secretary of the Department of Economic and Development, or the secretary's designee;

B. the commissioner of Agriculture and Forestry, or the commissioner's designee;

C. a minimum of four members selected from a list of nominees submitted by the commissioner of Agriculture and Forestry; and

D. a minimum of four members selected from governmental entities, institutions of higher education, special interest groups, and industries involved in or related to the forest products industry.

SECTION 5: The co-chairs of the task force shall be the secretary of Economic Development, or the secretary's designee selected from the membership of the task force, and the commissioner of Agriculture and Forestry, or the commissioner's designee selected from the membership of the task force.

SECTION 6: Task force members shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, members may receive reimbursement for actual travel expenses in accordance with state guidelines and procedures, and upon the approval of the commissioner of administration.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the task force and the Departments of Economic Development and Agriculture and Forestry in implementing the provisions of this order.

SECTION 8: The provisions of this order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of December, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY THE
GOVERNOR
Fox McKeithen
Secretary of State
9701#017

EXECUTIVE ORDER MJF 96-76

Tangipahoa River Task Force

WHEREAS: the scenic Tangipahoa River is a popular recreational area in the State of Louisiana;

WHEREAS: the Tangipahoa River is also a vital part of the state's transportation and ecological systems;

WHEREAS: Senate Concurrent Resolution Number 139, authored by Senator John J. Hainkel, Jr., created the

Tangipahoa River Task Force as a means to protect and preserve the recreational, ecological, functional and aesthetic aspects of the Tangipahoa River;

WHEREAS: in its Concurrent Resolution, the Louisiana Senate accurately observed that in order to protect and preserve the integrity of the Tangipahoa River's recreational, ecological, scenic, and functional attributes, it is in the best interest of the State of Louisiana to establish a Tangipahoa River Task Force to provide advisory assistance to state agencies and local governments for the management of the river and its surrounding areas; and

WHEREAS: the elimination of the Office of Permits by the Office of the Governor necessitate that the Tangipahoa River Task Force be relocated within the Office of the Governor;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Tangipahoa River Task Force (hereafter "task force") is created and established within the Executive Department, Office of the Governor.

SECTION 2: The members of the task force shall be appointed by and serve at the pleasure of the governor. The task force shall be composed of nine members selected as follows:

1. one member from a list of nominees compiled by the Tangipahoa Tourist Commission;

2. one member from a list of nominees compiled by the Tangipahoa Parish president;

3. one member from a list of nominees compiled by the president of Southeastern Louisiana University;

4. one member from a list of nominees compiled by the secretary of the Department of Economic Development;

5. one member from a list of nominees compiled by the Citizens for a Clean Tangipahoa;

6. one member from a list of nominees compiled by the Tangipahoa district of the Farm Bureau;

7. one member of the executive staff, Office of the Governor;

8. one member who is an elected mayor in the parish of Tangipahoa; and

9. the commissioner of Agriculture and Forestry, or the commissioner's designee.

SECTION 3: The membership of the task force shall elect its chair.

SECTION 4: In accordance with Senate Concurrent Resolution Number 139, the duties of the task force include, but are not limited to, coordinating the efforts of all state agencies involved in the cleanup of the Tangipahoa River and monitoring the cleanup to insure its safety for recreational use.

SECTION 5: Support staff for the task force and facilities for its meetings shall be provided by the Office of the Governor.

SECTION 6: The task force shall meet at regularly scheduled intervals, and also at the call of the chair.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision

thereof, are authorized and directed to cooperate with the task force in implementing the provisions of this order.

SECTION 8: This order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the City of Baton Rouge, on this 17th day of December, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9701#018

EXECUTIVE ORDER MJF 96-77

Statewide Intermodal Transportation Plan Steering Committee

WHEREAS: the Intermodal Surface Transportation Efficiency Act, enacted by the United States Congress in 1991, mandates that each state prepare a statewide intermodal transportation plan;

WHEREAS: the federal government selected Louisiana as one of six states to receive a special grant for the development of a model plan to be used as a guide by other states in developing their plans;

WHEREAS: in January of 1993, the Department of Transportation and Development, in cooperation with the Department of Economic Development and many public and private interests throughout the state, began development of its 25-year statewide intermodal transportation plan;

WHEREAS: on March 22, 1996, the secretary of the Department of Transportation and Development adopted the Statewide Intermodal Transportation Plan (hereafter "plan") as the official statewide transportation plan for the State of Louisiana; and

WHEREAS: the plan requires a steering committee to oversee its implementation;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Statewide Intermodal Transportation Plan Steering Committee (hereafter "committee") is established within the Department of Transportation and Development.

SECTION 2: The committee shall be composed of seven members who shall be appointed by and serve at the pleasure of the governor. The membership of the committee shall be composed of the following:

A. the secretary of the Department of Transportation and Development, or the secretary's designee;

B. the secretary of the Department of Economic Development, or the secretary's designee;

C. commissioner of the Division of Administration, or the commissioner's designee;

D. the president of the Senate, or the president's designee selected from the membership of the Senate;

E. the speaker of the House of Representatives, or the speaker's designee selected from the membership of the House; and

F. two representatives of Louisiana businesses.

SECTION 3: The secretary of the Department of Transportation and Development, or the secretary's designee, shall serve as the chair of the committee.

SECTION 4: The committee shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 5: The duties of the committee shall include, but are not limited to, the following:

A. providing guidance, support and executive leadership for the implementation of the plan;

B. coordinating implementation of the plan with public and private agencies, companies, groups, and individuals; and

C. drafting legislation to implement the plan.

SECTION 6: Other than from their agencies, committee members shall not receive compensation or a per diem, nor shall they be reimbursed for travel expenses for their attendance at meetings.

SECTION 7: Support staff for the committee and facilities for its meetings shall be provided by the Department of Transportation and Development.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the committee in implementing the provisions of this order.

SECTION 9: The provisions of this order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 23rd day of December, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9701#019

EXECUTIVE ORDER MJF 96-78

Bond Allocation—Calcasieu Parish Authority

WHEREAS: Executive Order MJF 96-32 (hereafter "MJF 96-32") was executed on September 17, 1996, pursuant to the Tax Reform Act of 1968 (hereafter "the act"), Act 51 of the 1986 Louisiana Legislature, and Executive Order MJF 96-25

(hereafter "MJF 96-25") which provides for the allocation of bonds subject to the private activity bond volume limits of the act for each calendar year (hereafter "ceiling");

WHEREAS: the \$7,300,000 allocation under the ceiling made by MJF 96-32 to the Louisiana Housing Finance Agency for the Malta Square at Sacred Heart project was returned unused by letter dated December 19, 1996;

WHEREAS: Section 4.8 of MJF 96-25 provides that if the ceiling for a year exceeds the aggregate amount of private activity bonds issued during the year, "the governor may allocate such excess to issuers for use as a carryforward for one or more carryforward projects permitted under the act by issuing an Executive Order for all carryforward projects for which an application has been submitted that contains the elements required by Subsection 4.2, and for which a request to be treated as a carryforward project has been received by the [staff of the Louisiana State Bond Commission]";

WHEREAS: the ceiling for 1996 exceeds the amount of private activity bonds issued during 1996 by \$7,300,000; and

WHEREAS: the governor desires to allocate this excess and unused amount of the 1996 ceiling to a project which is eligible for a carryforward under the act;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, and in accordance with the request for a carryforward filed by issuer, the excess unused private activity bond volume limit under the ceiling is allocated to issuer for the following carryforward project and in the following amount:

ISSUER	CARRYFORWARD PROJECT	CARRYFORWARD AMOUNT
Calcasieu Parish Authority	Single Family Mortgage Revenue Bonds or Mortgage Credit Certificate Program	\$7,300,000

SECTION 2: All references in this order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 4: This order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of

Louisiana, at the Capitol, in the City of Baton Rouge, on this 24th day of December, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9701#020

EXECUTIVE Order MJF 96-79

Unclassified State Employee Leave

WHEREAS: no permanent rules or policies on annual, compensatory, sick, special, military, and other leave exist for certain officers and employees who are in the unclassified service of the state; and

WHEREAS: Executive Order EWE 94-32, as amended by Executive Order EWE 95-27, which provided rules and policies on annual, compensatory, sick, special, military, and other leave for certain unclassified state employees, expired on August 12, 1996;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Applicability

A. The rules and policies established by this order are applicable to all officers and employees in the unclassified service of the Executive Branch of the State of Louisiana, except elected officials and the officers and employees of a system that is authorized by the Constitution or legislative act to manage and supervise its own system.

B. Nothing in this order shall be applied in a manner which violates, or is contrary to, the Fair Labor Standards Act (hereafter "FLSA"), the Family and Medical Leave Act, or any other applicable federal or state law, rule, or regulation.

SECTION 2: Definitions. Unless the context of this order clearly indicates otherwise, the words and terms used in this order shall be defined as follows:

A. *Annual Leave*—leave with pay granted to an officer or employee for the purpose of rehabilitation, restoration or maintenance of work efficiency, or the transaction of personal affairs.

B. *Appointing Authority*—the agency, department, board, or commission, or the officers and employees thereof authorized by statute or lawfully delegated authority to make appointments to positions in state service.

C. *Compensatory Leave*—time credited for hours worked outside the regularly assigned work schedule.

D. *Continuing Position*—an office or position of employment with the state which reasonably can be expected to continue for more than one calendar year and/or 12 consecutive months.

E. *Educational Leave*—leave that may be granted by an appointing authority to an officer or employee only for limited educational purposes in accordance with the uniform rules developed by the commissioner of administration. *Educational Leave with Pay* is a subclass of educational leave and is for the purpose of attending an accredited educational institution to receive formalized training which will materially assist the officer or employee in performing the type of work performed by the officer or employee's department.

F. *Intermittent Employee*—a person employed in state service who is not hired to work on a regularly scheduled basis.

G. *Leave of Absence Without Pay*—a period of leave or time off from work granted by the appointing authority, or the appointing authority's designee, for which the officer or employee receives no pay.

H. *Military Duty*—refers to the performance of continuous and uninterrupted military duty on a voluntary or involuntary basis and includes active duty, active duty for training, initial active duty for training, full-time National Guard duty, annual training, and inactive duty for training (weekend drills).

I. *Overtime Hour*—an hour worked by an unclassified officer or employee at the direction of the appointing authority, or the appointing authority's designee:

1. on a day which is observed as a holiday in the department and area of employment and falls on a day within the workweek, or is observed as a designated holiday in lieu of a regular holiday observed in the department;

2. in excess of the regular duty hours in a regularly scheduled workday;

3. in excess of the regular duty hours in a regularly scheduled workweek;

4. in excess of 40 hours worked during any regularly recurring and continuous seven-day calendar work period where excessive hours are systematically scheduled;

5. in excess of 80 hours worked during any regularly recurring and continuous 14-day calendar work period where excessive hours are systematically scheduled;

6. in excess of the hours worked in a regularly established, continuous, and regularly recurring work period where hours average 40 hours per week, regardless of the manner in which scheduled; or

7. on a day in which a department or a division thereof is closed pursuant to R.S. 1:55(B)(5) by direction of the appointing authority due to an emergency.

J. *Regular Tour of Duty*—an established schedule of work hours and days recurring regularly on a weekly, biweekly, or monthly basis for full-time or part-time unclassified officers or employees.

K. *Seasonal Employee*—a person employed on a noncontinuous basis for a recognized peak work load period.

L. *Sick Leave*—leave with pay granted to an officer or employee who is unable to perform their usual duties and

responsibilities due to illness, injury, or other disability, or when the officer or employee requires medical, dental, or optical consultation or treatment.

M. *State Service*—for leave earning purposes shall include service in a state supported school, agency, or university; public parish school system; public student employment; service as a member of a public board or commission; or service with the legislature or the state court system. All such service must have been performed for a Louisiana public entity.

N. *Temporary Employee*—a person continuously employed for a period which does not exceed three consecutive calendar months.

O. *Unclassified Service*—refers to those positions of state service as defined in Article X, §2 of the Louisiana Constitution of 1974, which are not positions in the classified service.

SECTION 3: Full-time Employees. For each full-time unclassified officer or employee, each appointing authority shall establish administrative work weeks of not less than 40 hours per week.

SECTION 4: Granting Leave

A. At the discretion of their appointing authority, or the appointing authority's designee, officers and employees may be granted time off for vacations, illnesses, and emergencies.

B. An appointing authority, or the appointing authority's designee, has discretion to grant for disability purposes, annual leave, leave without pay, or sick leave.

SECTION 5: Earning of Annual and Sick Leave

A. Annual and sick leave shall not be earned by the following persons:

1. members of boards, commissions, or authorities;
2. student employees, as defined under Civil Service Rules;

3. temporary, intermittent, or seasonal employees; and

4. effective as of the signing and issuance of this order, all part-time employees of the Executive Department, Office of the Governor.

B. The earning of annual and sick leave, shall be based on the equivalent of years of full time state service and shall be credited at the end of each calendar month, or at the end of each regular pay period, in accordance with the following general schedule:

1. less than three years of service, at the rate of .0461 hour of annual leave and .0461 hour of sick leave for each hour of regular duty;

2. three or more years but less than five years of service, at the rate of .0576 hour of annual leave and .0576 hour of sick leave for each hour of regular duty;

3. five or more years but less than 10 years of service, at the rate of .0692 hour of annual leave and .0692 hour of sick leave for each hour of regular duty;

4. ten or more years but less than 15 years of service, at the rate of .0807 hour of annual leave and .0807 hour of sick leave for each hour of regular duty; and

5. fifteen or more years of service, at the rate of .0923 hour of annual leave and .0923 hour of sick leave for each hour of regular duty.

For purposes of this Section, contract service does not constitute either full-time or part-time state service and cannot be used to determine, and has no effect upon, the rate at which annual leave and sick leave is earned by, accrued by, or credited to a full-time or a part-time officer or employee in unclassified state service.

C. No unclassified officer or employee shall be credited with annual or sick leave:

1. for any overtime hour(s);
2. for any hour(s) of leave without pay;
3. for any hour(s) of on-call status outside the officer or employee's regular duty hours;
4. for any hour(s) of travel or other activity outside the officer or employee's regular duty hours; or
5. for any hour(s) of a holiday or other nonwork day which occurs while on leave without pay.

SECTION 6: Carrying Annual and Sick Leave Forward. Accrued unused annual and sick leave earned by an unclassified officer or employee shall be carried forward to succeeding calendar years without limitation.

SECTION 7: Use of Annual Leave

A. An unclassified officer or employee must apply for use of annual leave, and it may only be used upon the approval of the appointing authority, or the appointing authority's designee.

B. Annual leave shall not be charged for nonwork days.

C. The minimum charge to annual leave records shall be in increments of not less than one-tenth of an hour, or six minutes.

D. An appointing authority, or the appointing authority's designee, may require an unclassified officer or employee to use their accrued annual leave whenever such an action is determined by the appointing authority, or the appointing authority's designee, to be in the best interest of the department.

When such an instance occurs, no unclassified officer or employee shall be required to reduce their accrued annual leave to less than 240 hours except:

1. when granted leave without pay, but subject to the military leave provisions of Section 17; or
2. when the absence from work is due to a condition covered by the Family and Medical Leave Act.

SECTION 8: Use of Sick Leave

A. Sick leave with pay may be used by an unclassified officer or employee who has accrued sick leave, when the following occurs:

1. illness or injury prevents the officer or employee from reporting to duty; or
2. medical, dental, or optical consultation or treatment is attended.

B. A medical certificate is not required for an unclassified officer or employee to use accrued sick leave, but the appointing authority, or the appointing authority's designee, has discretion to require such a certificate as justification for an absence.

C. Sick leave shall not be charged for nonwork days.

D. The minimum charge to sick leave records shall be in increments of not less than one-tenth of an hour, or six minutes.

E. Sick leave shall only be granted after it has been accrued by an unclassified officer or employee. Sick leave shall not be advanced.

F. An appointing authority, or the appointing authority's designee, has discretion to place an unclassified officer or employee on sick leave after an officer or employee asserts the need to be absent from work due to an injury or illness.

SECTION 9: Transfer of Annual and Sick Leave

A. A classified officer or employee, or an unclassified officer or employee subject to this order, shall have all accrued annual and sick leave credited to them when the officer or employee transfers without a break in service into a position covered by this order.

B. An officer or employee shall have all accumulated annual and sick leave, to the extent that it was earned, credited to them when the officer or employee transfers without a break in service from a department not covered by this order into a department covered by this order.

C. When an unclassified officer or employee transfers without a break in service to a position covered by other leave rules of the state, the officer or employee's accrued annual and sick leave shall be transferred to the new employing state department or agency. The employing department or agency shall either hold the annual and sick leave in abeyance or integrate the leave into its own system. The officer or employee's accumulated leave shall not be reduced during such integration.

SECTION 10: Disbursement of Accrued Annual Leave Upon Separation

A. Upon the resignation, death, removal, or other final termination from state service of an unclassified officer or employee, the officer or employee's accrued annual leave shall be paid in a lump sum, up to a maximum of 300 hours, disregarding any final fraction of an hour. The payment shall be computed as follows:

1. When the officer or employee is paid on an hourly basis, the regular hourly rate that the officer or employee received at the time of termination from state service shall be multiplied by the number of hours of their accrued annual leave, which number is not to exceed 300 hours; or

2. When the officer or employee is paid on other than an hourly basis, the officer or employee's hourly rate shall be determined by converting the salary the officer or employee received at the time of termination from service into a working hourly rate. The converted hourly rate shall be multiplied by the number of hours of their accrued annual leave, which number is not to exceed 300 hours.

B. An unclassified officer or employee, who is paid for accrued annual leave upon termination from service and who is subsequently reemployed in a leave-earning classified or unclassified position, shall reimburse the state service, through the employing agency, for the number of hours the officer or employee was paid which exceeded the number of work hours that transpired during the officer or employee's

break from state service. In turn, the officer or employee shall receive a credit for the number of hours of annual leave for which the officer or employee made reimbursement to state service.

SECTION 11: Disbursement of Accrued Sick Leave Upon Separation. An officer or employee shall not receive payment, directly or in kind, for any accrued sick leave remaining at the time of their termination from unclassified service.

SECTION 12: Continuance of Annual and Sick Leave. An unclassified officer or employee shall receive credit for all accrued unpaid annual leave and all unused sick leave upon reemployment by the state in the unclassified service within a period of five years from date of their termination from state service if the officer or employee's reemployment occurs during the effective period of this order.

SECTION 13: Compensatory Leave

A. Compensatory leave shall not be earned by the following persons:

1. department secretaries, undersecretaries, deputy secretaries, assistant secretaries, confidential assistants, including their equivalents appointed by elected officials, and the superintendent of education;

2. student employees, as defined under Civil Service Rules;

3. temporary, intermittent, or seasonal employees;

4. the commissioner of administration, the deputy commissioners of administration, and the assistant commissioners of administration;

5. the executive director or equivalent chief administrative officer of all boards, commissions, and authorities operating within the Executive Branch who are appointed by a board, commission, or authority;

6. members of boards, commissions, or authorities;

7. officials of the Executive Department, Office of the Governor, holding the following titles: administrative secretary for the Franklin Office, administrative secretary to the first lady, assistant chief of staff, assistant executive counsel, chief of staff, deputy chief of staff, deputy education policy advisor, director of boards and commissions, director of constituent services, director of Indian Affairs, director of Troops to Teachers, education policy advisor, executive assistant for Coastal Activities, executive counsel, executive director of children's cabinet, executive director of Office of Oil Spills, executive director of Rural Development, governor's liaison for Workforce Development, mansion coordinator, office coordinator for Disability Affairs, press secretary, senior policy analyst, special assistant to the governor, and/or special counsel;

8. other officers of the state who are appointed by the governor, including members of boards, commissions, and/or authorities; and

9. effective as of the date of the issuance and signing of this order, all part-time employees of the Executive Department, Office of the Governor.

B. Compensatory leave may be earned when an appointing authority, or the appointing authority's designee, requires an unclassified officer or employee in a

compensatory leave earning position to work on a holiday or at a time that the officer or employee is not regularly required to be on duty. Compensatory leave may be granted for such overtime hours worked outside the regularly assigned work schedule or on holidays at the discretion of the appointing authority, except that officers or employees who are not exempt from the FLSA shall be compensated for such overtime in the same manner as classified employees in accordance with the FLSA.

C. An unclassified officer or employee who sets his own work schedule shall not be eligible to earn compensatory leave; however, the appointing authority of such an unclassified officer or employee may grant compensatory leave for specific instances of overtime work which the appointing authority judges to be extraordinary.

D. If an appointing authority permits the earning of compensatory leave to an FLSA-exempt unclassified officer or employee, then the amount of such leave shall be equal to the number of extra hours such an officer or employee is required to work.

E. When earned, compensatory leave shall be promptly credited to the unclassified officer or employee and, upon the approval of the appointing authority, or the appointing authority's designee, it may be used by the officer or employee at a future time.

SECTION 14: Use and Disbursement of Compensatory Leave While in Service

A. An unclassified officer or employee who is not exempt from the FLSA shall be paid in cash for any overtime hours worked in excess of the maximum balance allowed by the FLSA.

B. At the discretion of the appointing authority, an unclassified officer or employee may be paid in cash for any compensatory leave earned at the hour for hour rate in excess of 360 hours.

C. An appointing authority may require an unclassified officer or employee to use their earned compensatory leave at any time.

SECTION 15: Disbursement of Accrued Compensatory Leave Upon Separation

A. When an unclassified officer or employee transfers without a break in service to another department within state service, compensatory leave may be credited to the officer or employee at the discretion of the new appointing authority.

B. When an unclassified officer or employee separates from state service or transfers from the department in which the officer or employee earned compensatory leave to a department not crediting the officer or employee with the accrued balance of compensatory leave, the accrued compensatory leave shall be paid as follows:

1. All unused compensatory leave earned at the hour for hour rate or at the time and one-half rate shall be paid at the higher of following rates:

(a) the average regular rate received by the officer or employee during the last three years of his or her employment; or

(b) the final regular rate received by the officer or employee.

SECTION 16: Special Leave. An unclassified officer or employee shall be given time off, without loss of pay, annual leave, or sick leave when:

- A. performing jury duty;
- B. appearing as a summoned witness before a court, grand jury, or other public body or commission;
- C. performing emergency civilian duty in relation to national defense;
- D. voting in a primary, general, or special election which falls on the officer or employee's scheduled work day, provided not more than two hours of leave shall be allowed an officer or employee to vote in the parish of employment, and not more than one day of leave shall be allowed an officer or employee to vote in another parish;
- E. participating in a State Civil Service examination on a regular work day, or taking a required examination pertinent to the officer or employee's state employment before a state licensing board;
- F. the appointing authority determines an Act of God prevents the performance of the duties of the officer or employee;
- G. the appointing authority determines that, due to local conditions or celebrations, it is impracticable for the officer or employee to work in the locality;
- H. the officer or employee is ordered to report for a pre-induction physical examination incident to possible entry into the armed forces of the United States;
- I. the officer or employee is a member of the National Guard and is ordered to active duty incident to a local emergency, an Act of God, a civil or criminal insurrection, a civil or criminal disobedience, or a similar occurrences of an extraordinary and emergency nature which threatens or affects the peace or property of the people of the State of Louisiana or the United States;
- J. the officer or employee is engaged in the representation of a client in a civil or criminal proceeding pursuant to an order of a court of competent jurisdiction. However, if compensation for such services is available from another source, and is accepted by the officer or employee, the officer or employee may not accept any special leave compensation from the state for that time period; or
- K. the officer or employee is a current member of Civil Air Patrol and, incident to such membership, is ordered to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed 15 working days in any one calendar year and shall not be used for unit meetings or training conducted during such meetings.

SECTION 17: Military Leave

A. An unclassified officer or employee who is serving in a position that earns annual and sick leave and who is a member of a reserve component of the armed forces of the United States or the National Guard, shall be granted a leave of absence from a state position, without loss of pay or deduction of leave, when ordered to military duty for a period not to exceed 15 working days in any one calendar year. In addition, an appointing authority may grant annual leave, compensatory leave, leave without pay or any combination thereof, for a period which exceeds those 15 working days in

any one calendar year, in accordance with other provisions of this order and as required by state and/or federal law. When the unclassified officer or employee is ordered to duty, the officer or employee shall give prompt and immediate notice to the appointing authority, or to the appointing authority's designee.

B. An unclassified officer or employee who is serving in a position that earns sick and annual leave and who is inducted into or ordered to military duty to fulfill a reserve obligation or ordered to active duty in connection with reserve activities for an indefinite period or for a period in excess of annual field training, is eligible for leave with pay as provided in this order and as required by state and/or federal law.

SECTION 18: Other Leave

A. Worker's Compensation Payments—Optional Leave with Pay. An unclassified officer or employee who is absent from work due to a disability for which the officer or employee is entitled to receive worker's compensation benefits, has the option to use their sick and annual leave, which shall not exceed the amount necessary to receive total payments for leave and worker's compensation equal to their regular salary.

B. Law Enforcement—On Duty Disability. When an unclassified officer or employee engaged in law enforcement work becomes disabled while in the performance of a duty of a hazardous nature that results in their being unable to perform their usual or normal duties, the disabled officer or employee's appointing authority may, upon the approval of the commissioner of administration, grant the disabled officer or employee a leave of absence with full pay during the period of such disability without charge against accrued sick or annual leave, provided the officer or employee pays to their department all amounts of weekly compensation received by the officer or employee as worker's compensation benefits during that period of leave with full pay.

C. Funeral Leave. An unclassified officer or employee may be granted leave without loss of pay, annual leave, or sick leave, for attendance at the funeral or burial rites of a parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grandparent, or grandchild, provided such time off shall not exceed a period of two days for any single occurrence. Whenever possible, prior notice of the need to take said leave shall be given by the officer or employee to the appointing authority. At all other times, the officer or employee shall give notice of the need to take said leave at the time it is taken.

D. Educational Leave

1. An appointing authority may grant an unclassified officer or employee educational leave without pay, when it is for an approved educational purpose, for a maximum period of 12 months in accordance with the Rules developed by the commissioner of administration. Consecutive periods of leave without pay may be granted to the officer or employee by the appointing authority.

2. Upon the approval of the commissioner of administration and in accordance with the Rules developed by the commissioner of administration, an appointing authority

may grant an unclassified officer or employee educational leave with pay for a maximum period of 30 calendar days during one calendar year. Upon the approval of the commissioner of administration and in accordance with the Rules developed by the commissioner of administration, the appointing authority may grant educational leave with pay for a maximum period of 90 calendar days during one calendar year if, in addition to the general prerequisites necessary for qualification for educational leave with pay, the educational instruction or training to be taken by the officer or employee is also necessary to, or will substantially aid, the administration of the state agency.

3. In accordance with the Rules developed by the commissioner of administration, an appointing authority may grant a stipend to an unclassified officer or employee who has been granted educational leave if 1) funds are available for such purposes, 2) the commissioner of administration approves the stipend, and 3) the commissioner of administration finds the stipend will be used for a proper, designated purpose and its proper use is clearly supported with appropriate documentation.

E. Leave of Absence without Pay

1. An appointing authority may extend a leave of absence without pay to an unclassified officer or employee for a period not to exceed one year, provided that such leave shall not prolong the period of the officer or employee's appointment or employment in state service.

2. If an unclassified officer or employee fails to report for, or refuses to be restored to, duty in pay status on the first working day following the expiration of an approved leave of absence without pay, or at an earlier date upon reasonable and proper notice from the appointing authority, or the appointing authority's designee, then the officer or employee shall be considered as having deserted their position of appointment or employment.

3. At the discretion of the appointing authority, or at the request of the unclassified officer or employee, a period of leave of absence without pay that has been extended to an officer or employee, may be curtailed, provided such curtailment is in the best interest of the state service and reasonable and proper notice thereof is furnished to the officer or employee.

SECTION 19: Holidays

A. Holidays shall be observed as provided in R.S. 1:55(B) and by proclamation issued by the governor.

B. An unclassified officer or employee in state service in a compensatory leave earning position shall be eligible for compensation when required to work on an observed holiday except:

- 1. when the officer or employee's regular work schedule averages less than 20 hours a week; or
- 2. when the officer or employee is on leave without pay during the period immediately preceding and following the holiday(s).

SECTION 20: Record Keeping

A. Daily attendance and leave records shall be maintained for each unclassified officer or employee who is eligible to accrue annual, sick, and/or compensatory leave.

B. An accrued balance of unused annual, compensatory, and/or sick leave shall be held in abeyance for an officer or employee who becomes ineligible to earn and use the particular type of leave pursuant to the terms of this order. The accrued balance(s) shall be available to the officer or employee, in accordance with the provisions of this order, when he or she again becomes eligible to earn and use said leave, or when he or she separates from state service.

SECTION 21: Compliance. All departments, commissions, boards, agencies, and officers of the state, or any political subdivisions within the Executive Branch of state government shall comply with and cooperate with the implementation of the provisions of this order.

SECTION 22: Effective Dates. Upon signature of the governor, the provisions of this order shall be applicable to all current officers or employees in the unclassified state service and, as to those employees, retroactive to noon on January 8, 1996. Nonetheless, any rights that accrued prior to August 12, 1996 to the officers and employees in the unclassified state service, pursuant to the provisions of Executive Orders EWE 94-32 and 95-27, shall not be adversely affected by the retroactive application of this order. This order shall remain in effect until amended, modified, terminated, or rescinded by the governor, or until terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 30th day of December, 1996.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9701#021

Emergency Rules

DECLARATION OF EMERGENCY

**Department of Economic Development
Racing Commission**

Deposit for Expenses (LAC 35:I.8305)

The Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following Emergency Rule effective Thursday, December 19, 1996, and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever occurs first.

C. Current population figures are used to determine the eligibility for funding of municipalities based on appropriations by the legislature. The funding is outlined in the ORD application guidelines for rural development grant funds.

D. Funds from this program cannot be used to pay for consulting fees charged to a unit of government for the preparation of the application, for administrative costs by agents of the project sponsor or any third party, or for previously created debt.

E. Grant recipients are required to maintain an audit trail verifying that all funds received under this program were used to fulfill the criteria for funding.

F. Payment shall be made to the Local Governmental Agency (LGA) which is the project sponsor upon production of invoices and approval of the LGA's request for payment by ORD, according to the agreed terms of a signed and executed letter of commitment.

G. Project funds shall be spent only for the project as described in the grant application designated by the same number as the project award. Changes in the project description and extension of the agreed time for completion must be made in writing, subject to the approval of ORD.

H. Use of grant funds for any project other than that described in the grant application or amended application, or in violation of any terms of the application or letter of commitment/agreement, will be grounds for ORD to terminate the agreement and revoke the funds for the project.

I. All invoices related to the project are the responsibility of the LGA/project sponsor, and must be submitted to and approved by ORD before funds will be released to the LGA, which remains responsible for payment to its vendors in the project.

J. The LGA as project sponsor will agree to hold harmless the state of Louisiana, Office of the Governor, and Office of Rural Development as a term and condition of the letter of commitment/agreement.

K. ORD will de-obligate funds from any unexpended amount, whether by failure to start a project in the agreed upon time frame in the letter of commitment or by unexpended funds in an officially closed project, and from revoked grant awards.

L. Failure of the LGA/project sponsor to abide by any article of the Local Agency Assurances section of the grant application or of the letter of commitment/agreement, including state audit procedures, federal and state laws, state ethical rules and policy guidelines of the ORD, shall result in revocation of the grant award and the responsibility of the LGA/project sponsor to re-pay project funds released to it by ORD up to the full amount of the grant award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 23:

Larry Kinlaw
Executive Director

9701#065

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Sanitary Code—Childhood Immunizations
for Day Care and School Entry (Chapter II)

As mandated by Act Number 998 of the 1995 Regular Session, and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:953(B), under the authority of R.S. 40:5, the Department of Health and Hospitals, Office of Public Health hereby amends the Louisiana Sanitary Code, Chapter II.

This Emergency Rule is effective December 31, 1996 and remains in effect for 120 days.

Chapter II Control of Diseases

2:025 Appropriate immunizations for age for regulatory purposes shall be determined using the current immunization schedule from the Advisory Committee for Immunization Practice (ACIP) of the United States Public Health Service. Compliance will be based on the individual having received an appropriate number of immunizations for his/her age of the following types:

a. vaccines which contain tetanus and diphtheria toxoids, including DTP, DtaP, DT, Td or combinations which include these components;

b. Polio vaccine, including OPV, eIPV, IPV, or combinations which include these components;

c. vaccines which contain measles antigen, including MMR and combinations which include these components.

A two-month period will be allowed from the time the immunization is due until it is considered overdue. Medical, religious, and philosophic exemptions will be allowed for compliance with regulations concerning day care attendees and school enterers. Only medical and religious exemptions will be allowed for compliance with regulations concerning public assistance recipients. A copy of the current Office of Public Health immunization schedule can be obtained by writing to the Immunization Program, Office of Public Health, 4747 Earhart Boulevard, Suite 107, New Orleans, Louisiana 70125 or by calling (504) 483-1905 or toll free 1-800-251-2229.

2:025-1 Any child 18 years or under admitted to any day care center or residential facility shall have verification that the child has had all appropriate immunizations for age of the child according to the Office of Public Health schedule unless presenting a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from parents. The operator of any day care center shall report to the State Health Officer through the health unit of the parish or municipality where such day care center is located any case or suspected case of reportable disease. Health records, including immunization records, shall be made available during normal operating hours for inspection when requested by the State Health Officer. When an outbreak of a communicable disease occurs in a day care

center or residential facility, the operator of said day care center or residential facility shall comply with outbreak control procedures as directed by the State Health Officer.

2:025-2 On or before October 1 of each year, the operator of each day care center, nursery school, or residential facility enrolling or housing any child 18 years or under, shall submit a preliminary immunization status report of all children enrolled or housed as of that date. Forms for submittal shall be provided by the State Health Officer, and shall include identifying information for each child, and for each dose of vaccine received by the child since birth. Any child exempt from the immunization requirement shall also be identified, and the reason for exemption given on the form. After review of the form(s) by the State Health Officer or his or her designee, the day care center, nursery school, or residential facility operator will notify, on or before December 31 of each year, the parent or guardian of all enrolled or housed children who are not compliant with the immunization requirement of Sections 2:025 and 2:025-1 of this Code.

Bobby P. Jindal
Secretary

9701#001

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Direct Reimbursement to Recipients
During Period of Retroactive Eligibility**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Emergency Rule in the Medicaid Program as authorized by R.S. 46:153. This Emergency Rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Bureau of Health Services Financing currently provides direct reimbursement to enrolled providers of medical care, supplies and services delivered to persons eligible for Medicaid coverage. In order to receive Medicaid reimbursement for services rendered prior to the individual's certification for Medicaid, the provider must refund the recipient's payment, if any, for services and submit a claim for reimbursement to the fiscal intermediary in accordance with program regulations.

On May 8, 1995, the United States District Court for the Eastern District of Louisiana issued a judgment requiring the Department of Health and Hospitals to provide repayment in some form to recipients for medical care, supplies and services rendered during the retroactive coverage period established by 42 U.S.C. Section 1396a(a)(34) when such care, supplies or services have been paid in whole or part by

the recipient prior to certification. Therefore, the Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following Emergency Rule to comply with the judgment of the U.S. District Court effective June 6, 1996. This Emergency Rule provides for the direct reimbursement to persons found eligible for Medicaid benefits beginning February 15, 1995 for their payments to enrolled providers for services covered by the Medicaid Program. The following Emergency Rule continues the regulations in effect until adoption of the Rule and thereby to avoid the potential penalties, if any, or sanctions from the federal government.

Previous Emergency Rules were published in the *Louisiana Register*, Volume 22, Numbers 6 and 10.

Emergency Rule

Effective February 1, 1997 and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing adopts the following provisions to establish and govern direct reimbursement to a Medicaid eligible for his payment(s) made to any Medicaid-enrolled provider for medical care, services and supplies delivered during the recipient's period of retroactive eligibility and prior to receipt of the first medical eligibility card (MEC). Reimbursement shall be made only in accordance with all applicable federal and state regulations.

General Provisions

A. Reimbursement shall be made only for payments made to providers of medical care, services and supplies who were enrolled in the Medicaid Program at the time of service.

B. Reimbursement shall be made only for medical care, services and supplies covered by the Medicaid Program at the time of service.

C. Reimbursement shall be made only for medical care, services and supplies delivered during a retroactive eligibility period and prior to receipt of the recipient's first MEC.

D. Reimbursement shall be made only up to the maximum allowable Medicaid rate for the particular service(s) rendered.

E. Reimbursement shall be provided only under the following conditions.

1) Reimbursement shall be made only for eligibles certified for Medicaid coverage beginning February 15, 1995. Reimbursement shall be made for all bills, from any Medicaid-enrolled provider, for medical care, services and supplies covered by the Medicaid Program and rendered during the three months prior to application, as well as bills paid during the period from application to certification.

F. The Medicaid recipient must submit the following documentation to the bureau in order to receive reimbursement:

1) Proof of payment shall be a receipt or similar evidence of payment.

G. Reimbursement for services rendered during any retroactive eligibility period and prior to receipt of the initial MEC for Medicaid eligibles certified beginning February 15, 1995 through the effective date of this Rule shall be made in accordance with the following requirements:

1) Proof in accordance with Subsection F above, along with the recipient's Medicaid identification number must be presented to the local Bureau of Health Services Financing (Medicaid) office by December 30, 1996.

Qualified Aliens are eligible for regular Medicaid if they also meet additional criteria described above for mandatory Medicaid eligibility, or are eligible only for emergency services if they do not. An alien must meet all eligibility requirements for Medicaid other than citizenship to receive either regular Medicaid eligibility or emergency services. Qualified aliens are aliens who are:

1. lawful permanent residents;
 2. refugees;
 3. asylees;
 4. aliens who have had deportation withheld under Section 243(h) of the Immigration and Nationality Act (INA);
 5. aliens granted parole for at least one year by the INS;
- or
6. aliens granted conditional entry under immigration law in effect before April 1, 1980.

Emergency Medical Services are not related to either an organ transplant procedure or routine prenatal or post-partum care. The alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

It is estimated that total savings resulting from implementation of this Emergency Rule is \$2,082,702 for SFY 1996-97.

Emergency Rule

Louisiana Medicaid adopts the provisions of Section 401 of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) regarding Medicaid eligibility for noncitizens. The following optional groups of qualified aliens are not eligible for regular Medicaid services under this Emergency Rule, but may be eligible for emergency services if they meet all eligibility criteria other than citizenship:

1. Aliens receiving Medicaid benefits on August 22, 1996, but not receiving SSI, are not eligible January 1, 1997 and afterward.
2. Aliens who were in the United States prior to August 22, 1996, who are included in the definition of qualified alien, but not included in the mandatory group of qualified aliens living in the United States before August 22, 1996 are not eligible for Medicaid.

Interested persons may submit written comments to: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule.

Bobby P. Jindal
Secretary

9701#006

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Home Community Based Service Waiver Program
Mentally Retarded/Developmentally Disabled Waiver

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers four Home and Community Based Services Waiver Programs. Participation in each home and community based services waiver is limited to a specific number of participants based on the approval of the waiver application by the Health Care Financing Administration. The bureau adopted an Emergency Rule effective July 13, 1995 not to fill vacated slots in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program except in certain specified circumstances (*Louisiana Register*, Volume 21, Number 7). Another Emergency Rule was adopted effective October 10, 1995 that allowed vacated slots in the MR/DD waiver to be filled in accordance with the methodology utilized prior to July 13, 1995 except that the number of slots to be filled could not exceed the total number of filled slots as of September 1, 1995 (*Louisiana Register*, Volume 21, Number 10). The bureau has now determined that it is necessary to adopt regulations governing the MR/DD Waiver Program to:

- 1) establish methodology for the assignment of slots vacated by discharged waiver participants and the 342 previously unoccupied slots; and
- 2) clarify policies on admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care. The eligibility criteria for the MR/DD Waiver Program shall remain unchanged. The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. A previous Emergency Rule was published in the *Louisiana Register* (Volume 22, Number 10) which continued the above provisions in force.

This action is necessary to preserve the health and welfare of individuals on the MR/DD waiver waiting list by assuring them an opportunity to make application for Medicaid eligibility and waiver services.

Emergency Rule

Effective January 31, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following regulations governing the MR/DD Waiver Program to:

- 1) establish methodology for the assignment of slots; and
- 2) clarify policies on admission and discharge criteria, mandatory reporting requirements and the reimbursement requirement for the prior approval of the plan of care.

The total number of slots assigned shall not exceed the maximum number of slots approved by the Health Care Financing Administration. The assignment of vacated and previously unoccupied waiver slots; admission and discharge criteria; mandatory reporting requirements and reimbursement for services provided prior to the approval of the plan of care shall be determined in accordance with the following guidelines.

Programmatic Allocation of Waiver Slots

The waiting list shall be used to protect the individual's right to be evaluated for waiver eligibility. The Office for Citizens with Developmental Disabilities (OCDD) shall notify the next individual on the waiting list in writing that a slot is available and that they are next in line to be evaluated for possible waiver slot assignment. A copy of the notification letter shall be forwarded to the regional Health Standards Office. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial and medical certification eligibility process. If the individual is determined to be ineligible either financially or medically, that individual is notified in writing and a copy of the notice is forwarded to the regional OCDD office. The next person on the waiting list is notified as stated above and the process continues until an eligible person is encountered. A waiver slot is assigned to an individual when eligibility is established and the individual is certified. Utilizing these procedures, waiver slots shall be allocated to the targeted groups cited below as follows:

1. When a currently certified participant is discharged from the waiver, the vacated slot shall be available for allocation to the next person on the MR/DD Waiver waiting list who successfully completes the financial and medical certification eligibility process and is certified for the waiver.
2. A minimum of 40 slots shall continue to be available for allocation to foster children in the custody of the Department of Social Services, Office of Community Services (OCS) who successfully complete the financial and medical certification eligibility process and are certified for the waiver. OCS shall be responsible for maintaining the waiting list for these slots; sending notification of an available slot to the next individual on the list; and assisting the individual to gather the documents needed in the eligibility determination process.
3. A maximum of 80 slots shall be available for allocation to the next 80 persons on the MR/DD Waiver waiting list who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

4. A maximum of 160 slots shall be available for allocation to current residents of the Pinecrest Development Center who successfully complete the financial and medical certification eligibility process and are certified for the waiver. These residents will be identified by OCDD through their person-centered planning process and shall be individuals who are high functioning and have the self-determination capacity to live in a less restrictive environment.

5. A maximum of 78 slots shall be available for allocation to current residents of public community homes who successfully complete the financial and medical certification eligibility process and are certified for the waiver. These residents shall be individuals who are high functioning and have the self-determination capacity to live in a less restrictive environment. In addition, the public community home must reallocate its funds to the provision of waiver services.

6. Waiver slots shall no longer be reserved for use as emergency slots nor shall emergency slots be assigned.

Waiver Admission Criteria

Admission to the MR/DD Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid eligibility as determined by the parish BHSF Office;
2. initial and continued eligibility for an ICF-MR level of care as determined by the regional Health Standards Office in consultation with the regional OCDD Office;
3. the plan of care must provide justification that the waiver services are appropriate, cost effective and represent the least restrictive treatment alternative for the individual; and
4. assurance that the health and safety of the individual can be maintained in the community with the provision of reasonable amounts of waiver services as determined by the regional Health Standards Office.

Waiver Discharge Criteria

Participants shall be discharged from the MR/DD Waiver Program if one of the following criteria is met:

1. loss of Medicaid eligibility as determined by the parish BHSF Office;
2. loss of eligibility for an ICF-MR level of care as determined by the regional Health Standards Office in consultation with the regional OCDD Office;
3. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;
4. change of residence to another state with the intent to become a resident of that state;
5. admission to an ICF-MR facility or nursing facility;
6. the health and welfare of the waiver participant cannot be assured in the community through the provision of reasonable amounts of waiver services as determined by the regional Health Standards Office, i.e., the waiver participant presents a danger to himself or others;
7. failure to cooperate in either the eligibility determination process or the performance of the care plan; or
8. continuity of services is interrupted as a result of the participant not receiving waiver services during a period of 14

or more consecutive days. This does not include interruptions in services because of hospitalization.

Mandatory Reporting Requirements

Case managers and waiver service providers are obligated to report changes that could affect the waiver participant's eligibility, including but not limited to those changes cited in the discharge criteria, to either the parish BHSF Office or the regional Health Standards Office within five working days. In addition, case managers and waiver service providers are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and well-being of the waiver participant and completing an incident report. The incident report shall be submitted to the Regional Health Standards Office within five working days of the incident.

Reimbursement of Waiver Services

Reimbursement shall not be made for waiver services provided prior to the date of approval for the plan of care.

Bobby P. Jindal
Secretary

9701#076

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Hospital Prospective Reimbursement
Methodology for Long-Term Acute Hospitals

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides reimbursement for certain specialty hospital services including long-term acute hospitals under specialty hospital peer groups as published in the *Louisiana Register*, Volume 20, Number 6, of June 20, 1994. Effective October 13, 1996 (*Louisiana Register*, Volume 22, Number 9), an Emergency Rule was adopted establishing provisions to reimburse long-term acute hospitals for psychiatric treatment at the prospective per diem rate established for psychiatric treatment

facilities. Therefore, the bureau is re-establishing the previous Emergency Rule to continue these regulations in force.

Emergency Rule

Effective for dates of services on or after February 10, 1997, the Department of Health and Hospitals, Bureau of Health Services Financing will prospectively reimburse long-term acute hospitals for psychiatric treatment at the prospective per diem rate established for psychiatric treatment facilities.

Bobby P. Jindal
Secretary

9701#071

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Hospital Prospective Reimbursement
Methodology for Rehabilitation Hospitals

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for certain specialty hospital services including rehabilitation hospitals under specialty hospital peer groups as established by the Hospital Prospective Reimbursement Methodology Rule adopted by reference in the *Louisiana Register*, Volume 20, Number 6, page 668. The bureau has now determined it is necessary to prospectively reimburse rehabilitation hospitals within the peer groups established for nonteaching hospitals in Hospital Prospective Reimbursement Rule. Nonteaching hospitals are grouped according to the number of staffed beds. Rehabilitation hospitals shall be placed in the appropriate nonteaching hospital peer groups according to the number of licensed rehabilitation beds as of March 31 of the year preceding the fiscal year for which the rates will be in effect. The bureau will continue to apply the criteria contained in the pre-admission and certification and length of stay criteria for Inpatient Hospital Services Rule (*Louisiana*

Register, Volume 20, Number 6, page 668-669) according to the treatment needs of the individual patient. A previous Emergency Rule was published on this matter continuing the above provisions in force (*Louisiana Register*, Volume 22, No. 10). This action is necessary to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective for dates of services on or after January 29, 1997 the Department of Health and Hospitals, Bureau of Health Services Financing amends the Hospital Prospective Reimbursement Methodology Rule (*Louisiana Register*, Volume 20, Number 6, page 668) by prospectively reimbursing rehabilitation hospitals within the peer groups established for nonteaching hospital established in the Hospital Prospective Reimbursement Methodology Rule. The appropriate peer group shall be determined according to the number of licensed rehabilitation beds as of March 31 of the year preceding the state fiscal year for which the rates will be in effect. The bureau will continue to apply the criteria contained in the pre-admission and certification and length of stay criteria for Inpatient Hospital Services Rule (*Louisiana Register*, Volume 20, Number 6, page 668-669) according to the treatment needs of the individual patient.

Bobby P. Jindal
Secretary

9701#070

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Low Income Families Eligibility Group

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first. Adoption of this Rule on an emergency basis is necessary to avoid sanctions or penalties from the federal government arising from failure to adopt appropriate regulations related to the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193).

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) eliminated the Aid to Families with Dependent Children (AFDC) program which provided

financial assistance to families meeting certain requirements, and replaced it with a block grant program for Temporary Assistance for Needy Families (TANF) effective July 1, 1997, or such earlier date as the Secretary of DHHS receives the TANF State plan. Receipt of TANF does not entitle the recipient to Medicaid. TANF provisions were adopted in Louisiana by Department of Social Services effective October 1, 1996.

Also, P.L. 104-193 establishes criteria for a new category of Medicaid recipients. According to that regulation, low income families are defined as follows:

1. the family includes a dependent child who is living with a caretaker relative;
2. the family income does not exceed the 185 percent gross income test limit; and
3. the family's countable income and resources do not exceed the applicable AFDC income and resource standards (including any special needs) established in the Medicaid State Plan. This description is now found in Section 1931 of the Social Security Act. The state has elected to maintain income and resource criteria in effect on July 16, 1996 as the basis for determining eligibility for this new classification of Medicaid recipients.

Among those who will meet the income and resource criteria for low-income families are persons who are eligible for TANF financial assistance because TANF criteria are currently more restrictive than low-income family criteria. Other families who meet the criteria for low-income family but are not TANF-eligible will be eligible for Medicaid under this definition. This Emergency Rule provides notification that the population described in Section 1931 of the Social Security Act constitutes an eligibility group covered by Medicaid and establishes the income and resource limitations applicable. It is estimated that there will be slight savings because of differences in the eligibility criteria. However, the precise number of individuals affected by this change is currently unknown.

Emergency Rule

Medicaid establishes a new Medicaid eligibility group for low income families with children who meet eligibility requirements described in Section 1931 of the Social Security Act. Eligibility criteria under the AFDC State Plan in effect on July 16, 1996 will be used to determine eligibility. Additionally, recipients of TANF are deemed to meet these criteria so long as TANF requirements are more restrictive than eligibility requirements under the AFDC State Plan in effect on July 16, 1996.

Interested persons may submit written comments to: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule.

Bobby P. Jindal
Secretary

9701#026

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

State-Funded Medically Needy Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:953(B).

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously administered the Medically Needy Program under the Title XIX State Plan pursuant to the Social Security Act. The department determined that there were insufficient federal funds available under the federal appropriation for implementation of Title XIX of the Social Security Act for Louisiana to continue the administration of the Medically Needy Program and, as a result, terminated the Program effective June 30, 1996 (*Louisiana Register*, Volume 22, Number 6). Executive Order 96-17 authorized the establishment of a State-Funded Medically Needy Program; therefore the Department established the State-Funded Medically Needy Program in compliance with this Order by adopting two Emergency Rules effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 7) and October 8, 1996 (*Louisiana Register* Volume 22, Number 10). The State-Funded Medically Needy Program is limited to individuals who were certified for the Title XIX Medically Needy Program or have pending application under the Title XIX Medicaid Program and are subsequently found eligible for Title XIX Medically Needy for June 1996. The State-Funded Medically Needy Program incorporates the same recipient eligibility criteria and scope of services which previously existed under the Medically Needy Program of the Title XIX State Plan except as otherwise provided herein. The department has now determined based on legislative recommendation that it is necessary to expand the State-Funded Medically Needy Program to:

1) provide coverage for those persons who are not continuously eligible for benefits under the State-Funded Medically Needy Program in order to assure continuity of their medical care; and

2) establish an eligibility determination process for applicants who meet specified medical or income conditions and to provide for their certification based on the Title XIX Medically Needy Program.

Adoption of the following Emergency Rule is essential to protect eligible persons from imminent peril to their health and welfare should they have insufficient resources for obtaining necessary medical services.

Emergency Rule

Effective February 5, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services

Financing continues and re-establishes the State-Funded Medically Needy Program which shall be governed by the following provisions.

I. General Provisions

The State-Funded Medically Needy Program shall be administered in accordance with requirements of Title XIX of the Social Security Act for the Medically Needy Program under the Act except as described below.

A. Eligibility

1. Coverage under this program shall be limited to individuals who are certified for the Title XIX Medically Needy Program or have a pending application for participation under the Title XIX Medicaid Program and are subsequently found eligible for Title XIX Medically Needy Program for June 30, 1996. Recipients who were found eligible and certified as of June 30, 1996 may reapply through June 30, 1997. They must meet all the federal eligibility criteria of the Title XIX Medically Needy Program in order to maintain or to re-establish their eligibility status under the State-Funded Medically Needy Program.

2. Recipients who are determined to be potentially eligible under any Title XIX eligibility category or any other benefit must take all appropriate steps to pursue that eligibility including applying for coverage and providing the necessary information to determine eligibility for the Title XIX category or other benefit.

3. Eligibility for the State-Funded Medically Needy Program will be terminated under any one of the following circumstances:

a) the recipient is determined eligible under a Title XIX category or other benefit;

b) the recipient refuses to apply for coverage or cooperate in the eligibility determination process;

c) the recipient no longer meets the required criteria of health condition or age; or

d) the recipient no longer meets the eligibility requirements of the Title XIX Medically Needy Program terminated on June 30 1996.

4. The State-Funded Medically Needy Program shall provide for an eligibility determination process for the following persons:

a. persons in a nursing facility whose countable income exceeds 300 percent of the Supplemental Security Income (SSI) federal benefit rate;

b. children under the age of one who are receiving critical care services (neonates);

c. children through age 17 with a diagnosis of cancer;

d. persons with renal (kidney) failure who require hemodialysis treatment;

Applicants listed above who meet the eligibility criteria of the Title XIX Medically Needy Program shall be determined eligible no earlier than October 8, 1996. There shall be no retroactive eligibility period for persons determined eligible under the items a. - d. listed above.

B. Services. The scope of services and reimbursement for the covered services shall be provided in accordance with

the federal and state regulations that previously governed the Title XIX Medically Needy Program administered by the Bureau of Health Services Financing.

C. Appeal Rights. Applicants who are denied eligibility or recipients who lose eligibility under the State-Funded Medically Needy Program shall be afforded the opportunity to appeal the agency's decision in accordance with the Administrative Procedure Act. There shall be no continuation of benefits pending appeal.

Bobby P. Jindal
Secretary

9701#074

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Temporary Assistance for Needy Families (TANF)
Work Requirements**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first. Adoption of this Emergency Rule on an emergency basis is necessary to avoid sanctions or penalties from the federal government arising from failure to adopt appropriate regulations related to the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193).

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) eliminated the Aid to Families with Dependent Children (AFDC) program which provided financial assistance to families meeting certain requirements, and replaced it with a block grant program for Temporary Assistance for Needy Families (TANF) effective July 1, 1997, or such earlier date as the Secretary of DHHS receives the TANF State Plan. TANF provisions were adopted in Louisiana by Department of Social Services effective October 1, 1996. This Emergency Rule provides notification that Medicaid coverage will not be available to persons who fail to meet the work requirement associated with TANF, with the following exceptions: a pregnant woman; infant; or child under one of the poverty level related groups; or a minor child who is not the head of the household under TANF. It is estimated that total savings resulting from implementation of this Emergency Rule for SFY 1996-1997 will be approximately \$328,756.

Emergency Rule

Effective concurrently with implementation of the Personal Responsibility and Work Opportunity Act of 1996 provisions

for financial assistance by Department of Social Services, eligibility for Medicaid as a TANF recipient is terminated for failure to meet work requirements as described in Section 1931(b)(3) of the Social Security Act.

Interested persons may submit written comments to: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule.

Bobby P. Jindal
Secretary

9701#027

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Gaming Control Board**

**Board Hearings (LAC 42); Repeal of Video
Draw Poker Hearings and Sanction Procedures
(LAC 42:XI.2423); Repeal of Gaming Enforcement
Division Procedure for Riverboat License and Permit
Hearings (LAC 42:XIII.2167)**

In accordance with the provisions of R.S. 49:953(B), the Gaming Control Board hereby determines that adoption of Emergency Rules relative to standards of conduct and ethical rules, administrative actions initiated by the State Police, administrative hearings, definitions of persons furnishing significant goods and services, key employees, licensees and permittees is necessary and that for the following reasons failure to adopt Rules on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act 7 of the First Extraordinary Session of 1996, effective May 1, 1996, created the Gaming Control Board with all regulatory authority, control and jurisdiction, including investigation, licensing and enforcement, and all power incidental or necessary to such regulatory authority, control and jurisdiction over all aspects of gaming activities and operations as authorized pursuant to the provisions of the Riverboat Economic Development and Gaming Control Act, the Economic Development and Gaming Corporation Act, and the Video Draw Poker Devices Control Law.

Further, Act 7 provides that all powers, duties, functions and responsibilities of the Riverboat Gaming Commission, Video Gaming Division and Riverboat Gaming Enforcement Division of State Police, and the Economic Development and Gaming Corporation are transferred to and shall be performed and exercised by the Gaming Control Board, and that the powers, duties, functions and responsibilities and any pending or unfinished business of those regulatory entities becomes the business of and shall be completed by the Gaming Control Board with the same power and authority as the entity from which the functions are transferred.

The Legislature has determined that development of a controlled gaming industry to promote economic development of the state requires thorough and careful exercise of

legislative power to protect the general welfare of the state's people by keeping the state free from criminal and corrupt elements, and that it is the public policy of the state to this end that all persons, locations, practices, associations and activities related to the operation of licensed and qualified gaming establishments and the manufacture, supply, or distribution of gaming devices and equipment shall be strictly regulated.

Numerous licensing actions and enforcement actions are required to be initiated immediately by board and it is necessary that Rules be adopted providing for administrative hearings to ensure due process is afforded applicants, licensees and permittees.

Rules relative to hearings promulgated by predecessor gaming regulatory entities must be repealed to eliminate redundant language and potential conflicts.

Act 7 provides that hearings be conducted in conformity with Rules adopted by the board, and that such Rules provide for certain matters specified in the act.

For the foregoing reasons, the Gaming Control Board has determined adoption of Emergency Rules is necessary and hereby adopts this Emergency Rule, Rule 108 and repeals LAC 42:XIII.2167 and LAC 42:XI.2423 effective January 4, 1996, in accordance with R.S. 49:953(B), to be effective until January 20, 1997 until the final Rule is promulgated.

Title 42

LOUISIANA GAMING

§108. Board Hearings

A. Any person against whom an administrative action is proposed, and any person against whom an enforcement action is taken, may request a hearing by filing a written request with the board. The request shall be filed within 10 days of the date of receipt of the certified mailing or personal service of the notice of proposed action or within 10 days of the date the enforcement action is taken. All hearings requested and any matter the board determines should be heard in a public hearing shall be conducted in accordance with this Section.

B.1. A hearing will be conducted in accordance with procedural and evidentiary rules contained in the Administrative Procedure Act, R.S. 49:950 et seq., and the Gaming Control Law, 1996 Louisiana Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and Rules promulgated in accordance therewith.

2. No discovery request shall be made within 20 days of the date scheduled for the hearing.

3. Hearings may be conducted by hearing officers employed by or under contract with the board.

C. 1. Hearing requests shall be promptly docketed and scheduled for hearing.

2. The requesting party shall be notified of the time, date and location of the hearing by certified mail or personal service.

D.1. Testimony taken at a hearing shall be under oath.

2. Depositions may be used at hearings as provided in the Administrative Procedure Act, R.S. 49:950 et seq.

E. A report shall be prepared in accordance with the provisions of R.S. 27:25 and submitted to the board within 60

days of the notice of any enforcement action involving suspending or conditioning a license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Gaming Control Board, LR 23:

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2423. Hearings and Sanction Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), repealed by the Gaming Control Board, LR 23:

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming

Enforcement Division

Chapter 21. Licenses and Permits

§2167. Procedure for Hearings by the Division

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:705 (July 1995), repealed by the Gaming Control Board, LR 23:

Hillary J. Crain
Chairman

9701#002

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Permit Fees (LAC 55:IX.107 and 113)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission hereby rescinds, effective December 30, 1996, its Emergency Rule regarding permit fees, published on page 1205 of the December, 1996 *Louisiana Register*.

G. L. "Mike" Manuel, Jr.
Director

9701#062

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamps—Disqualification
of Certain Recipients/Applicants

The Department of Social Services, Office of Family Support has exercised the emergency provision of the