

# Notices of Intent

## NOTICE OF INTENT

### Department of Civil Service Board of Ethics

Records and Reports; Filing  
(LAC 52:I.1301, 1311, 1604, and 1801-1805)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to promulgate amendments and changes to the Rules for the Board of Ethics to permit the electronic filing of reports with the Board of Ethics Data Management System as mandated by Louisiana Revised Statute 42:1158A(2)(b).

#### Title 52 ETHICS

#### Part I. Board of Ethics

#### Chapter 13. Records and Reports

##### §1301. Custodian

The executive secretary shall be the custodian of all records, reports, and files, including electronic reports and files of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 25:

##### §1311. Records and Reports; Accepting and Filing

Any record or report submitted pursuant to this Chapter shall be accepted and filed upon receipt by the staff or upon acknowledgment of receipt by the board's electronic filing system, unless the record or report is not in compliance with the requirements established by this Chapter or by law. The names of the persons submitting records and reports which are accepted and filed shall be listed on the board's agenda. The records and reports which are not in compliance with the requirements established by this Chapter or by law shall be placed upon the board's agenda for further action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:100 (October 1997), amended LR 25:

#### Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

##### §1604. Registration and Reporting; Forms

A. The staff shall prepare and provide upon request, forms for the registration and reporting by political committees and reporting by candidates. The forms may be provided on paper or in electronic format.

\* \* \*

C. The method of signature for reports electronically filed shall be as provided in §1803.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1302 (October 1997), amended LR 25:

#### Chapter 18. Electronic Filing

##### §1801. In General

The board recognizes the importance of immediate public access to publicly disclosed information. Accordingly, the board has implemented a system to allow ethics, lobbyist, and campaign finance disclosure reports to be electronically filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

##### §1802. Methods of Filing

The board may allow reports to be electronically filed via modem, diskette, or through Internet access.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

##### §1803. Validation of Reports

A. Upon receipt of an electronically filed report, the staff of the board shall cause a validation of receipt to be sent to the filer via facsimile, electronic mail, or United States mail.

B. Electronically filed reports shall include a digital signature created according to the methodology included in the board's electronic filing system.

C. Reports required to be filed under oath may be submitted electronically, with the original notarized report hand delivered or mailed, by United States mail, no later than the next working day following the due date of the required report.

D. Reports required to be accompanied by a filing fee may be submitted electronically, with the filing fee hand delivered or mailed, by United States mail no later than the next working day following the due date of the required report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

##### §1804. Time of Filing

A report electronically filed shall be deemed timely if received electronically by midnight on the filing deadline. The system time of the board's system shall control in the event of a dispute as to the time of receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

##### §1805. Refusal of Electronic Reports

The staff of the board may refuse to accept for filing an electronic report that contains a computer virus which could compromise the computer system of the board. The filer shall be immediately notified of the refusal so that an alternative method of delivery may be attempted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:

No preamble to the proposed rule changes has been prepared. Interested persons may direct their comments to R. Gray Sexton, Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, telephone (504) 922-1400, until October 10, 1998.

If necessary, a public hearing will be held by the Board of Ethics at 8401 United Plaza Boulevard, Baton Rouge, Louisiana, 70809-7017 between October 26, 1998 and October 30, 1998.

R. Gary Sexton  
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Records and Reports; Filing**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of the amendments to the rules for the Board of Ethics will increase expenditures by \$340 for publishing the rules in the *Louisiana Register*. The Board of Ethics is merely publishing new rules for the electronic filing system that was funded in FY 1997-98.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The amendments to the rules for the Board of Ethics are not expected to have any fiscal impact on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no costs nor economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

R. Gary Sexton  
Administrator  
9809#064

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Grants to Public Libraries  
(LAC 25:VII.3101, 3103, 3107-3113)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Office of the State Library intends to revise the following rules and regulations. The changes will have no economic impact on the budget of the State, nor are fees involved.

**Title 25  
CULTURAL RESOURCES**

**Part VII. State Library**

**Subpart 4. Grants to Public Libraries**

**Chapter 31. Disbursement of Grants**

**§3101. Definitions**

\* \* \*

*District Library*—a library established by state law, for a defined district within a parish, to serve residents of the district.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 13:392 (July 1987), LR 24:

**§3103. Submission of Applications**

A. The state librarian shall establish a program of supplemental grants to libraries for the purchase of technology enhancement, technological information resources, books, audiovisual materials, newspapers, and periodicals in accordance with the provisions of this Part. The state librarian may establish rules and regulations for implementation of this program in accordance with the Administrative Procedure Act. Grants may be made from funds appropriated to the state library for allocation to libraries as provided herein.

B. Any parish library which serves all residents of the parish, any municipal library which serves all residents of a parish which does not have a parish library, any consolidated library system, and any district library shall be entitled to apply annually to the state librarian to receive supplemental grants in accordance with the provisions of this Part.

C. ...

D. Grants shall be made by the state librarian on the basis of annual applications for grants submitted to him. Applications for state fiscal year must be made by November 1 of the same state fiscal year.

E. ...

F. Funds granted under the provisions of this Part shall be expended only for the purchase of technology enhancement, technological information resources, books, audiovisual materials, newspapers, and periodicals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 24:

**§3107. Maintenance of Local Effort**

Grant funds cannot be used for personnel or regularly budgeted items. Nothing in these rules and regulations shall be construed to effect a substitution of state funds for library service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 7:408 (August 1981), LR 8:591, (November 1982), LR 13:392 (July 1987), LR 24:

**§3109. Distribution of Supplemental Grants**

The state library shall grant funds under the provisions of this Part to any library, consolidated library system, or district library which makes application therefor and which is eligible for such funds as provided herein. Grants shall be made on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 7:407 (August 1981), LR 23:392 (July 1987), LR 24:

**§3111. Annual Reports to the State Library**

Each library, consolidated library system, or district library applying annually to the state librarian for and receiving supplemental funding grants shall furnish to the state librarian, an annual report of such information concerning library technology and/or materials purchased as the state librarian may require, specifically including a description and financial accounting of all library technology and/or materials purchased from funds received under the provisions of this Part. The legislative auditor for the state of Louisiana shall have the option of auditing all accounts pertaining to grants made to public libraries, or consolidated library systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), LR 24:

**§3113. Appeal Process**

If a public library, consolidated library system, or district library is denied the grant for technology materials and/or library materials, the avenue to appeal this decision will be first the state librarian, next, to the secretary of the Department of Culture, Creation and Tourism, and finally, to the lieutenant governor of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 13:392 (July 1987), LR 24:

Persons interested may submit written comments on the proposed changes by October 31, 1998 to Thomas F. Jaques, State Librarian, State Library of Louisiana, P.O. Box 131, Baton Rouge, LA 70821-0131.

Phillip Jones  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Grants to Public Libraries**

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

There are no estimated implementation costs or savings to state or local governmental units. The proposed rules update procedures for the distribution of state grants to local libraries. The changes are expected to streamline and improve the grant process. The Office of State Library will not incur additional costs from these proposed rule changes. Grants are distributed

to local public libraries with only minor administrative duties required within the Department of Culture, Recreation and Tourism.

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

The proposed rule will not affect revenue collections of state or local governmental units. State funding for local public libraries is contingent upon annual appropriations by the Legislature. These rules clarify procedures for the distribution of funds to public libraries and do not affect the amount of state funds distributed to each public library.

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

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups from implementation of the proposed rules.

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

It is anticipated that the proposed rule changes will not affect competition or employment.

Thomas F. Jaques  
Assistant Secretary  
9809#014

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Economic Development  
Auctioneers Licensing Board**

Miscellaneous Rule Revisions  
(LAC 46:III.Chapters 1, 3, 5, 7, 9, 11, 13,  
15, 17, 19, 21, 23, and 25)

In accordance with La. R.S. 37:3101, notice is hereby given that the Department of Economic Development, Auctioneers Licensing Board proposes to amend the rules and regulations for the Auctioneers Licensing Board. The intent is to repeal and reenact the rules in light of the revisions to the statutory authority of the Auctioneers Licensing Board.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part III. Auctioneers**

**Chapter 1. Description of Organization  
§101. Organization of the Board**

The Louisiana Auctioneers Licensing Board (hereafter referred to as board) is created by virtue of R.S. 37:3111 and is created as an agency of the state government in the Department of Economic Development. No member of the board shall be held liable as an individual in any suit against the board. Statutes relating thereto are found in R.S. 37:3111 et seq., of the Louisiana Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 et seq.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:781 (November 1988), repealed and promulgated, LR 25:

### **§103. Number, Qualifications of Members**

The board shall be composed of seven persons, consisting of the chairman and vice-chairman, and five of whom shall be auctioneers, one selected from each public service commission district, and two of whom shall be consumers from the public-at-large, all appointed by the governor. Each appointee shall be a citizen of the United States of America and a resident of Louisiana and at least thirty (30) years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

### **§105. Election and Term of Office**

The board shall elect a chairman and vice-chairman annually by majority vote of the total membership of the board. Each appointed member shall serve at the pleasure of the governor for a term concurrent to the term of office of the governor appointing him except that each member shall serve until his successor has been appointed and being serving. Each appointment by the governor shall be submitted to the Senate for confirmation. In the event of the death, resignation, or disability of a member of the board, the governor shall fill the vacancy by appointing a qualified person for the remainder of the unexpired term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112 as amended by Acts 1997, Number 923 §1).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

### **§107. Oath**

Each member of the board shall received a certificate of appointment from the governor, and before beginning his term of office, shall file with the secretary of state his written oath or affirmation for faithful discharge of his official duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

### **§109. Salaries**

Members of the board may receive a *per diem* or compensation when actually attending a meeting of the board or any of its committees and for time spent on behalf of the board on official business. Additionally, members may be reimbursed for actual and necessary travel, incidental, and clerical expenses incurred in carrying out the provisions of Chapter 1 when and if funds are available from the board's funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers

Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

## **Chapter 3. General Course and Method of Operations**

### **§301. Domicile**

The board shall be domiciled in Baton Rouge, Louisiana, but shall be authorized to meet elsewhere in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111(c).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department to Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

### **§303. Chairman and Vice-Chairman of the Board**

The chairman, or in his absence, the vice-chairman, or in the absence of both of them, the chairman chosen by the members present shall preside at all meetings of the board. The chairman shall be the chief executive officer of the board, and subject to the direction and under the supervision of the board, shall have general charge of the business affairs and property of the board and control of its officers. The chairman shall preside at all meetings of the members, shall appoint the members of all committees created by the bylaws or by resolution of the board. He shall be an ex-officio member of all standing committees and other committees created by the bylaws or by resolution of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

### **§305. Meetings of the Board**

The board shall conduct regular meetings bimonthly. A special meeting may be held at such time and place as specified by the executive secretary on call of the chairman or four members. The executive secretary shall give written notice of all meetings to the members of the board and the interested public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

### **§307. Special Meetings**

A. Special meetings of the board may be called by the chairman or at the request of any four members. The persons authorized to call such a special meeting may fix any place within the state of Louisiana.

B. Notice of any special meeting shall be given by mail posted at least five days prior to such a meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985),

amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:782 (November 1988), repealed and promulgated, LR 25:

### **§309. Quorum of the Board**

Four members of the board constitute a quorum for all purposes including the granting or issuance of licenses and the rule making and adjudicative functions of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

### **§311. Majority Action**

The act of the majority of the board members present at a meeting at which a quorum is present shall be the act of the board, except as specified by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

### **§315. Bylaws**

Bylaws of the board may be adopted, amended or repealed by the members of the board at a regular meeting or a special meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:339 (April 1985), repealed and promulgated, LR 25:

## **Chapter 5. Order of Business; Rules of Order**

### **§501. Board Meeting; Order of Business**

The order of business at all meetings of board members shall be:

1. call to order;
2. reading of the minutes of the previous meeting;
3. reports of members;
4. consideration of financial statements and reports;
5. consideration of unfinished business;
6. consideration of new and miscellaneous business;
7. adjournment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

### **§503. Rules of Order**

Except as otherwise provided in the statute or the Administrative Procedure Act, the latest edition of *Robert's Rules of Order*, as revised from time to time, shall determine procedure in all meetings of the members and the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3111 and R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers

Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

## **Chapter 7. General Scope of Responsibilities**

### **§701. Duties**

A. The business and affairs of the board shall be managed by its board members.

B. The board shall perform the following duties:

1. examine each applicant desiring to be licensed as an auctioneer in the state of Louisiana;
2. administer a written examination for licensing at least four times each year in the city of Baton Rouge;
3. adopt rules and regulations to govern auctioneers in the state of Louisiana;
4. issue, suspend, modify or revoke licenses to do business in the state of Louisiana;
5. report to the attorney general of the State of Louisiana all persons violating the provisions of this chapter;
6. adopt its official seal;
7. furnish, upon request, a copy of Louisiana auction laws, and also an accurate list of those states having reciprocity with Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 as amended Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

### **§703. Authorities**

A. The board is authorized to and shall do the following:

1. adopt and enforce rules and regulations, bylaws and rules of professional conduct as the board may deem necessarily proper to regulate auctions under its jurisdiction in the state of Louisiana, to provide for the efficient operation of the board, and otherwise to discharge its duties and power under the statute and rules;
2. prescribe and adopt regulations, standards, procedures and policies governing the manner and conditions under which credit shall be given by the board for participation in a program of continuing education, as the board may consider necessary and appropriate to maintain the highest standards of proficiency as an auctioneer in the state of Louisiana;
3. authorize any member of the board to make any affidavit necessary to the issuance of any injunction or other legal process authorized under the statute or rules of the board;
4. authorize and issue subpoenas to require attendance and testimony and the production of documents for the purpose of enforcing the laws relative to auctions and security evidence of violations thereof;
5. maintain a current list of licensed auctioneers;
6. select its officers annually.

B. The board is authorized and may do the following:

1. appoint a qualified executive secretary;
2. employ clerical assistance necessary to carry out the administrative work of the board;
3. employ legal counsel to carry out the provisions of the statute and rules, provided that the fees of such counsel

and the costs of all proceedings, except criminal prosecutions, are paid by the board from its own funds;

4. incur all necessary and proper expenses;

5. select and appoint investigators to assist the board in investigating complaints filed against any licensed auctioneer. Such investigators may service subpoenas, gather data, and investigate complaints in the scope and manner and within the authority prescribed by the board.

C. The legal counsel of the board or in his absence, any other member of the board, may administer oaths in the taking of testimony upon any matter appertaining to the duties and powers of the board.

D. The board shall meet bimonthly at regular meetings each year. A special meeting may be held at such time and place as specified by the executive secretary on call of the chairman of four members. The executive secretary shall give written notice of all meetings to the members of the board and the interested public.

E. Four members of the board constitute a quorum for all purposes including the granting or issuance of licenses and the rulemaking and adjudicative functions of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:783 (November 1988), repealed and promulgated, LR 25:

## **Chapter 9. Official Seal**

### **§901. Official Seal**

A. The official seal of the Louisiana Auctioneers Licensing Board shall be as follows:

The board shall have a seal which shall be in the form of a circle with the words "State of Louisiana" together with the words "Louisiana Auctioneers Licensing Board" inscribed thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

## **Chapter 11. License of Auctioneer**

### **§1101. Qualifications for Applicant**

A. The board shall base determination of satisfactory minimum qualifications for licensing as follows:

1. be of good moral character;

2. be a citizen of the United States and a resident of the state of Louisiana;

3. be at least 18 years of age;

4. has completed one of the following:

a. completed a series of studies at a school of auctioneering licensed or approved by the board;

b. completed an apprenticeship of one year working with and under an auctioneer duly licensed in the state of Louisiana.

B. An owner or operator of an auction business for one year or more in any state of the United States may be appointed as a deputy or agent to a Louisiana licensed auctioneer prior to taking the auctioneer's test.

C. An applicant for licensing shall fill out and file with the board an application form provided by the board. The form shall require relevant information about the applicant's character, knowledge and experience in application of that knowledge. Among the data required on the application form, the applicant shall submit the following information:

1. education background;

2. previous occupational experience in the auction business;

3. three references, including their business addresses, who attest to the applicant's reputation and adherence to ethical standards.

D. If, in the opinion of the board, the applicant provides inadequate information to allow the board to ascertain whether the applicant satisfies the qualifications for licensing, the applicant shall be required to provide additional information for purposes of the application or may be required to present himself for an interview for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3113 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:336 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

### **§1103. Licensing Procedure**

A. Applications for the license to be obtained under provision of the board's enabling act shall be verified by the oath or affirmation of the applicant and shall be on the forms prescribed by the board and furnished to such applicants. The applications shall contain such information as the board deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license applied for.

B. The board shall require the following in an application:

1. applicant's residential address;

2. applicant's business address;

3. applicant's telephone number;

4. state and parish in which applicant is a qualified voter, with a notarized copy of the applicant's voter registration attached;

5. cashier's check, money order or cash - no checks will be accepted - in the sum of \$300 for all fees covered in the initial licensing procedure;

6. oath of office as a Louisiana auctioneer;

7. irrevocable consent (if applicable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

### **§1105. Availability of Applications and Apprentices License**

Applications and all other pertinent forms are available at the Department of Economic Development, Louisiana Auctioneers Licensing Board, 8017 Jefferson Highway, Suite B-3, Baton Rouge, Louisiana 70809, or will be mailed upon

request of the person seeking to be licensed as an auctioneer or as an apprentice auctioneer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

#### **§1107. Change of Address**

All licensees shall notify the board in writing of each change of address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

#### **§1109. Examination Procedure**

A. The board shall determine the scope, form, and content of the examinations for licensure which shall be written and shall include questions on Louisiana auction law and sound business practices.

B. The board shall issue a numbered license to an applicant who meets the requirements of this statute and rules, passes satisfactorily the examination administered by the board and pays the fee to be a licensed auctioneer.

C. The board shall give examinations for licensure on the following dates: fourth Thursday in January, April, July, and October of each year. Individual examinations are not permitted.

D. An applicant failing in an examination may be examined again upon filing a new application and the payment of the re-examination fee of \$50.00 fixed by the statute.

E. The board, within ten (10) days and in writing, shall notify any applicant who is denied licensing of the reason therefor. Within thirty (30) days after receipt of notice, such applicant may make written request to the board that his or her reexamination be regraded and reviewed by the board. Upon regrading and review of the examinee's examination, the examinee will be advised, in writing, of the decision of the board. If it is determined by the board that the examination remains in the failure status, the examinee may, at his or her discretion, request a formal hearing with regard to the failing status of his or her examination grade. A formal hearing shall then be conducted under the Administrative Procedure Act.

F. An individual who fails to pass two successive examinations is not eligible to take another examination until the expiration of one year from the date of his most recent failure, at which time he shall complete and file a new application, bond and fee with the board.

G. All auctioneer license examinations are confidential tests. They are designed and administered under conditions established to protect the security of the tests. Neither the current forms nor the previous forms of the tests are available for purchase or inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112 and R.S. 37:3113 as amended by Acts 1997 Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

#### **§1111. License Renewal and Penalty**

A. A license shall expire annually on December 31. Each renewal license shall be valid throughout this date from January 1 of each year to December 31 of each year. All applications for renewal of auctioneers' license shall be submitted to the board by November 1 of each year, and licenses shall be issued by January 10 of each year. If application of renewal of the license has not been made, the license shall expire on December 31 and it shall be illegal for any person to represent himself and act as an auctioneer thereafter. Any auctioneer who submits a renewal application after January 1 shall be subject to a late penalty of \$75.00, which shall be paid to the Louisiana Auctioneers Licensing Board. Any auctioneer having a previous annual license shall be presumed to be a renewal applicant unless the auctioneer has allowed the license to lapse for more than one year from the date of renewal. If such license has lapsed for one year or more, then the auctioneer shall be charged a license restoration fee of \$100.00, in addition to all other applicable fees, and the auctioneer must appear before the Louisiana Auctioneers Licensing Board to apply for such restoration at one of the board's regularly scheduled meetings.

B. The board shall notify the auctioneer of the need for renewal at the last known address at least sixty (60) days in advance of the expiration and send such forms for renewal as required by law.

C. The board shall issue the same number for the renewed license as that number issued for the original license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3115 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:785 (November 1988), repealed and promulgated, LR 25:

#### **§1113. Fees**

A. The board shall assess the following schedule of fees, which shall not be refundable:

1. application fee	\$75
2. examination fee	\$75
3. re-examination fee	\$50
4. initial license fee	\$150
5. annual renewal license fee	\$150
6. restoration fee of a license	\$100
7. replacement fee of a lost, destroyed, or mutilated license	\$25
8. delinquency for renewal	\$75
9. apprentice fee	\$100
10. annual certification of a licensed auctioneer school or a school offering auctioneering courses	\$150

B. All fees shall be paid by certified check or money order made payable to the board.

C. Concurrent with the filing of a complaint against an auctioneer licensed and/or regulated by the Auctioneers Licensing Board, the complaining party shall deposit the sum of \$300.00 in the form of a check or money order payable to the Auctioneers Licensing Board. Said deposit shall be returned to the complainant at the time the board issues a ruling on the complaint unless there is a specific finding by the board that the complaint was frivolous. The board may waive the requirement of the payment of a deposit in the event it is determined by the board that payment of the deposit by the complainant will create an undue hardship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3116 and R.S. 37:3121.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:784 (November 1988), repealed and promulgated, LR 25:

**§1115. Reciprocity and Licensure without Examination**

A. A person holding a license to engage in auctions issued to him by a proper authority of a state, territory or possession of the United States of America or the District of Columbia having licensing requirements comparable to Louisiana and who in the opinion of the board otherwise meets the requirements of the statute and rules may upon application be licensed without further examination. The nonresident auctioneer must comply with all other provisions of the statutes and rules relating to licensing of auctioneers.

B. A nonresident who does not hold a license in a reciprocal state must pass the examination and must comply with all other requirements of the statute and rules to be licensed in this state including, but not limited to, La. R.S. 37:3118(C).

C. Notwithstanding any other provision of law to the contrary, no person duly licensed as an auctioneer in any other state and temporarily present in this state shall conduct an auction in this state unless he acts in association with an auctioneer duly licensed in this state if the state in which the nonresident auctioneer is licensed requires such an association with an auctioneer licensed in this state before an auctioneer duly licensed in Louisiana may conduct an auction in that state.

D. Every nonresident applicant for a license under the statute and rules shall file with the board as part of the application for a license a written irrevocable consent that any cause of action growing out of any transaction subject to the statute and rules may be commenced against the licensee in the proper court of any parish of this state in which the cause of action may arise or in which the plaintiff may reside by a service of process upon the board as the licensee's agent and stipulating and agreeing that such service has been made upon the person according to the laws of this or any other state. Such instrument shall be in such form and supported by such additional information as the board may by rule require.

E. All individuals making application for an auctioneer license per reciprocal agreement shall submit with their application a letter of certification from the state board or commission of their state of domicile, certifying that they are

duly licensed in said state, stating their residence, date of issuance, expiration date and license number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3117 as amended Acts 1997, Act 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:337 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:785 (November 1988), repealed and promulgated, LR 25:

**§1117. Qualifications for Licensing as an Apprentice Auctioneer**

A. Must be at least 18 years of age;

B. Must submit the following:

1. application for licensing;

2. oath of office;

3. irrevocable consent form (out of state applicants only);

4. copy of voter registration;

5. a certified check, money order or cash in the sum of \$100.00;

6. a form signed by the supervising Louisiana licensed auctioneer stating that the apprentice will be serving under him for the term of one year;

7. a copy of the rules and regulations signed by both the apprentice and the supervising Louisiana licensed auctioneer (see §1117.D).

C. In-state and out-of-state persons can be considered for licensing as apprentices. However, the apprentice must work under a Louisiana licensed auctioneer during his one-year training period.

D. All apprentice applicants must be approved by the Louisiana Auctioneers Licensing Board prior to licensing. Apprentice licenses will only be issued at those meetings held in January, April, July and October.

E. The prospective apprentice and his supervising Louisiana licensed auctioneer must appear together before the board at a regularly scheduled meeting and must both sign three copies of the rules and regulations governing issuance of apprentice licenses, which will be witnessed by two board members. This must be done before an apprentice license can be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3118.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), repealed and promulgated, LR 25:

**§1119. Apprentice Auctioneer Licensing**

A. The licensed Louisiana auctioneer acting as the supervisor for the apprentice auctioneer must hold the apprentice auctioneer's license. Under no circumstances is the apprentice auctioneer to have, display, or carry his license at any time.

B. When an apprentice auctioneer's employment with the supervising auctioneer is terminated for any reason, the supervising auctioneer shall immediately deliver or send by registered mail the apprentice auctioneer's license to the board. He must sign the back and indicate the termination date. Such apprentice auctioneer shall not engage in any auctioneer activity until he receives a new license (for the

expired term) bearing the name, address, and current license number of his new employer. No more than one license shall be issued to any apprentice auctioneer for the same period of time.

C. There will be just one licensed auctioneer supervisor at a time for an apprentice auctioneer. Should the apprentice auctioneer practice under another licensed auctioneer without a release from the first, his license shall be suspended.

D. There will be an additional charge of \$25.00 for the new license.

E. Any person acting as an apprentice auctioneer within the meaning of these rules and regulations without a license and any person who violates these rules and regulations shall be subject to revocation of his license. The Louisiana auctioneer serving as sponsoring supervisor is also subject to revocation of his license should his apprentice auctioneer violate these rules and regulations.

F. The license of an apprentice auctioneer shall be automatically suspended upon the revocation or suspension of the license of the Louisiana auctioneer who is his sponsoring supervisor; however, the apprentice auctioneer may retain his license by transferring to the employment of another Louisiana licensed auctioneer within 21 days of the effective date of such revocation or suspension. If the apprentice auctioneer does not transfer to another Louisiana licensed auctioneer within the 21 days, he must start his one-year apprentice program over.

G. This Subsection of the rules and regulations specifically prohibits the apprentice auctioneer from calling an auction unless the licensed auctioneer serving as his supervisor is on the premises at all times. If he does call an auction, his license will be suspended.

H. Upon completion of the one-year apprentice program, the apprentice auctioneer may apply to take the Louisiana auctioneer's examination and become licensed in the state of Louisiana. He must submit the following in order to be considered for administration of the test:

1. application for license as an auctioneer;
2. oath of office;
3. irrevocable consent form (out-of-state applicants only);
4. certified copy of voter registration showing present residence;
5. certified check, money order, or cash in the amount of \$300.00 (this includes the \$150.00 license fee, the \$75.00 application fee, and the \$75.00 fee);
6. a form signed by the supervising Louisiana licensed auctioneer stating that the apprentice did serve under him for the term of one (1) year.

I. Upon successful completion of the auctioneer's licensing examination and the submission of all required materials, a Louisiana auctioneer's license will be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), repealed and promulgated, LR 25:

### **§1121. Causes for Nonissuance, Suspension, Revocation or Restriction; Fine, Reinstatement**

A. The board may refuse to issue or may suspend, revoke or impose probationary or other restrictions of any license issued under this statute and rules for any of the following causes:

1. conviction of a felony or entry of a plea of guilty or nolo contendere to a felony charge under the laws of the United States of America or of any state;
2. deceit or perjury in obtaining any certificate or license issued under this statute and rules;
3. providing false testimony before the board;
4. efforts to deceive or defraud the public;
5. incompetency or gross negligence;
6. rendering, submitting, subscribing, or verifying false, deceptive, misleading or unfounded opinions or reports;
7. the refusal of another state to issue or renew a license, permit or certificate in that state or the revocation or suspension of or other restriction imposed on a license, permit or certificate issued by such licensing authority;
8. aiding or abetting a person to evade the provisions of this statute and rules or knowingly combining or conspiring with an unlicensed person or acting as an agent, partner, associate or otherwise, of an unlicensed person with intent to evade the provision of this statute and rules;
9. violation of any provision of this statute and rules or any rules or regulations of the board or rules of conduct promulgated by the board;
10. indebtedness to the state or to any municipal corporation for any tax as an auctioneer or for any license or commission that he has neglected to pay after final judgment has been rendered against him for it;
11. selling goods at an auction before the auctioneer or auction house has first entered into a written contract with the owner or consignor of the goods when the minimum price for such goods has been set or requested at a value above five hundred dollars;
12. failing for a period of seven calendar days after notice is given to make good a check which has been returned for insufficient funds (NSF check) or bank draft remitted to the owner or consignor of auctioned goods in settlement pursuant to R.S. 37:3125.

B. The board may, as a probationary condition or as a condition of the reinstatement of any license suspended or revoked hereunder, require the holder to pay all costs of the board proceedings, including investigator's, stenographers' and attorney's fees.

C. The board may, as a probationary condition or as a condition of the reinstatement request the deposit of the sum of \$10,000 in cash or a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of \$10,000.

D. Four concurring votes of the board shall be required for revocation of any license. Four concurring votes shall be required for suspension of any license or the imposition of costs or fines in excess of \$500.

E. Any certificate or license suspended, revoked or otherwise restricted by the board may be reinstated by majority vote of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3121 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), repealed and promulgated, LR 25:

### **Chapter 13. Cease and Desist; Injunctions**

#### **§1301. Cease and Desist, Injunctions**

A. In addition to or in lieu of the criminal penalties and administrative sanctions provided in the statute and rules, the board is employed to issue an order to any person or firm engaged in any activities, conduct, or practice constituting a violation of any provision of the statute or rules directing such person or firm to cease and desist from such activity, conduct or practice. Such order shall be issued in the name of the state of Louisiana under the official seal of the board.

B. Upon a proper showing by the board that such person or firm has engaged in any activity, conduct or practice prescribed by the statute and rules, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct or practices pending the hearing on a preliminary injunction and in due course a permanent injunction shall issue after the hearing commanding the cessation of the unlawful activity, conduct or practices complained of, all without the necessity of the board having to give bond as usually required in such cases. A temporary restraining order, preliminary injunction or permanent injunction issued hereunder shall not be subject to being released upon bond.

C. If the person or firm to whom the board directs a cease and desist order does not cease and desist the prescribed activity conduct or practice within 10 days from service of such cease and desist order by certified mail, the board may cause to issue in any court of competent jurisdiction and proper venue a writ of injunction enjoining such person or firm from engaging in any activity, conduct or practice by the statute and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3122.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), repealed and promulgated, LR 25:

### **Chapter 15. Violations and Penalties**

#### **§1501. Violations and Penalties**

A. Any person who engages in auctions without a valid license violates that statute and rules.

B. Any person who willfully violates any provision of this statute and rules or any rules and regulations adopted under its authority shall be fined for each offense not more than \$500 or imprisoned not more than six months, or both. Each individual sale or act in connection with the conduct of any auction in violation of any provision of this statute and rules shall constitute a separate offense and violation of this statute and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3123.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), repealed and promulgated, LR 25:

#### **§1503. Fines for Advertising Violations**

Violations of Chapter 17 requiring that the licensee place his name and license number in all advertising will result in a money fine to be levied against him. The amount of the fine will be \$50 for the first offense and \$100 for the second. A third or subsequent offense may result in a fine or other disciplinary action within the discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 20:1367 (December 1994), repealed and promulgated, LR 25:

### **Chapter 17. Responsibilities of Licensed Auctioneer**

#### **§1701. Advertising and Management of Sale**

A. The auctioneer shall be responsible for the advertising and management of the sale and account for all proceeds therefore and shall, over his signature, issue a closing statement to the sellers.

B. All advertising of an auction sale must be made in the name of the licensee who shall bear responsibility of the sale to the seller, general public and auctioneer board. The current license number must be published.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), repealed and promulgated, LR 25:

#### **§1703. Conduct in Professional Manner**

A. A licensee shall conduct his professional activities in a professional manner that will reflect credit upon himself, the auction profession and auctioneers.

B. Unprofessional conduct includes, but is not limited to, the following:

1. failure of a licensee to deposit in one or more identifiable bank accounts maintained in the state in which the auctioneer is situated all funds derived from an auction sale paid to the licensee or to a person, corporation, firm or combination thereof which conducted the sale. No funds belonging to the auctioneer shall be deposited therein except as follows:

a. funds reasonably sufficient to pay bank charges may be deposited therein;

b. Funds belonging in part to the person who employs the auctioneer and in part to the auctioneer must be deposited therein, but if the portion belonging to the auctioneer to receive it is disputed by the person who employs the auctioneer, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

2. Failure of licensee to account to and pay over all monies and tangible personal property coming into his possession which belong to others including buyers at auction

as well as consignors no later than thirty days from the date that the obligation arises to remit or deliver the said monies or tangible personal property.

3. A licensee's payment of compensation in money or other valuable things to any person other than a licensee for the rendering of any service or the doing of any of the acts by this act forbidden to be rendered or performed by other than licensees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:787 (November 1988), repealed and promulgated, LR 25:

### **Chapter 19. Fund of the Board**

#### **§1901. Auctioneers Licensing Board Fund**

There is hereby created a special fund designated as the Louisiana Auctioneers Licensing Board Fund. The fund shall be audited by a firm of certified public accountants and maintained and controlled by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119 as amended by Acts 1997, Number 923 §1.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:339 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:788 (November 1988), repealed and promulgated, LR 25:

### **Chapter 21. Rule Making Process**

#### **§2101. Adoption of Rules**

A. The adoption of any rule or regulation, guideline, substantive procedure or code of conduct shall be subject to the provisions of the Administrative Procedure act.

B. Fiscal Year. The fiscal year of the board shall end on June 30 of each year hereafter.

C. Bylaws. Bylaws of the board may be adopted, amended or repealed by the members of the board at a regular meeting or a special meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3120.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:339 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:788 (November 1988), repealed and promulgated, LR 25:

### **Chapter 23. Transfer of Boards, Commissions, Departments and Agencies to the Department of Commerce**

#### **§2301. Transferred as Provided in R.S. 36:803**

The following agencies, as defined by R.S. 36:3, are transferred to and shall be within the Department of Commerce, as provided in R.S. 36:803:

1. Louisiana Auctioneers Licensing Board (R.S. 37:3101-37:3105 and R.S. 37:3111-37:3123). Section 6, Chapter 7 of Title of the Louisiana Revised Statutes of 1950, comprised of R.S. 5:361 through 5:368, inclusive, is hereby repealed in its entirety. Section 3, R.S. 5:4 and R.S. 37:3114 (E) are hereby specifically repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneers Licensing Board, LR 11:339 (April 1985), repealed and promulgated, LR 25:

### **Chapter 25. Auctioneer Business**

#### **§2501. Licensing of Auction Business**

A. Preamble. Louisiana Auctioneers Licensing Board herein promulgates rules for the licensing and regulation of auction businesses in the state of Louisiana, pursuant to the authority granted to it in R.S. 37:3101(A).

##### **B. Application of Rules**

1. For purposes of these rules and regulations:

*Auction Business*— shall mean the same and may be used interchangeable with the term *Auction House* and *Auction Company* as articulated in R.S. 37:3103(A)(11).

2. Definitions:

*Auction Business*—as used in R.S. 37:3103(A)(11) shall be further defined as any place of business including, but not limited to, an auction barn, sale barn, antique gallery, sale pavilion, and contiguous surrounding, where two or more auctions are held within any 12-month period and where representations are regularly made that goods are sold at auction. Each day when goods or real estate are being offered for sale at auctions shall constitute one auction. A sale barn or livestock auction business that is used exclusively for the auctioning of livestock is not an auction business as defined herein.

*Board*—the Louisiana Auctioneers Licensing Board.

*Licensee*—any person licensed under these rules, and in the case of an auction business, includes the person required to obtain a license for such auction house or auction company.

C. Scope of Regulation. Every applicant seeking to operate an auction house shall filed with the board a completed application (on a form provided by the board) for a license for each auction business to be operated by that person. Although an auction business may operate in more than one location, at all times, it may only operate under the name licensed with the Louisiana Auctioneers Licensing board.

D. Licensing Fee. Each application for licensing shall be accompanied by a license fee in the amount of \$300. Any applicant whose application is denied shall be refunded the entire application/license fee within thirty (30) days of such denial. Renewal of each auction business license shall be on an annual basis, no later than February 1 of each calendar year. An auction business license renewal fee shall be \$300.

E. Application Information. Each applicant shall submit the following information on the designated application form:

1. names of owners and length of time of ownership of the business;
2. all business addresses of the applicant;
3. all auctioneers licensed by this date and employed by the business on a regular basis. (Regular shall mean more than any single auction in the previous calendar year);
4. the nature of the business and product sought to be sold;

5. two references who are currently licensed Louisiana auctioneers in good standing with the Louisiana Auctioneers Licensing Board.

F. Board of Right of Investigation

1. Upon receipt of a completed application of an initial or renewal license, the board shall examine the application and may verify the information contained therein.

2. A license to operate as an auction business may be denied, revoked or suspend for the same reasons as those pertaining to auctioneers, articulated at R.S. 37:3121. All provisions of this statute and rules relating to the nonissuance, suspension, revocation, or restriction of license granted to individual auctioneers will apply to the regulation of an auction business. All provisions of this statute and rules relating to the reinstatement of licenses shall also apply.

G. The qualifications of an applicant applying for an auction business license shall be the same as those articulated at R.S.37:3113(a)1 through 37:3113(b)4, pertaining to the licensing of auctioneers.

H. An auction business licensee shall be able to operate the licensed auction business in any parish of the state of Louisiana. Should the licensee desire to operate the business at more than one location or change the location, the licensee shall give the Louisiana Auctioneers Licensing Board written notice of the change at least five days prior to the change of address or establishment of new location, as well as provide a physical and mailing address of the new or additional location of the business. Failure by licensee to give notice to the Louisiana Auctioneers Licensing Board after such change of location (or establishment of an additional location) shall be grounds for revocation of the auction business license by the board.

I. A licensee's auction business license shall automatically be suspended if no licensed auctioneer is engaged in conducting the auctions for the licensee. Such license may be reinstated by the board for the unexpired term upon proof that a duly licensed auctioneer has been affiliated with the auction business.

J. The provision of R.S. 37:3115 relative to renewal of license, certificate and penalties for failure to renew the license of auctioneers, shall also apply to an auction business license.

K. No auction business license shall be issued or renewed unless the applicant presents a bond in the amount of \$10,000 in a form approved by the board.

L. A resident Louisiana licensed auctioneer may operate an auction business without a fee, and without posting of an additional surety bond if a surety bond guaranteeing his performance as an auctioneer has previously been posted.

M. An auction business must display in its office or offices its current license to do business as an auction business at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3119.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:335 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 20:1367 (December 1994), repealed and promulgated, LR 25:

Mary Norton  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Miscellaneous Rule Revisions**

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

It is estimated that the implementation costs for this rule will total \$2,500.00. This cost consists of the attorney's fees and costs associated with the completion of this fiscal and economic impact statement as well as the preparation and submission of the proposed rules to the Division of Administration. The rules are being updated, especially as it concerns the 1997 revision to the statutory authority of the Auctioneers Licensing Board.

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

The Auctioneers Licensing Board operates on self-generated revenue and as a result the revenue collection of state and local government units will not be affected.

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

The Auctioneers Licensing Board believes that the revision will have a positive impact as outlined in IV. However, an economic impact is difficult to quantify. The proposed rules are intended to conform to the requirements of Acts 1997, Number 923. The usual changes would include: expanded authority of the Auctioneers Licensing Board to assess costs relative to hearings on complaints, deleting the annual report to the Department of Economic Development, changing the meetings to bimonthly, and amending the grounds for disciplining auctioneers.

The following rules would also be implemented:

1. changing the apprenticeship from 160 hours to a year of apprenticeship;

2. requiring complainants to make an initial deposit of \$300 at the time a complaint is lodged which is returned to the complainant unless it is determined that the complaint is frivolous. Additionally, the deposit can be waived in the event it is determined that the payment of a deposit will create an undue hardship.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule revision will ensure that the promulgated rules are in conformity with the statutory authority of the Auctioneers Licensing Board. As a result, the auctioneers and consumers will have available a more concise and simpler resource to determine the rules applicable to auctions and auctioneers.

Bobby Green  
Chairman  
9809#051

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Economic Development Office of Financial Institutions

Small Loans—Fees and Charges  
(LAC 10:XI.901)

In accordance with the authority granted by the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and specifically R.S. 9:3554 A(5) of the Louisiana Consumer Credit Law, the Department of Economic Development, Office of Financial Institutions hereby gives notice of its intent to adopt the following rule, which provides for the clarification of the Louisiana Small Loan Act, R.S. 9:3577.1-3577.8, relating to the allowable fees and charges a lender may contract for with a borrower for loans subject to its provisions.

#### Title 10

### FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

#### Part XI. Consumer Credit

#### Chapter 9. Small Loans

#### §901. Allowable Fees and Charges

A. Policy. This rule is intended to clarify which fees and charges a lender may assess a borrower for a loan subject to the provisions of the Louisiana Small Loan Act, R.S. 9:3577.1-3577.8 (LSLA). In addition, this rule will serve to effectuate the legislative intent behind the passage of the LSLA to limit the allowable fees and charges lenders may assess borrowers for small loans in order to prevent consumer abuse.

B. Definitions. For the purposes of this rule, the meanings of the terms *lenders* and *small loans* are as set forth in R.S. 9:3577.3.

C. Origination Fee. A lender may only charge a customer an origination fee in the amount set forth in R.S. 9:3577.4. For the purposes of this rule, the term *origination fee* is deemed to include all fees and charges associated with the documenting, processing and underwriting of the small loan.

D. Maximum Contract Rate of Interest. In addition to §901.C, a lender may charge a stated rate of interest on a small loan contract at a rate not to exceed 36 percent on an annualized basis.

E. Maximum Finance Charge. In lieu of §901.D, but in addition to §901.C, a lender may assess a finance charge of \$15 for small loans not exceeding \$200 or \$25 for loan amounts greater than \$200 and up to \$500.

F. Credit Insurance and Other Products. A lender is prohibited from selling to a borrower any insurance or product relating to the extension of credit.

G. Structuring Transactions. The Office of Financial Institutions will investigate any attempt by a licensed lender originating loans to evade or circumvent the provisions of the LSLA or this rule by any method and will take all appropriate and proper action to ensure compliance therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554 A(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 24:

All interested persons are invited to submit written comments on this proposed rule. All comments must be submitted no later than October 23, 1998 to Gary L. Newport, Chief Attorney, Office of Financial Institutions, Box 94095, Baton Rouge, LA, 70804-9095 or by hand, before 5 p.m., to 8660 United Plaza Boulevard, 2nd Floor, Baton Rouge, LA 70809.

Larry L. Murray  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Small Loan Fees and Charges

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

Implementation costs will not be incurred for the proposed rule. It is anticipated that this agency will continue to utilize existing personnel and equipment in the implementation process, and the agency estimates that there will be no additional requirements for new equipment, employee costs, or professional services. Review for compliance with the proposed rule will be conducted by the agency during the normal regulatory examination process, in accordance with R.S. 9:3554.L.

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

The proposed rule will have no effect on revenue collections of either state or local governmental units.

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

There are approximately 300 licensed small loan lender locations. No additional cost of operations is anticipated. A location may have a temporary decrease in income derived from their existing customer base, however, the income should be recovered from new customers coming from other lenders who are not allowed to roll over these loans. There is not expected to be a financial impact on the lenders as a group.

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

The proposed rule will cause lenders to be more competitive since it is presumed that borrowers using these services who would not be allowed to borrow money on the same day his loan is repaid would be required to use other lenders and determine the cost of other lenders' products.

Larry L. Murray  
Commissioner  
9809#040

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Economic Development Office of Financial Institutions

Small Loans—Rollovers and Renewals  
(LAC 10:XI.903)

In accordance with the authority granted by the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and specifically R.S. 9:3554 A(5) of the Louisiana Consumer

Credit Law, the Department of Economic Development, Office of Financial Institutions hereby gives notice of its intent to adopt the following rule, which provides for the clarification of R.S. 9:3577.6 of the Louisiana Small Loan Act, R.S. 9:3577.1-3577.8, by defining loan rollovers or renewals in order for this Office to ensure compliance with the provisions of this Part.

**Title 10**

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,  
INVESTMENT SECURITIES, AND UCC**

**Part XI. Consumer Credit**

**Chapter 9. Small Loans**

**§903. Loan Rollovers and Renewals**

A. *Affiliated Lender*—lender which extends credit subject to the provisions of the Louisiana Consumer Credit Law (LCCL) and who, directly or indirectly, possesses or otherwise exercises common control, management or ownership of 25 percent or more of another LCCL-supervised lender.

B. For the purpose of determining a lender's compliance with the prohibitions contained within R.S. 9:3577.6 of the Louisiana Small Loan Act, the Office of Financial Institutions will cite as a violation any loan to a consumer, regardless of the amount, made by a lender, or an affiliated lender thereof, on the same day the consumer pays off a previously extended loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554 A(5) and 9:3577.6.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 24:

All interested persons are invited to submit written comments on this proposed rule. All comments must be submitted no later than October 23, 1998 to Gary L. Newport, Chief Attorney, Office of Financial Institutions, Box 94095, Baton Rouge, LA, 70804-9095 or by hand, before 5 p.m., to 8660 United Plaza Boulevard, 2nd Floor, Baton Rouge, LA, 70809.

Larry L. Murray  
Commissioner

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

**RULE TITLE: Small Loan—Rollovers and Renewals**

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

Implementation costs will not be incurred for the proposed rule. It is anticipated that this agency will continue to utilize existing personnel and equipment in the implementation process, and the agency estimates that there will be no additional requirements for new equipment, employee costs, or professional services. Review for compliance with the proposed rule will be conducted by the agency during the normal regulatory examination process, in accordance with R.S. 9:3554.L.

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

The proposed rule will have no effect on revenue collections of either state or local governmental units.

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

There are approximately 300 licensed small loan lender locations in Louisiana. At present the estimated costs for small loan borrowers is between \$5 and \$10 per loan. These reductions will be a benefit to borrowers.

Small loan lenders at present assess additional fees to small loan borrowers which average \$7.50 per small loan. Assuming these fees will be eliminated, each small loan lender making at least 100 loans per week may suffer an economic detriment of approximately \$40,000 annually.

The rule will authorize a small loan act lender to charge a minimum finance charge as provided for in R.S. 9:3519(E).

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

The proposed rule would have no effect on competition but may cause lenders to lay off personnel due to the potential lost revenue.

Larry L. Murray  
Commissioner  
9809#038

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Budgets and Minimum Foundation Program  
(LAC 28:I.1709 and 1712)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement, the following revision to the Minimum Foundation Program Student Membership Definition.

**Title 28**

**EDUCATION**

**Part I. Board of Elementary and Secondary Education**

**Chapter 17. Finance and Property**

**§1709. Budgets**

A. - G. ...

H. - I. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:398, 541 (September, December 1975), amended LR 23:55 (January 1997), LR 25:

**§1712. Minimum Foundation Program**

A. MFP: General Provisions

1. Board Adoption

a. The State Superintendent of Education shall prepare and recommend to the Board for adoption a minimum foundation formula for the equitable allocation of funds to local school systems for the operation of their educational programs. In considering this recommendation, the State Superintendent shall comply with all appropriate state laws and regulations regarding elementary and secondary education.

b. The Board shall adopt a minimum foundation formula for the equitable allocation of funds to local school

systems. Once adopted, the Board shall transmit the formula to the Joint Legislative Committee on the Budget and all other appropriate entities and offices of the executive and legislative branches of government.

2. Local Responsibility. It shall be the responsibility of local school systems to submit to the State Department of Education in a timely manner all necessary and required information for the computation of an individual school system's allocation from the minimum foundation formula. This information shall be submitted to the Department in the form required by the Department. It shall also be the responsibility of all local school systems to follow all circulars issued by the Department providing instructions for the preparation of the required data and other instructions regarding the computation of a local school system's allotment from the formula.

B. MFP: Payments. Each parish and city school system shall receive an allocation from the annual Minimum Foundation Program in 12 payments. These payments shall be incorporated into monthly amounts received from the state for implementation of the Minimum Foundation Program.

C. MFP: Student Membership Definition

1. Definition. For state reporting for public education for the purpose of establishing the base student count for state funding, each parish and city school system shall adhere to the following.

a. All students included for membership in school shall be identified with the following minimum required identification elements: state identification number, full legal name, date of birth, sex, race, district and school code, entry date, and grade placement.

b. For establishing the base student membership count for state funding the following guidelines will be adhered to.

i. No student will be counted more than one time. Students attending more than one school will be counted in membership only one time.

ii. All students, including special education students and students in ungraded class settings, will be included in the base student membership count who meet the following criteria:

(a). have registered or pre-registered on or before October 1\*;

(b). are actively attending school (All current state laws and BESE policies concerning attendance should be carefully followed. Appropriate documentation [either written or computer documents] such as dates of absences, letters to parents, notification to Child Welfare and Attendance Officers should be placed in individual permanent records for any students who may have absences which raise questions about the student's active attendance.);

(c). and/or have not officially exited from school (Students are considered to have officially exited if a notification of transfer has been provided by the student's parent/legal guardian or received from another school.).

iii. Students who are in BESE and parish/city school system approved alternative programs (schools), will be included in the base student count for membership.

iv. Students who reside in Louisiana, attend school in another state, and are supported by Louisiana funding will be included in the base student count for membership.

v. All special education preschool (ages 3-5) students will be included in the base student count for membership.

vi. All special education infant (ages birth-2) students for whom the district provides one or more of the sixteen identified services shall be included in the base student count for membership.

vii. Regular pre-kindergarten (four-year-old program) students will not be included in the base student count for membership.

viii. Private school students receiving services through the public school system will not be included in the base student membership.

ix. Students will be included in the base student count for membership until the chronological age of twenty-one years. A student whose twenty-second birthday occurs during the course of the regular school year, will be counted in the base student count for membership for that school year.

\*If October 1 falls on a Saturday, report membership on September 30. If October 1 falls on a Sunday, report membership on October 2.

D. MFP: Add-on Students/Units

1. Required Data: For purposes of establishing the data sets used in determining the add-on students/units, the following will be adhered to.

a. At-Risk Student Count shall be determined by the number of students whose family income is at or below income eligibility guidelines or other guidelines as provided by BESE. The current guidelines include those students who have approved applications to participate in the federal free and reduced price breakfast and lunch program. The count is determined by the number of approved applications for the free and reduced price lunch program during the month of October as reported in the Student Information System (SIS).

b. Vocational Education Unit Count shall be determined by the number of Secondary Vocational Education courses per student as reported by the school districts through the Annual School Report for the prior year.

c. Special Education. Other Exceptionalities Student Count shall be determined by the number of Special Education students identified as having "other exceptionalities" in the LANSER database as of October 1 including:

i. infants and toddlers ages 0-2, who are currently receiving services; and

ii. both public and nonpublic, special education students ages 3-21 identified as having a disability as defined by R.S. 17:1943 who are receiving services from the local school district only (students serviced by SSD Number 1 and certain correctional facilities are excluded).

d. Special Education. Gifted and Talented Student Count shall be determined by the number of Special Education students identified in the LANSER database as of October 1 which includes both public and nonpublic special

education students ages 3-21 identified as gifted and talented as defined by R.S. 17:1943 who are receiving services from the local public school district only.

e. Economy of Scale Student Count shall be determined by the number of students in the base student count as defined in LAC 28:I.1712.C.1.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

Interested persons may submit comments on the proposed policy until 4:30 p.m. November 9, 1998 to: Jeannie Stokes, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Budgets and Minimum Foundation Program**

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

There will be no cost of implementation of this change to either the local school districts or the Department.

BESE estimated cost for printing this policy change and the first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$80. Funds are available.

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

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

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

There will be no costs and/or economic benefits to directly affect persons or nongovernmental groups.

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

There will be no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
9809#061

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 904—Charter School Start-Up Loan Program (LAC 28:I.904)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted Guidelines for the Charter School Start-Up Loan Program. In accordance with Act 477, the Guidelines provide a source for funding no-interest loans to assist new Type 1 or Type 2 Charter Schools with initial start-up funding and for funding the administrative

costs associated with the loan program. The Guidelines are an amendment to Bulletin 904 and LAC 28:I.904 is amended as follows.

**Title 28  
EDUCATION**

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

**Subchapter A. Bulletins and Regulations**

**§904. Charter Schools**

A. ...

**B. Charter School Start-Up Loan Program**

1. Act 477 of the 1997 Legislative Session allows for the operation of up to 20 charter schools statewide in 1998-99 and increases that number to 42 in subsequent years. It also created the Louisiana Charter School Start-Up Loan Fund within the State Treasury for the purpose of providing a source for funding no-interest loans to assist new Type 1 or Type 2 Charter Schools with initial start-up funding and for funding the administrative costs associated with the loan program.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

**Guidelines for the Louisiana Charter  
School Start-Up Loan Fund**

Under the authority of H.B. 2065, Part V, the LA Charter School Start-Up Loan Fund was created within the state treasury for the purposes of providing a source for funding no-interest loans to assist type 1 and type 2 Charter Schools with initial start-up funding and for funding the administrative costs associated with the loan program. The Act further provided for the SBESE to administer the monies appropriated from the fund and to adopt rules governing the loan application and approval process.

In accordance with the Act, the SBESE hereby adopts the following rules to govern approval of loan requests of Charter Schools for initial start-up funding.

A. Organization. The SBESE will establish a Loan committee consisting of three (3) members, and contract a third party financial analyst to review loan requests and make recommendations to the committee for approval or rejection. The Board will also designate a contact person and a collection person. The contact person will be available to discuss and address complaints or problems of the borrowers and present to the committee for approval any requests for minor restructure of the original terms of loans. The collections person will be responsible for coordinating collection efforts on troubled loans, including major restructure requests and retaining legal support for advice, foreclosure, and/or suit.

B. Credit Quality. The financial analyst will review credit requests to determine repayment ability, adequacy of collateral, and character of persons principally involved in the forming of the charter school. The complete loan request will at minimum include the following executed documents:

- 1. fully completed SBESE Loan Application Form;

2. interim financial statements for the current year (if applicable);

3. copy of Charter School Application containing detailed budget and projections for the succeeding five years;

4. narrative business plan covering the succeeding three years;

5. personal financial statements and resumes on each of the Officers, Directors and others principally involved in the forming of the charter school; and

6. Authorization to Release Information. The financial analyst will obtain a credit report on each of the natural persons involved to determine credit history and outstanding liens, claims and bankruptcy proceedings.

C. Collateral. Collateral acceptable to SBESE is described as follows:

1. mortgages on real estate and other tangible assets owned by the Charter School;

2. tangible assets purchased with loan proceeds;

3. assets of individuals principally involved in the forming of the Charter School, its officers and directors;

4. guarantees of credit worthy individuals, including but not limited to those involved in the forming of the Charter School, its officers and directors.

Collateral not acceptable to SBESE includes, but is not limited to:

1. assets on which the title is clouded or a lien cannot be perfected;

2. assets titled in undivided interests;

3. stock in closely-held corporations, or with no determinable or ready market value;

4. assets which are inappropriate, are potential environmental hazards, or the value of which is indeterminable.

Third party appraisers acceptable to SBESE will be retained at the applicants cost to determine the market value of the assets offered. Tangible assets purchased with loan proceeds and pledged as collateral may be valued at costs with appropriate invoices. Fire, casualty and other appropriate insurance, to cover assets pledged, will be obtained and maintained by the Charter School, through underwriters acceptable to SBESE in amounts to provide adequate protection, and naming SBESE as loss payee.

D. Closings. Loans will be closed by attorney(s) acceptable to SBESE, at the cost of the borrower, and in accordance with closing instructions from SBESE. Perfection and rank of liens will be outlined and assured by means of a title opinion letter signed by the closing attorney.

E. Repayment. Loans approved will provide for a maximum repayment term of three years, payable in equal monthly installments. The SBESE may approve repayment on a quarterly, semi-annual or annual basis, but, in any case, 1/3 of the debt must be retired each year. If 1/3 is not retired each year, the loan is accelerated and the whole amount becomes due. Prepayment is encouraged.

F. Default. Default occurs on the first day after a payment is due and not paid. In the event that a loan becomes delinquent or cannot perform as agreed, the designated collection person will immediately counsel with the officers of the charter school to determine the nature, extent and severity

of the problems. Minor or temporary difficulties may be solved by a restructure of repayment terms, with loan committee approval. In more serious situations in which repayment is doubtful, the following actions will be taken: The loan will be recalled; a demand for payment will be sent to the borrower, allowing twenty days for repayment; and, the account will be placed with the Attorney General's Office for collection if payment is not made. In the event of a default, the borrower will be responsible for 33 1/3 percent attorney's fees plus legal interest on the principal amount from the date of default until paid, as well as all costs of collection.

G. Loan Committee. Loan Applications approved for funding must be recommended by the financial analyst and approved unanimously by the committee. Also, no loan may be restructured in any way without unanimous committee approval.

All actions taken by the loan committees will be reported monthly to the SBESE Board.

H. Acceptable Loans. The following describes loan applications which are acceptable to SBESE.

1. The proceeds of the credit are to be used to purchase equipment and other tangible assets appropriate to school operations which are then pledged as collateral on the note.

2. The proceeds of the credit are to be used to provide working capital, and other appropriate and adequate collateral is pledged to secure the loan.

3. Analysis of loan applications, financial statements and collateral reveals good credit quality and repayment ability.

I. Unacceptable Loans. The following describes loan applications which are not acceptable to SBESE.

1. Repayment is based solely on liquidation of collateral.

2. Financial analysis of the loan applications, financial statements and collateral offered indicate the repayment ability is weak and/or the collateral is inadequate or inappropriate.

3. The proceeds of the credit are used to pay prior debts of school or principal charterers or any former or current business of any principal charterer or pay members of the immediate family of any principal charterer or to make investments.

4. The applicant, any principal charterers, or any former business or nonprofit venture of any such charterer has outstanding or presently pending in any court any claim of liability relating to failure or inability to pay promissory notes or other evidence of indebtedness, or any bankruptcy proceeding, or if any such corporation, business or person has pending any court proceeding concerning denial or revocation of a necessary license or permit to operate a charter school.

J. Non-discriminatory Policy. Legal department to submit.

K. Complaints. All written complaints received will be handed to the contact person for review, analysis and investigation to determine the facts and to recommend resolution. Upon completion of the internal review, the complainant will be notified in writing of the results of the review. Each complaint will be handled in a fair and

consistent manner and responded to within 15 working days of receipt.

L. No departure from these guidelines is allowed without unanimous consent from SBESE.

Interested persons may submit written comments until 4:30 p.m., November 9, 1998 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 904—Charter School Start-Up  
Loan Program**

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

BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$200. Funds are available.

The implementation of the Charter School Start-Up Loan Fund will increase costs to the state as loans are made from the fund and as administrative costs are incurred to run the program. In Fiscal Year 1998-99 the Legislature has appropriated \$1.3 million from the Charter School Loan Fund and another \$105,000 State General Fund to the State Board of Elementary and Secondary Education (BESE). The \$1.3 million will be used solely to provide loans to charter schools. This amount could fund up to 13 loans if each loan is \$100,000 which is the maximum amount allowed by law. The actual amount expended will depend on the number of loans approved and the amounts per loan. All administrative costs associated with administration of the Loan Fund will be expended from \$105,000 appropriation to BESE. While the language in HB2065 of 1997 allows for the funding of administrative costs associated with the loan program from the Start-Up Loan Fund, BESE has no intention to use these funds for this purpose in the current fiscal year. However, BESE reserves the right to do so in the future should budgetary constraints necessitate the use of these funds for this purpose.

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

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

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

The Loan Fund will provide the necessary start-up funding of eligible groups with new Charter Schools.

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

This action will ultimately have the effect of creating additional employment opportunities for teachers and other school personnel in Charter Schools. This may create a competitive situation for schools in that particular area.

Weegie Peabody  
Executive Director  
9809#072

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 1525—Guidelines for Personnel Evaluation  
Standards for School Principals in Louisiana  
(LAC 28:I.917)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1525, Guidelines for Personnel Evaluation. The Bulletin has been revised to incorporate the approved Standards for School Principals, as Appendix C. The Principal Standards are the criteria by which public school principals will be evaluated under the Local Personnel Evaluation Program beginning with the 1999-2000 school year. Bulletin 1525 is referenced in LAC 28:I.917. A complete text of Bulletin 1525 may be viewed in the Office of the State Register, 1051 North Third Street, Baton Rouge; the Office of the State Board of Elementary and Secondary Education; or the Office of Quality Educators, Professional Accountability, State Department of Education.

Appendix C, to be included in Bulletin 1525, is printed below in its entirety.

**Title 28  
EDUCATION**

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

**Subchapter A. Bulletins and Regulations**

**§917. Personnel Evaluation Standards and Regulations**

**A. Bulletin 1525**

\* \* \*

4. Bulletin 1525 also includes the Standards for School Principals in Louisiana as Appendix C, addendum 1998.

\* \* \*

**AUTHORITY NOTE:** Mandated by the Act 1 of the 1994 Louisiana Legislature, Third Extraordinary Session under the authority of R.S. 17:3881-3884, R.S. 17:3901-3904, and R.S. 16:3765.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 5:168 (July 1979), amended LR 25:

**APPENDIX C**

**Standards for Principals**

**Vision:** The principal engages the school community in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

**Teaching and Learning:** The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

**School Management:** The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

**School Improvement:** The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

**School-Community Relations:** The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

**Professional Development:** The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

**Professional Ethics:** The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

#### **Elaborated Standard: Vision**

**Vision:** The principal engages the school community in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

#### **Knowledge and Skills**

The principal has knowledge, skills, and understanding of:

- a "preferred" future regarding the success of all students;
- group process strategies for melding the diverse values and expectations of the school community into a shared understanding of desired student outcomes;
- theories of child and human development, the teaching-learning process, and models of and processes for on-going school improvement;
- relevant research findings and strategies for using data to develop and maintain the school vision.

#### **Dispositions**

The principal believes in, values, and is committed to:

- the centrality of students to the school vision and goals;
- involving the school community in establishing the school vision and goals;
- respecting the existing school and community cultures while working for changes that improve outcomes for all students;
- stewardship of the school vision, and sponsorship of school goals;
- enabling students to think critically about complex issues.

#### **Performances**

The principal demonstrates the ability to:

- work collaboratively with the school community to develop and maintain a shared school vision;
- bring the school vision to life by using it to guide decision making about students and the instructional programs;
- maintain faculty focus on developing learning experiences that will enable students to prosper in subsequent grades and as adults;
- maintain open communication with the school community, and effectively convey high expectations for student learning to the community;

- provide opportunities and support for collaboration, the exchange of ideas, experimentation with innovative teaching strategies, and ongoing school improvement;

- monitor, assess, and revise the school vision and goals as needed;

- foster the integration of students into mainstream society while valuing diversity.

#### **Elaborated Standard: Teaching and Learning**

##### **Teaching and Learning:**

The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

##### **Knowledge and Skills**

The principal has knowledge, skills, and understanding of:

- research and theories related to teaching, learning, curriculum development and integration, and motivation;
- methods for effectively communicating high standards and high expectations for student achievement;
- strategies for creating an empowering environment that supports innovative teaching and powerful learning;
- supervisory and observational techniques that promote effective teaching and learning in a growth oriented environment;
- authentic, psychometrically sound, methods for assessing student learning;
- emerging technologies and their use in enhancing student learning.

##### **Dispositions**

The principal believes in, values, and is committed to:

- all children's learning at high levels;
- excellence and life-long learning;
- collaborative development of teaching strategies and curricular modifications that ground student learning in real-world situations and promote critical thinking;
- developing a caring environment that nurtures teaching and learning.

##### **Performances**

The principal demonstrates the ability to:

- recognize, model, and promote effective teaching strategies that enable students to apply what they learn to real world experiences;
- encourage and support both the use of innovative, research-based teaching strategies to engage students actively in solving complex problems and methods of student assessment which will enhance learning for all students;
- conduct frequent classroom visits and periodic observations, provide constructive feedback to faculty and staff, and suggest models of effective teaching techniques when needed;
- foster a caring, growth-oriented environment for faculty and students where high expectations and high standards for student achievement are emphasized;
- promote collaboration and team building among faculty.

#### **Elaborated Standard: School Management**

**School Management:** The principal promotes the success of all students by ensuring management of the organization,

operations, and resources for a safe and orderly learning environment.

### **Knowledge and Skills**

The principal has knowledge, skills, and understanding of:

- organizational theory and principles of organizational development;
- human resources management and development, including related/support/ancillary services;
- local, state, and federal laws, policies, regulations, and procedures;
- sound fiscal procedures and practices;
- time management to maximize the effectiveness of the organization;
- current technologies that support management functions.

### **Dispositions**

The principal believes in, values, and is committed to:

- building a safe, orderly environment;
- upholding local, state, and federal laws, policies, regulations, and procedures, including being fiscally responsible and ensuring quality support services;
- upholding high standards in the day-to-day operations of the school and using current technology;
- making management decisions to enhance learning and teaching;
- involving members of the school community in shared decision-making processes.

### **Performances**

The principal demonstrates the ability to:

- maintain a safe, secure, clean, and aesthetically pleasing physical school plant;
- establish and/or implement laws, policies, regulations, and procedures that promote effective school operations;
- maintain a positive school environment where good student discipline is the norm;
- manage fiscal resources responsibly, efficiently, and effectively and monitor whether others do so as well;
- manage human resources responsibly by selecting and inducting new personnel appropriately, assigning and evaluating all staff effectively, and taking other appropriate steps to build an effective school staff;
- monitor support services such as transportation, food, health, and extended care responsibly;
- provide and coordinate appropriate co-curricular and extra-curricular activities;
- use shared decision making effectively in the management of the school;
- manage time and delegate appropriate administrative tasks to maximize attainment of the school goals;
- use available technology effectively to manage school operations;
- monitor and evaluate school operations and use feedback appropriately to enhance effectiveness.

#### **Elaborated Standard: School Improvement**

**School Improvement:** The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

### **Knowledge and Skills**

The principal has knowledge, skills, and understanding of:

-methods by which information from various sources can be used to establish challenging standards for self, faculty, students, and the school;

- strategies for monitoring progress toward reaching the standards established;
- professional literature related to teaching, learning, curriculum, organizational and staff development, and change processes;
- the school culture, community expectations, and the strengths and weaknesses of self, faculty, students, and community;
- methods of data collection, analysis, interpretation, and program evaluation.

### **Dispositions**

The principal believes in, values, and is committed to:

- empowering others by engaging in collaborative problem solving and decision making, building capacity through staff development, and encouraging divergent perspectives from the school community;
- working toward consensus and compromise among members of the school community, guided by the school vision and goals;
- examining one's own assumptions, practices, and beliefs in the light of new knowledge;
- accepting limitations and mistakes from self and others while maintaining commitment to the standards established;
- encouraging faculty experimentation in order to maximize opportunities for all students to learn well;
- promoting a school culture that values and promotes individual and collaborative reflection and learning.

### **Performances**

The principal demonstrates the ability to:

- provide ongoing opportunities for staff to reflect on their roles and practices in light of student standards and school goals;
- grow professionally by engaging in professional development activities and making such activities available to others;
- facilitate school-based research and use these and other research findings to plan school improvement initiatives, pace the implementation of these changes, and evaluate their impact on teaching and learning;
- foster the genuine continuous involvement and commitment of the school community in promoting the progress of all students toward attaining high standards;
- enhance school effectiveness by appropriately integrating the processes of teacher selection/evaluation and professional development with school improvement.

#### **Elaborated Standard: Professional Development**

**Professional Development:** The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

### **Knowledge and Skills**

The principal has knowledge, skills, and understanding of:

- theories related to motivation, adult learning, and staff development;
- sound pedagogical practices and emerging technologies;

- current trends in terms of social, political and cultural influences on education;
- research, measurement, and assessment strategies;
- organizational learning for school cultures, goal setting, change processes, and group dynamics;
- resource management.

#### **Dispositions**

The principal believes in, values, and is committed to:

- life long learning for self and others;
- ongoing change processes;
- faculty expertise and collaborative work strategies;
- fostering creativity and establishing high expectations in self and others.

#### **Performances**

The principal demonstrates the ability to:

- communicate a focused vision for both school and individual professional growth;
- use research and data from multiple sources to design and implement professional development activities;
- secure the necessary resources for meaningful professional growth, including the time for planning and the use of emerging technologies;
- provide opportunities for individual and collaborative professional development;
- provide incentives for learning and growth and encourage participation in professional development activities at the national, state, and parish levels;
- assess the overall impact of professional development activities on the improvement of teaching and student learning.

#### **Elaborated Standard: School-Community Relations**

**School-Community Relations:** The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

#### **Knowledge and Skills**

The principal has knowledge, skills, and understanding of:

- the composition of the school community including relevant demographic statistics and trends, competing issues and values, and available resources;
- successful strategies for establishing positive school-community relations and fostering parental and community participation;
- techniques for promoting the positive aspects of the school and communicating with the media effectively;
- effective interpersonal communication skills.

#### **Dispositions**

The principal believes in, values, and is committed to:

- establishing a partnership with the school's community for mutually supportive relationships;
- promoting the school as an integral part of the community;
- diversity as a strength;
- promoting the positive aspects of the school, celebrating successes, acknowledging the school's shortcomings, and involving the community in overcoming problems within the school.

#### **Performances**

The principal demonstrates the ability to:

- be visible and involved in the community and treat members of the school community equitably;
- involve the school in the community while keeping the school community informed;
- use school-community resources to enhance the quality of school programs, including those resources available through business and industry;
- publicly recognize and celebrate school successes;
- communicate effectively both interpersonally and through the media.

#### **Elaborated Standard: Professional Ethics**

**Professional Ethics:** The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

#### **Knowledge and Skills:**

The principal has knowledge, skills, and understanding of:

- various perspectives on ethics;
- his/her own principled convictions about what is best for students and the ethical implications of those convictions;
- relevant laws, policies, regulations, and procedures and the relationship of these to protecting the rights of individuals;
- ethical means for improving school programs.

#### **Dispositions**

The Principal believes in, values, and is committed to:

- being accurate in providing information while respecting the rights of others;
- caring for the feelings of others;
- principled action in upholding the substance of laws, policies, regulations, and procedures;
- using the influence of the principalship constructively and productively in the service of all students.

#### **Performances**

The principal demonstrates the ability to:

- model ethical behavior at both the school and community levels;
- communicate to others expectations of ethical behavior;
- respect the rights and dignity of others;
- provide accurate information without distortion or violating the rights of others;
- develop a caring school environment in collaboration with the faculty and staff;
- apply laws, policies, regulations, and procedures fairly, consistently, wisely, and with compassion;
- minimize bias in self and others and accept responsibility for one's own decisions and actions;
- address unethical behavior in self and others.

Interested persons may submit comments until 4:30 p.m., November 9, 1998 to Jeannie Stokes, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

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

**RULE TITLE:**

**Guidelines for Personnel Evaluation Standards  
for School Principals in Louisiana**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Contingent on revisions being made to Bulletin 1525, the estimate for printing and mailing the revisions in FY 1999-2000 is \$2,895.00.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There is no cost and/or economic benefit to directly affect persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The printing of the Guidelines for Personnel Evaluation, Bulletin 1525 does not affect competition or employment.

Marlyn Langley  
Deputy Superintendent  
9809#074

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 1934—Starting Points Preschool Program  
(LAC 28:I.906)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement a revision to Bulletin 1934, Starting Points Preschool Program. The revision amends the Section under Length of School Day and School Year. The school days that systems operate shall be a full day with a minimum of 360 minutes instructional time per day.

**Title 28**

**EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
§906. Early Childhood Programs**

\* \* \*

B. Bulletin 1934, Starting Points Preschool Regulations is adopted, revised June 1998.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19:1549 (December 1993), amended LR 21:1221 (November 1995), LR 24:295 (February 1998), LR 25:

**Starting Points Preschool Program, Bulletin 1934**

\* \* \*

**Length of the School Day and School Year**

The length of the school day and the school year shall follow the provisions established in R.S. 17:154.1. The school day that systems operate shall be a full day with a minimum of 360 minutes instructional time per day. Instructional days will be based upon the school calendar of each local nonpublic school/school system with a minimum of 175 days of instruction.

\* \* \*

Interested persons may submit written comments until 4:30 p.m., November 9, 1998 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

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

**RULE TITLE: Bulletin 1934—Starting Points  
Preschool Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$60.  
There will also be a state cost increase of an unknown amount to increase salaries and benefits of Starting Points Preschool teachers. This change mirrors a change in state law which increased the minimum instructional time. The state funded this increase in instructional time at a total cost of \$70 million in fiscal year 1998-99. The cost attributed to Starting Points teachers alone cannot be determined because there is no way to know the portion of the \$70 million salary increase that will be paid to Starting Points teachers.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There are no effects on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
9809#071

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 1978—Public Education Accountability System  
(LAC 28:I.930)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education has approved for advertisement, Bulletin 1978, the *Louisiana Public Education Accountability System*. Bulletin 1978 will be referenced in LAC 28:I. 930 as follows:

#### Title 28

#### Education

#### Part I. Board of Elementary and Secondary Education

#### Chapter 9. Bulletins, Regulations, and State Plans

#### Subchapter A. Bulletins and Regulations

#### §930. State Content Standards

A. - F. ...

G. Bulletin 1978, Louisiana Public Education Accountability System

1. Bulletin 1978, Louisiana Public Education Accountability System is adopted.

2. The Bulletin contains a strategy designed to encourage and support school improvement by establishing the state's goals for schools and students, communicating a school's performance to the public, recognizing school effectiveness in achievement, focusing attention, energy, and resources to schools needing improvement.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:

#### Bulletin 1978: Louisiana Public Education Accountability System

#### I. Preface

A. The Louisiana Public Education Accountability System is intended to drive fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The system is designed to encourage and support school improvement by:

1. clearly establishing the state's goals for schools and students;
2. creating an easy way to communicate to schools and the public how well a school is performing;
3. recognizing schools for their effectiveness in demonstrating growth in student achievement; and
4. focusing attention, energy, and resources on those schools that need help improving student achievement.

B. The accountability system is based on the concept of continuous growth. Every school can improve. Every school is expected to show academic growth. Every school is compared to itself.

1. The underlying beliefs of the accountability system are:

- a. all students can and must learn at significantly higher levels;
- b. the need to improve student achievement is urgent;

c. continuous growth in student achievement must occur in all schools;

d. the focus must be on measurable student achievement results;

e. poverty impacts student learning; however, it does not prevent students from achieving;

f. low-performing schools must receive technical assistance and necessary resources to improve;

g. rewards and corrective actions can motivate educators, communities, and students to improve student learning;

h. parents, educators, and community members should be involved in the ongoing development and revision of school and district improvement plans;

i. districts and school sites must have the flexibility to improve learning in schools;

j. the general public must be kept involved in and informed about the accountability process;

k. it is essential that all stakeholders (i.e., students, parents, educators, and community) work together to reach the state education goals;

l. the accountability system must be kept simple; and

m. the State must provide adequate funding to support the accountability system and not back down on funding or standards once instituted.

#### C. 10/20-Year Goals

1. The Board of Elementary and Secondary Education shall determine the ten- and twenty-year goals based on the four indicators of student achievement: Criterion Referenced Tests, Norm Referenced Tests, Student Attendance, and Dropout Rates (grades 7 - 12 only).

#### D. Measures of Student Achievement

1. A school's performance shall be measured using four indicators of student achievement: Criterion Referenced Tests, Norm Referenced Tests, Student Attendance, and Dropout Rates (grades 7 - 12 only). Measurement of academic achievement for special education students shall be determined by the Board of Elementary and Secondary Education.

2. A School Performance Score shall be calculated for each school. These scores shall range from 0 to beyond 100, with a score of 100 indicating a school has reached the Ten-Year Goal and a score beyond 100 indicating a school is striving to reach the Twenty-Year Goal.

3. Each indicator shall be given a weight as follows:

a. Criterion Referenced Tests: 60 percent Grades K-12;

b. Norm Referenced Tests: 30 percent Grades K-12;

c. Student Attendance: 10 percent Grades K-6; 5 percent Grades 7-12; and

d. Dropout Rate: 5 percent Grades 7-12.

4. School Performance Scores shall be calculated in Spring, 1999 for Grades K-8 and in Spring, 2001 for Grades 9-12. K-8 schools determined to be Academically Unacceptable shall begin Level I Corrective Actions during Fall, 1999. The first time Monetary Rewards may be given is Spring, 2001 for K-8 and Spring, 2003 for Grades 9-12.

**E. Growth Targets**

1. A school's Growth Target shall be calculated by subtracting its School Performance Score from 100 (i.e., the Ten-Year Goal) and dividing this difference by the number of two-year intervals remaining in the ten-year cycle. Growth Targets shall be recalculated every two years using a school's newest School Performance Score.

2. All schools shall receive a label based upon the school's success in reaching its Growth Target.

Growth Labels	Descriptions
Exemplary Academic Growth	A school exceeding its Growth Target by a percentage determined by BESE
Recognized Academic Growth	A school meeting its Growth Target or exceeding it by a percentage determined by BESE
Minimal Academic Growth	A school improving, but not meeting its Growth Target
School in Decline	A school with flat or declining School Performance Scores

3. When the Ten-Year Goal is reached, schools shall begin working toward the state's Twenty-Year Goal. These schools shall be designated as Academically Distinguished Schools. Academically Distinguished Schools shall not receive Corrective Actions as long as their School Performance Scores are above 100 (i.e., the Ten-Year Goal), but they shall be required to show growth each cycle to receive rewards.

4. BESE shall set a minimum level of performance for schools called the Minimum Score. Schools with a School Performance Score below the Minimum Score shall be identified as Academically Unacceptable Schools. These schools immediately receive Level I Corrective Actions (See Table I). Academically Unacceptable Schools shall receive Level I Corrective Actions in 1999-2000 for K-8 and 2001-2002 for Grades 9-12. BESE shall determine the appropriate score for the Minimum Score once pilot data is collected. The Minimum Score shall be "fixed" and not raised over time.

**F. Rewards**

1. Schools shall receive rewards when they meet or surpass their Growth Targets and show growth in the performance of students who are classified as high poverty.

2. The rewards shall be granted to the school, and school personnel shall decide how monies will be spent; however, monetary rewards shall not be used for salary stipends.

3. Other forms of recognition shall also be provided for schools that meet or exceed their Growth Targets.

**G. Corrective Actions**

1. A school that does not meet its Growth Target shall receive Corrective Actions. A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents, teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions. (See Figure I.)

**H. Enter Corrective Actions**

1. A school shall enter Corrective Actions:

- a. if it has a School Performance Score below the Minimum Score (Academically Unacceptable School); or
- b. if it fails to attain its Growth Target in any two-year interval, unless it is a school of Academic Distinction.

2. Schools shall move into more intensive levels of Corrective Actions if they fail to demonstrate adequate growth during each two-year cycle.

- a. An Academically Unacceptable School shall move to the next level of Corrective Action if its two-year growth does not place it above the Minimum Score and it does not meet its Growth Target.

- b. An Academically Distinguished School shall not receive Corrective Actions.

3. All other schools have School Performance Scores in the mid-range. These schools shall be addressed in the following manner:

- a. if a school in the mid-performance range attains its Growth Target, it shall exit Corrective Actions;

- b. if it attains a score less than 25 percent of its Growth Target, it shall move to the next level of Corrective Actions;

- c. if it fails to attain more than 25 percent of its Growth Target, it shall stay in Level I for two cycles;

- d. if it has already been in Level I for two cycles, it shall move to Level II. It shall stay in Level II until it either:

- i. reaches its Growth Target and exits Corrective Actions; or

- ii. attains 25 percent of its Growth Target in any cycle. If it fails to attain this Growth Target, it shall move to Level III.

4. Districts shall develop and submit a Reconstitution Plan to BESE for any school in Level III. A Reconstitution Plan indicates how the district shall remedy the school's inadequate growth in student achievement. The plan shall specify how and what reorganization shall occur. BESE shall monitor the implementation of the Reconstitution Plan.

**I. Exit Corrective Actions**

1. A school shall exit Corrective Actions in the following manner:

- a. if an Academically Unacceptable Schools moves above the Minimum Score and achieves its Growth Target;

- b. if any other school in the mid-range achieves its Growth Target.

**J. Transfer Policy**

1. Parents shall have the right to transfer their child to another public school when:

- a. an Academically Unacceptable School begins Level II Corrective Actions; or

- b. any other school begins Level III Corrective Actions.

2. Transfers shall not be made to Academically Unacceptable Schools or schools undergoing Level I, Level II, or Level III Corrective Actions.

3. Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student count. Parents may move their child to another school if the parents provide the transportation to the school.

4. If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide transportation to the school. State dollars shall follow the child when such a transfer occurs.

5. Schools and districts may refuse to accept a student if there is insufficient space, a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

**K. State's Role in the Accountability Process**

1. The State shall provide support through the creation of District Assistance Teams, Distinguished Educators, a School Improvement Fund, and a Best Practices Resource Guide.

**a. District Assistance Teams**

i. District and other personnel, as appropriate, shall be trained to become members of District Assistance Teams.

**b. Distinguished Educators**

i. Distinguished Educators shall be highly effective educators (teachers, administrators, principals, university

personnel, retired teachers, and so forth) selected and trained by the State to take two or more years of leaves-of-absence to help schools in Level II and Level III Corrective Actions. General roles/responsibilities of the Distinguished Educators may include assisting schools in the development of improvement plans, facilitating the development of a school curriculum that aligns with state tests, working with the school to involve parents and community members, and assisting with the professional development of school personnel.

ii. The selection of outstanding teachers, principals, and administrators from local districts to serve as Distinguished Educators shall be based upon two assumptions:

(a.) specially selected and trained Distinguished Educators shall possess a more authentic understanding of problems being faced by the schools; and

(b.) distinguished Educators shall be allowed to return to their districts/universities with special capabilities that would be of value to their schools and districts.

**Figure I  
Corrective Actions**

	<b>Level I Corrective Actions</b>	<b>Level II Corrective Actions</b>	<b>Level III Corrective Actions</b>	<b>Reconstitution or No State Approval / Funding</b>
<b>School</b>	1. Shall utilize state diagnostic process to identify needs 2. Shall Develop and implement consolidated improvement plan including an integrate budget; process must include: (a) Opportunities for significant parent and community involvement (b) Public hearings--At least 2/3rds teacher approval	1. Shall work with advisory Distinguished Educators, teachers, parents, and others to implement revised School Improvement Plan 2. Distinguished Educators shall help principals develop capacity to change	Distinguished Educator shall continue to assist with improvement efforts and with design of reconstitution plan	If Reconstitution approved by BESE: School shall implement Reconstitution Plan utilizing data from the end of the previous year to recalculate school performance goals and growth targets If Reconstitution Plan not approved, BESE shall deny state funding
<b>District</b>	1. Shall utilize District Assistance Teams to assist schools 2. Shall publicly identify existing and additional assistance being provided by districts (e.g., funding, policy changes, greater flexibility) 3. As currently allowed by law local boards shall reassign or remove school personnel as necessary 4. For Academically Unacceptable Schools Only - BESE shall ensure school receive at least their proportional share of applicable state, local, and federal funding and have school - level control over the funds.	1. District Assistance Teams shall continue to assist schools 2. Shall hold public hearings and respond to Distinguished Educators' written recommendations 3. As currently allowed by law, local boards shall reassign or remove personnel as necessary 4. For Academically Unacceptable Schools only - district shall authorize parents to send their children to other public schools	1. District Assistance Teams shall continue to assist schools 2. Shall authorize parents to send their children to other public schools 3. At end of Year 1: One of the following occurs: a) school makes adequate growth b) reconstitution plan approved by BESE; or c) school receives non-school approval status from BESE	If Reconstitution Plan approved by BESE: District shall provide implementation support If Reconstitution Plan not approved, BESE shall deny state funding

State	1. Shall provide diagnostic process for schools 2. Shall provide training for District Assistance Teams 3. For Academically Unacceptable Schools only- BESE shall assign advisory Distinguished Educators to schools	1. Shall assign advisory Distinguished Educators to schools 2. Shall provide additional state resources and/or redirect existing state resources to help schools implement their improvement plans	1. Shall assign advisory Distinguished Education schools for one additional year 2. Shall provide additional state improvement funds 3. At end of Year 1: BESE shall approve or disapproval Reconstitution plans	If Reconstitution Plan Approved by BESE: State shall monitor implementation of reconstitution plan and shall provide additional state improvement funds If Reconstitution Plan not approved, BESE shall deny state funding
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c. School Improvement Fund  
 i. The state shall provide monies for a School Improvement Fund to help low-performing schools.

d. Effective Practices Resource Guide  
 i. The Department of Education shall identify best school improvement practices and disseminate the information to schools and districts through a published report.

ii. BESE shall report annually on the state's progress in reaching its Ten-Year Goal. The Department of Education shall publish individual School Report Cards to provide information on every school's performance. The School Report Cards shall include the following information: School Performance Scores, school progress in reaching Growth Targets; school performance when compared to similar (like) schools; and subgroup performances (e.g., high-poverty versus non-poverty, race, and gender).

L. Appeals Procedures

1. An appeals process shall be established that shall enable schools and districts to appeal various issues to BESE.

M. Data Collection

1. Student Absences During Testing

a. A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test (including those who are absent), a score of "0" shall be entered. To assist schools in dealing with absent students, the State shall provide an extended testing period for test administration. Schools may appeal their School Performance Scores if students were sick on a long-term basis and their absences result in a school's receiving a lower score.

2. Highly Mobile Students

a. Only those students enrolled in schools as of October 1 shall be used in the calculation of a school's School Performance Score. However, the scores of all students shall be included when calculating a district's score.

b. Special Schools with No Test Data (K, K-1, and K-2)

c. Schools that serve only students in K-2 shall be paired with schools in the district that receive their students. Schools with only K-2 students shall then be judged based upon the performance of paired schools. Local school boards shall determine how schools will be paired.

d. Special Purpose Schools (e.g., Alternative Schools, Schools in Correctional Facilities, Adult Education Facilities, etc.)

e. These schools shall have an alternative accountability system to be implemented no later than 2001. The establishment of new alternative schools shall be closely monitored by the Department of Education to ensure that students are not placed within alternative schools to avoid testing in regular school environments.

N. District Accountability

1. The District Accountability System shall be determined by the Board of Elementary and Secondary Education.

O. Monitoring Procedures

1. The accountability system shall be monitored and refined as necessary. However, major changes shall not be made to the system until Year 2009 (Grades K-8) and 2011 (Grades 9-12).

2. The accountability system shall be reviewed by the Louisiana LEARN Commission or its successor, and recommendations for changes shall be made to BESE.

Interested persons may submit written comments until 4:30 p.m., November 9, 1998 to Jeannie Stokes, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
 Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
 FOR ADMINISTRATIVE RULES  
 RULE TITLE: Public Education Accountability System**

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

The estimated implementation costs to state governmental units will be \$10,590,682 (see Department of Education Budget Spread). Local school systems may also incur additional costs for the following items: costs not funded by the state for teacher staff development and in service training; collection and analysis of data for the state's diagnostic process; personnel assigned to the District Assistance Teams; development and implementation of consolidated improvement plans, and

transportation costs for students that chose to attend another school within the district as part of Level II or Level III corrective action. The state may fund some or all of these local costs. To the extent the state funds such costs, local costs will be reduced accordingly.

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

There will be no effect on revenue collections by state/local governmental units.

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

School and District Accountability Plan is based on the concept of continuous growth; every school can improve and is expected to show academic growth. Economic benefits may be realized by K-12 students by acquisition of knowledge and skills to become more productive citizens in the workforce. Parents who choose to send their children to a school in another district as part of Level II or III corrective actions may incur additional transportation costs for such students since the rule specifies that such transportation costs are the responsibility of parents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

More rigorous academic standards and higher student performance may improve school districts ability to recruit and retain qualified teachers. School districts may have to improve compensation and/or working conditions to recruit qualified teachers if the diagnostic process concludes that poor teaching quality is negatively affecting student performance. School districts will need to find qualified replacements for personnel who take temporary positions as Distinguished Educators. Schools in corrective actions may find it more difficult to recruit and retain teachers. As such, school districts may have to improve teacher compensation and/or working conditions to recruit and retain qualified teachers for such schools.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
9809#067

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Required Services (LAC 28:I.1713)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, a revision to LAC 28:I.1713 A.

**Title 28**

**EDUCATION**

**Part I. Board of Elementary and Secondary Education**

**Chapter 17. Finance and Property**

**§1713. Nonpublic Sector**

**A. Mandated Costs**

1. The Required Services Program is intended to reimburse nonpublic schools for the actual cost of performing

selected activities. Pursuant to the provisions of La. R.S. 17:361, annual reimbursement of each approved nonpublic school shall be for the actual mandated service, administrative, and clerical costs incurred by such school during the preceding school year in preparing, maintaining, and filing reports, forms and records, and in providing such other administrative and clerical services that are not an integral part of the teaching process as may be required by the state law or regulation or requirement of the state department, state agency, or local school board.

**B. Required Services Act: Guidelines**

1. - 3.a. - d. ...

4. The original form, signed by the school administrator (e.g., principal, headmaster, etc.) shall be submitted to the Superintendent of Education by September 30 each year.

5. Three supplemental categories are added to the required services:

- a. asbestos testing and abatement;
- b. auditory and visual testing; and
- c. criminal history and finger printing of school employees.

6. Repealed.

\* \* \*

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:

Interested persons may submit written comments on the proposed revision until 4:30 p.m. November 9, 1998 to: Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

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

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

There will be no cost of implementation of this change to either the local school districts or the Department. BESE estimated cost for printing this policy change and the first page of fiscal and economic impact statement in the Louisiana Register is approximately \$80. Funds are available.

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

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

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

There will be no costs and/or economic benefits to directly affect persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
9809#062

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Special Education Advisory Council  
(LAC 28:I.105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, a revision to LAC 28:I.105.

#### Title 28 EDUCATION

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

##### §105. Board Advisory Councils

- A. - B.1. ...
2. Special Education Advisory Council
- a. ...
- b. Membership. The State advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including:
- i. parents of children with disabilities;
  - ii. individuals with disabilities;
  - iii. teachers;
  - iv. representatives of institutions of higher education that prepare special education and related services personnel;
  - v. state and local education officials;
  - vi. administrators of programs for children with disabilities;
  - vii. representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;
  - viii. representatives of private schools and public charter schools;
  - ix. at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and
  - x. representatives from the State juvenile and adult corrections agencies.
- c. Appointments. As provided in R.S. 17:1954(A), the advisory council shall be appointed by the State Department of Education with the approval of the State Board. Each Board member shall recommend to the Superintendent of Education one name to serve on the advisory body from one of the membership categories to be chosen on the basis of lots drawn by Board members as vacancies occur. A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities.
- d. ...
- e. Functions
- i. As stated in federal regulations, the functions of the advisory council shall be to:

(a). advise the State educational agency of unmet needs within the State in the education of children with disabilities;

(b). comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

(c). advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;

(d). advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and

(e). advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:427 (November 1978), amended LR 19:1310 (October 1993), LR 21:550 (June 1995), LR 22:99 (February 1996), LR 23:1303 (October 1997), LR 24:1093 (June 1998), LR 25:

Interested persons may submit written comments on the proposed revision until 4:30 p.m. November 9, 1998 to: Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Special Education Advisory Council

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
- BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$100. Funds are available. Depending on the domicile of the additional members of the State Advisory Panel, this action may result in a minor increase in travel expenses.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
- There will be no effect on revenue collections as a result of this action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
- This action will not have any fiscal effect on the aforementioned groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
- There will be no effect on competition and employment as a result of this action.

Weegie Peabody  
Executive Director  
9809#065

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Tuition Trust Authority  
Office of Student Financial Assistance**

Student Tuition and Revenue Trust (START Saving)  
Program—Qualified Higher Education Expenses  
(LAC 28:VI.309)

The Tuition Trust Authority advertises its intention to revise the Student Tuition Assistance and Revenue Trust (START Saving) Program [R.S. 17:3091 et seq.] rules as follows.

**Title 28**

**EDUCATION**

**Part VI. Student Financial Assistance—Higher  
Education Savings**

**Chapter 3. Education Savings Account**

**§309. Disbursement of Account Funds for Payment of  
Qualified Higher Education Expenses of a  
Beneficiary**

\* \* \*

**E. Expenditure of Principal and Earnings**

1. The balance of principal and earned interest in an education savings account may be expended as authorized by the beneficiary to pay his qualified higher education expenses.

\* \* \*

**F. Payments to Eligible Educational Institutions**

\* \* \*

4. Upon receipt of funds from an education savings account, the educational institution shall first apply funds against those qualified higher education expenses billed by the institution and then disburse any remaining balance of funds to the beneficiary for qualified higher education expenses not billed by the institution.

5. If a beneficiary withdraws from the educational institution or if there is otherwise a change in the beneficiary's student status which results in a refund of qualified higher education expenses which have been previously paid to the educational institution from an education savings account, then, subject to the laws governing the priority of refunds of federal and state aid, that portion of the qualified higher education expenses paid with funds from an education savings account shall be refunded by the educational institution directly to the LATTA for credit to the account of the beneficiary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 24:

Interested persons may submit written comments on the proposed revision until 4:30 p.m., October 20, 1998, at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn  
Executive Director

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

**RULE TITLE: Student Tuition and Revenue Trust (START Saving) Program—Qualified Higher Education Expenses**

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

Estimated costs to implement this rule change are the routine charge to publish by the *Louisiana Register* of \$80 for publication of the Notice of Intent and the Final Rule.

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

No impact on revenue collections is anticipated to result from this rule.

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

Students who receive benefits of the START savings program may receive those benefits for qualified higher education expenses billed by entities other than their school to cover the significant cost of room and board.

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

No impact on competition and employment is anticipated to result from this rule.

Jack L. Guinn  
Executive Director  
9809#034

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Radiation Protection Division**

NCR Compatibility Requirements  
(LAC 33:XV.328) (NE020\*)

(Editor's Note: A portion of the following notice of intent, which appeared on page 1540 of the August 20, 1998 *Louisiana Register* is being republished to correct a publishing error.)

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part XV. Radiation Protection**

**Chapter 3. Licensing of Radioactive Material**

**§328. Special Requirements for Specific License to  
Manufacture, Assemble, Repair, or Distribute  
Commodities, Products, or Devices That Contain  
Radioactive Material**

**A. - J.2.d. ...**

e. shall provide to the division a copy of each individual's certification by the Board of Pharmaceutical Specialties and the division, licensing state, Nuclear Regulatory Commission, or agreement state license or the permit issued by a licensee of broad scope and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows the individual to work as an authorized nuclear pharmacist, in accordance with Subsection J.2.b.i. and iii of this Section.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR:

Gus Von Bodungen  
Assistant Secretary

9809#016

## NOTICE OF INTENT

### Department of Environmental Quality Office of Water Resources Water Pollution Control Division

#### Procedures for Modifying Approved POTW Pretreatment Programs (LAC 33:IX.2715, 2723, and 2735)(WP030\*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Pollution Control Division regulations, LAC 33:IX.2715, 2723, 2735 (Log Number WP030\*).

This proposed rule is identical to a federal regulation found in 62 FR 38405-38415, July 17, 1997, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule changes the number of public notices needed for a major modification from two to one. It also increases the number of modifications that will be considered minor modifications, and thus will not need to be public noticed. This change will equate Louisiana's regulations to the EPA federal regulations and will make the public notice requirements for pretreatment modifications the same as other modifications. The basis and rationale for this proposed rule are to mirror the federal regulations.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### Title 33 ENVIRONMENTAL QUALITY Part IX. Water Quality Regulations Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program Subchapter T. General Pretreatment Regulations for Existing and New Sources of Pollution §2715. Pretreatment Program Requirements: Development and Implementation by POTW

\* \* \*

[See Prior Text in A - B]

C. Incorporation of Approved Programs in Permits. A POTW may develop an appropriate POTW pretreatment program any time before the time limit set forth in Subsection B of this Section. The POTW's LPDES permit will be reissued or modified by the NPDES state or EPA to incorporate the approved program conditions as enforceable conditions of the permit. The modification of a POTW's LPDES permit for the purposes of incorporating a POTW pretreatment program approved in accordance with the procedures in LAC 33:IX.2721 shall be deemed a minor permit modification subject to the procedures in LAC 33:IX.2385.

\* \* \*

[See Prior Text in D - F.5.d.]

6. The POTW shall prepare and maintain a list of its industrial users meeting the criteria in LAC 33:IX.2705.*Significant Industrial User.a*. The list shall identify the criteria in LAC 33:IX.2705.*Significant Industrial User.a* applicable to each industrial user and, for industrial users meeting the criteria in LAC 33:IX.2705.*Significant Industrial User.a.ii* shall also indicate whether the POTW has made a determination in accordance with LAC 33:IX.2705.*Significant Industrial User.b* that such industrial user should not be considered a significant industrial user. The initial list shall be submitted to the approval authority in accordance with LAC 33:IX.2717 as a nonsubstantial program modification in accordance with LAC 33:IX.2735.B.2. Modifications to the list shall be submitted to the approval authority in accordance with LAC 33:IX.2723.I.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:

#### §2723. Reporting Requirements for POTWs and Industrial Users

\* \* \*

[See Prior Text in A - I.2]

3. a summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period;

4. a summary of changes to the POTW's pretreatment program that have not been previously reported to the approval authority; and

5. any other relevant information requested by the approval authority.

\* \* \*

[See Prior Text in J-P.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:

#### §2735. Modification of POTW Pretreatment Programs

\* \* \*

[See Prior Text in A]

#### B. Substantial Modifications Defined

1. The following are substantial modifications for purposes of this Section:

a. modifications that relax POTW legal authorities (as described in LAC 33:IX.2715), except for modifications that

directly reflect revision to the general pretreatment regulations, LAC 33:IX.Chapter 23.Subchapter T or Subchapter N, and reported in accordance with Subsection D of this Section;

b. modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported in accordance with Subsection D of this Section. Maximum Allowable Industrial Loadings mean the total mass of a pollutant that all industrial users of a POTW (or a subgroup of industrial users identified by the POTW) may discharge in accordance with limits developed under LAC 33:IX.2709;

c. changes to the POTW's control mechanism, as described in LAC 33:IX.2715.F.1.c;

d. a decrease in the frequency of self-monitoring or reporting required of industrial users;

e. a decrease in the frequency of industrial user inspections or sampling by the POTW;

f. changes to the POTW's confidentiality procedures; and

g. other modifications designated as substantial modifications by the approval authority on the basis that the modification could have significant impact on the operation of the POTW's pretreatment program, could result in an increase in pollutant loadings at the POTW, or could result in less stringent requirements being imposed on industrial users of the POTW.

2. The approval authority may designate other specific modifications, in addition to those listed in Subsection B.1 of this Section, as substantial modifications.

3. A modification that is not included in Subsection B.1 of this Section is nonetheless a substantial modification for purposes of this Section, if the modification:

a. would have a significant impact on the operation of the POTW's pretreatment program;

b. would result in an increase in pollutant loadings at the POTW; or

c. would result in less stringent requirements being imposed on industrial users of the POTW.

#### C. Approval Procedures for Substantial Modifications

1. The POTW shall submit to the approval authority a statement of the basis for the desired program modification, a modified program description (see LAC 33:IX.2717.B), or such other documents the approval authority determines to be necessary under the circumstances.

2. The approval authority shall approve or disapprove the modification based on the requirements of LAC 33:IX.2715.F, following the procedures in LAC 33:IX.2721.B-F, except as provided in Subsection C.3-4 of this Section. The modification shall become effective upon approval by the approval authority.

3. The approval authority need not publish a notice of decision under LAC 33:IX.2721.E, provided the notice of request for approval under LAC 33:IX.2721.B states that the request will be approved if no comments are received by a date specified in the notice, no substantial comments are received, and the request is approved without change.

4. Notices required by LAC 33:IX.2721 may be performed by the POTW, provided that the approval authority finds that the POTW notice otherwise satisfies the requirements of LAC 33:IX.2721.

#### D. Approval Procedures for Nonsubstantial Modifications

1. The POTW shall notify the approval authority of any other (i.e., nonsubstantial) modifications to its pretreatment program at least 45 days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in Subsection C.1 of this Section.

2. Within 45 days after the submission of the POTW's statement, the approval authority shall notify the POTW of its decision to approve or disapprove the nonsubstantial modification.

3. If the approval authority does not notify the POTW within 45 days of its decision to approve or deny the modification or to treat the modification as substantial under Subsection B.1.g of this Section, the POTW may implement the modification.

E. Incorporation in the Permit. All modifications shall be incorporated into the POTW's LPDES permit upon approval. The permit will be modified to incorporate the approved modification in accordance with LAC 33:IX.2385.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR:

A public hearing will be held on October 26, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP030\*. Such comments must be received no later than October 26, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP030\*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Linda Korn Levy  
Assistant Secretary

9809#063

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Board of Trustees of the State Employees Group  
Benefits Program**

Plan Document—Mandated Benefits, Cancer  
Screening and Detection

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board hereby gives notice of intent to adopt amendments to the Plan Document of Benefits. The Board finds that it is necessary to amend the Plan Document to implement the provisions of Act Number 1439 of the 1997 Regular Session of the Louisiana Legislature (R.S. 22:215.11), regarding benefits for mammography, Pap tests, and prostate examination and testing. Accordingly, notice is hereby given that the Plan Document of Benefits for the State Employees Group Benefits Program will be amended in the following particulars:

Amend Article 3, Section I, Subsection F, Paragraph 29, to read as follows:

**F. Eligible Expenses**

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule and the Schedule of Benefits, under the Comprehensive Medical Benefits when prescribed by a Physician and Medically Necessary for the Treatment of a Covered Person:

\* \* \*

29. Not subject to the annual deductible, one Pap test for cervical cancer per calendar year and screening mammographic examinations performed according to the following schedule:

- a. One baseline mammogram during the five-year period a person is 35-39 years of age;
- b. One mammogram every two calendar years for any person who is 40-49, or more frequently if recommended by a physician;
- c. One mammogram every twelve months for any person who is 50 years of age or older;

\* \* \*

Amend Article 3, Section I, Subsection F, by adding a new Paragraph, designated as Paragraph 37, to read as follows:

\* \* \*

37. Not subject to the annual deductible, testing for detection of prostate cancer, including digital rectal examination and prostate-specific antigen testing, once every twelve months for men over the age of fifty years, and as medically necessary for men over the age of forty years;

\* \* \*

Interested persons may present their views, in writing, to Jack W. Walker, Ph.D., Chief Executive Officer, State Employees Group Benefits Program, Box 44036, Baton

Rouge, LA 70804, until 4:30 p.m. on Friday, October 30, 1998.

Jack W. Walker, Ph.D.  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Plan Document—Mandated Benefits,  
Cancer Screening and Detection**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is estimated that implementation of these benefits will impact the State Employees Group Benefits Program by \$1,261,000 to \$1,697,800 during the first year. Over time these additional claim costs will be reflected in the rate structure that is adopted by the Board of Trustees.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revenue collections of state or local governmental units will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Those persons that are directly affected will be the plan members of the State Employees Group Benefits Program. These members will now be eligible for benefits for mammography, pap smears, and prostate screening without having to meet the annual medical deductible that is imposed by the Program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
Competition and employment will not be affected.

Ann B. Davenport  
Deputy Director  
9809#073

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

FY 1998-99 State Plan on Aging  
(LAC 4:VII.1317)

In accordance with Louisiana Revised Statutes 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend LAC 4:VII.1317, the FY 1998-1999 Louisiana State Plan on Aging, effective January 1, 1999. This rule change is in accordance with the Code of Federal Regulation, 45 CFR 1321.19 "Amendments to the State Plan," and 45 CFR 1321.35 "Withdrawal of Area Agency Designation," (Vol. 53. Number 169 pages 33769 and 33770). The purposes of this rule change are:

- (1) to reverse the designation of the Governor's Office of Elderly Affairs as the Area Agency on Aging for the Planning and Service Area (PSA) of Calcasieu parish and Tensas parish;

(2) to designate Calcasieu parish and Tensas parish as Planning and Service Areas;

(3) to designate Calcasieu Council on Aging, Inc. as the Area Agency on Aging for Tensas PSA.

The FY1998-1999 Louisiana State Plan on Aging was adopted and published by reference in the September 20, 1997 issue of the Louisiana Register, Volume 23, Number 9. The full text of the State Plan may be obtained by contacting the GOEA at the address below or the Office of the State Register at 1051 North Third Street, Room 512, Baton Rouge, LA 70802, telephone (225) 342-5015.

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office**

**Chapter 13. State Plan on Aging**

**§1317. Area Agencies on Aging**

Area Agency on Aging	Planning and Service Area (Parishes Served)
Allen COA	Allen
Beauregard COA	Beauregard
Bienville COA	Bienville
Bossier COA	Bossier
Caddo COA	Caddo
CAJUN Area Agency on Aging (AAA)	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion
Calcasieu COA	Calcasieu
Caldwell COA	Caldwell
Cameron COA	Cameron
Capital Area Agency on aging (AAA)	Ascension, Assumption, East Feliciana, Iberville, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge, West Feliciana
CENLA Area Agency on Aging (AAA)	Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Winn
Claiborne COA	Claiborne
DeSota COA	DeSota
East Baton Rouge COA	East Baton Rouge
Jefferson COA	Jefferson
Jefferson Davis COA	Jefferson Davis
Lafourche COA	Lafourche
Lincoln COA	Lincoln
Livingston COA	Livingston
Madison COA	Madison
Morehouse COA	Morehouse
Natchitoches COA	Natchitoches

North Delta (AAA)	East Carroll, Franklin, Jackson, Richland, Tensas, Union
New Orleans COA	Orleans
Ouachita COA	Ouachita
Plaquemines COA	Plaquemines
Red River COA	Red River
Sabine COA	Sabine
St. Bernard COA	St. Bernard
St. Charles COA	St. Charles
St. James AAA	St. James
St. John COA	St. John
St. Tammany COA	St. Tammany
Terrebonne COA	Terrebonne
Vernon COA	Vernon
Webster COA	Webster
West Carroll COA	West Carroll

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated by the Office of the Governor, Office of Elderly Affairs, LR 23:1146 (September 1997) amended LR 24:1110, (June 1998), LR 24:

The Governor's Office of Elderly Affairs will conduct a public hearing to receive comments on the proposed amendment to the State Plan on Monday, October 26, 1998, at the Office of Elderly Affairs conference room, 412 North Fourth Street, Baton Rouge, LA. 70802, at 1:30 p.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. The GOEA will receive written comments until 4:00 p.m. October 26, 1998.

Paul F. "Pete" Arceneaux, Jr.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: FY 1998-99 State Plan on Aging**

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

The proposed rule will not result in additional costs or savings to state or local governmental units. The proposed rule dedesignates the Governor's Office of Elderly Affairs as the Area Agency on Aging (AAA) for Calcasieu and Tensas parishes and designates each parish as a Planning and Service Area (PSA). The proposed rule designates the Calcasieu Council on Aging, Inc. as the AAA for the Calcasieu parish PSA. The proposed rule designates the North Delta Regional Planning and Developmental District, Inc. as the AAA for the Tensas parish PSA.

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

The proposed rule will not affect revenue collections of state or local governmental units.

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

The AAA's receive Title III funds to cover the additional cost to develop and administer an area plan on aging. The North Delta Regional Planning and Development District, Inc. will receive an additional ten percent (10%) of the Title III funds originally allocated to the Tensas parish PSA to be used for administrative costs of the PSA. The Calcasieu Council on Aging has been contracting with the Governor's Office of Elderly Affairs to administer services in the Calcasieu parish PSA. The Calcasieu Council on Aging will directly receive these administrative funds as the designated AAA.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to affect competition and employment. The Tensas Council on Aging will be allowed to bid on services delivered in the Tensas parish PSA. The Calcasieu Council on Aging will administer the Title III funds through the area plan.

Paul F. "Pete" Arceneaux      Robert E. Hosse  
Executive Director              General Government Section Director  
9809#013                              Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Office of Lifelong Learning  
Workforce Commission**

Community and Technical Colleges  
Investment Fund Awards—1998-99  
(LAC 40:XIX.101-113)

Notice is hereby given, in accordance with R.S. 49:950, et seq., that the Governor's Office of Lifelong Learning in conjunction with the Louisiana Workforce Commission, pursuant to authority vested in the office by R.S. 23:2055 and R.S. 23:2071 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to enact rules governing the Community and Technical Colleges Investment Fund, LAC 40:XIX, Chapter 1, §§101-113, to provide for eligibility and requirements for submission of applications.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part XIX. Louisiana Workforce Commission**

**Chapter 1. Community and Technical Colleges**

**Investment Fund**

**§101. Purpose**

Funds appropriated by the legislature to the Community and Technical Colleges Investment Fund are available exclusively to the Louisiana Workforce Commission for use in efforts to ensure the responsiveness of state community and technical colleges toward meeting the needs of Louisiana's businesses and industries and the needs of Louisiana's citizens for the development of a quality workforce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

**§103. Definitions**

*Applicant*—the community or technical college requesting funds under this program from the Workforce Commission, in order to provide training in partnership with one or more employers.

*Award*—funding approved under this program for approved activities.

*Awardee*—an applicant receiving a training award under this program.

*Employers*—the employers participating in a training partnership.

*Training Provider*—the community or technical college providing the training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

**§105. Eligibility**

A. An applicant shall be eligible for training funds if it is a public community college, technical college or a consortium or two or more community and/or technical colleges that develops a partnership with one or more employers for the purpose of designing or redesigning training programs to meet the needs of business and industry.

B. All eligible applicants must demonstrate that they are collaborating in developing and operating a continuing job preparatory program designed to produce skilled workers in a particular trade or technical occupation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

**§107. Criteria**

A. Applicants must incorporate the goals of the Workforce Commission into their program design and operation. The Workforce Commission's adopted goals focus on a workforce system that will become:

- 1. customer focused;
- 2. performance based;
- 3. market driven;
- 4. streamlined;
- 5. locally operated;
- 6. focused on the work ethic.

B. Community and technical college applicants must certify the existence of a partnership with one or more employers.

C. The proposed training program must incorporate industry-based skills standards. If such standards are not applicable to the type of training, the applicant must provide an explanation and must indicate an alternate standardized measure of skill acquisition.

D. The applicant and the employer partner must certify the need for job preparatory training by projecting job demand.

The growth and demand job forecast, upon which the need is projected, must be substantiated.

E. The community and/or technical college applicant shall commit resources from its current budget toward the total costs for the proposed program or project.

F. Applicants must complete a budget for approval by the Commission. Administrative costs shall not exceed ten percent (10 percent) of costs.

G. The Workforce Commission shall work in consultation with employers, training providers and organized labor in determining the allocation of monies appropriated under this fund.

H. The Workforce Commission will consider the following factors in selecting awardees:

1. long-term program need (job demand);
2. level of employer interest and participation in program design and operation;
3. level of employer leveraged resources and financial assistance for the program;
4. number of employers served, particularly small employers;
5. amount of college's existing resources being converted to the proposed program;
6. strength and long-term viability of the partnership and program;
7. average hourly wage rates projected for employed trainees upon completion of training;
8. program accessibility in terms of scheduling;
9. opportunities for career advancement;
10. utilization of skill standards and industry-based certification or alternate standard measure of skill acquisition;
11. capacity for bringing qualified disadvantaged citizens, welfare-to-work participants, inmates or parolees into the workforce.

I. Program performance shall be based upon:

1. the performance standards adopted by the Workforce Commission, which measure the effectiveness of a training program in terms of:
  - a. placement (employment of participants upon completion or exit from program);
  - b. training-related placement;
  - c. adequacy of training;
  - d. customer satisfaction (The customers are both the employers who need trained workers and the citizens who seek training.); and
2. semi-annual progress reports submitted to the Workforce Commission for review and approval.

J. Awardees shall participate in the development of the Scorecard component of the Occupational Information System, which consists of a website display of performance data derived by matching participant exit data with agency databases, such as, with the Unemployment Insurance database from the Department of Labor.

K. Funds awarded shall be used to design or redesign a training program/project, and awardees shall plan for sustainability of a program/project following the cessation of award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office the Lifelong Learning, Workforce Commission, LR 25:

### **§109. Application Procedure**

The Workforce Commission will provide a standard form for use by applicants. The application form will contain, but not be limited to, detailed descriptions of the following:

A. a description of the process that will be used by the community/technical college(s) and the employer partner(s) for planning and collaboration. This process shall include the structure through which the partnership will assess needs, make decisions and take corrective actions, as necessary;

B. certification of the growth and demand job need that warrants the preparatory training. The forecasted projection must be based upon analysis of current and future job trends, and the basis for the projection must be provided;

C. a description of the proposed training program to include: curriculum, pre-employment and any post-employment training, recruitment of students, scheduling, staffing, student to teacher ratio, provision for any accelerated learning in the workplace, or other important program components;

D. a written commitment from each employer partner to participate in the development and design of a job preparatory training program in a specific occupational field and to provide assistance. The commitment from participating employers shall include a description of the intended leveraged resources, including any financial contribution;

E. a written commitment from each college partner to collaborate with the employer(s) on the design and implementation of the program, along with a written description of the data collection methodology and the resources committed to the training by the college;

F. a proposed budget with administrative costs not to exceed ten percent of costs;

G. any additional information the Workforce Commission may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

### **§111. Submission and Review Procedure**

A. Applicants must submit their completed application to the Workforce Commission. Submitted applications will be reviewed and evaluated by a committee of the Workforce Commission and by staff. The applicant and the employer partner(s) may be required to present orally the concepts of the proposal to the reviewers.

B. Following review of applications, the Committee will forward prioritized recommendations to the Workforce Commission. The applications will then be reviewed and approved by the Workforce Commission.

C. A copy of the award letter will be sent to the respective board(s) for the community and technical colleges. No funds spent on the project prior to the Commission's approval of award will be considered eligible project costs.

D. The Commission will issue an award letter to the applicant within five working days of the application approval by the Workforce Commission.

AUTHORITY NOTE: Promulgated in accordance R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

### **§113. General Award Provision**

#### **A. Award Contract**

1. A contract will be executed between the Workforce Commission and the awardee. The contract will specify the goals and objectives expected and the compliance requirements.

2. The Workforce Commission staff will monitor the progress of the training.

3. The Workforce Commission will reimburse the training provider from invoices submitted by the Workforce Commission and will disburse funds from invoices or certification of work completed.

4. Funds may be used for training programs extending up to two years in duration.

#### **B. Use of Funds**

1. The Community and Technical Colleges Investment Fund offers financial assistance in the form of an award for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include, inter alia, the following:

a. instruction costs: wages for technical and community college instructors, contracts for vendor trainer, training seminars;

b. travel costs: travel expenses reimbursable under this agreement will comply with state Travel Regulation, PPM 49. Travel costs are limited to fifteen percent (15 percent) of the total training award;

c. materials and supplies costs: training texts and manuals, audio/visual materials, skills assessment, training materials, computer based training software; and

d. capital outlay: equipment and facility modification.

#### **C. Conditions for Disbursement of Funds**

1. Funds will be available on a reimbursement basis following submission of approved invoices to the Workforce Commission. No funds spent on the project prior to the Commission's approval of the award will be considered eligible project costs.

2. All disbursements of funds shall be made to the training provider cited as the awardee.

#### **D. Compliance Requirements**

1. Training providers shall be required to complete semiannual reports describing progress toward the goals and objectives specified in their contract with the Workforce Commission.

2. In the event the awardee fails to meet its goals and objectives specified in its contract with the Workforce Commission, the Commission shall retain the right to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the awardee in an amount commensurate with the scope of the unmet goals and objectives.

3. In the event the awardee or monitoring entity knowingly files a false statement in its application or in a progress report, the awardee or monitoring entity shall be

guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

4. The Workforce Commission shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the awardee and the monitoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:2055 and R.S. 23:2071.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Lifelong Learning, Workforce Commission, LR 25:

Inquiries concerning the proposed enactments may be directed to Chris Weaver, Executive Director of the Workforce Commission, Office of the Governor, P.O. Box 94004, Baton Rouge, Louisiana 70804.

Interested persons may submit data, views, arguments, information or comments on the proposed enactments in writing, to the Louisiana Workforce Commission, Office of the Governor, P.O. Box 94004, Baton Rouge, LA, Attention: Chris Weaver, Executive Director. Written comments must be submitted to and received by the Commission within ten (10) days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Commission within twenty (20) days of the date of this notice.

Chris Weaver  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Community and Technical College Investment Fund Awards**

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

These awards are funded through the Community and Technical Colleges Investment Fund which was established by Act 152 of the 1998 First Extraordinary Session. One million dollars was appropriated in the 1998 Regular Session to implement this program. These rules establish the criteria for the awards process and operational guidelines for the program to be administered by the Louisiana Workforce Commission. There are no implementation costs to state or local governmental units.

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

It is likely that some financial support from local business and industry and some additional amount of tuition collections will be realized by the community and technical colleges that receive a grant under these rules. The amounts are unknown. Business support is more likely to be in the form of in-kind contributions. Local governmental units will not be directly affected by these rules. Revenue collections are not shown for FY 00-01 because current funding is not sufficient to extend beyond FY 99-00.

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

Students may incur some tuition costs; however, the amount is unknown. The program does not mandate that schools impose tuition. Employers could incur some voluntary costs through their participation in the program; however, the amount is

unknown. There is no mandate for employer participation; however, it will be a consideration in the awarding of grants. The skills developed by students through these programs should be more consistent with the needs of the employers, thus making it easier for students to find gainful employment.

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

The program is designed to produce changes in Louisiana's workforce training programs that will make the state's businesses more competitive, make the state more attractive for business investment, expand the state's economy and increase employment accordingly.

Chris Weaver  
Executive Director  
9809#039

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health and Hospitals Office of Public Health

##### Sanitary Code—Retail Food Stores/Markets (Chapter XXII)

Notice is hereby given, in accordance with the Administrative Procedures Act, R.S. 49:950 et seq, that the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4A(1) and R.S. 40:5, intends to update and revise Chapter XXII of the Louisiana State Sanitary Code to be in accordance with current Food and Drug Administration (FDA) Food Code Guidelines.

#### Sanitary Code

#### Chapter XXII. Retail Food Stores/Markets

**22:01 Definition:** Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

*a<sub>w</sub>*—water activity.

*Base of Operation/Commissary*—catering establishment, restaurant, or any other properly equipped place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

*Beverage*—liquid for drinking, including water.

*Bulk Food*—processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn.

*Certification Number*—a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

*C.F.R.*—Code of Federal Regulations.

*CIP*—clean in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surface that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

*Code*—the word *Code* when used alone shall mean the regulations contained in this Sanitary Code, subsequent

amendments thereto, or any emergency rule or regulation which the administrative authority having jurisdiction may lawfully adopt.

*Convenience Store*—a retail food store which is usually easily accessible and deals mostly with prepackaged food products.

*Comminuted*—reduced in size by methods including chopping, flaking, grinding, or mincing.

*Critical Items*—a provision of this code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation, such as, but not limited to, a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water sources, sewage backup, severe insect and rodent infestation, and chemical contamination.

*Deli/Delicatessen*—a food establishment which generally serves ready-to-eat food products such as sandwiches, cold cuts, cheeses, prepared salads and some prepared hot foods

*Department*—the Department of Health and Hospitals and Secretary means the Secretary thereof.

*EPA*—Environmental Protection Agency.

*Easily Cleanable*—surfaces that are readily accessible and made of such materials, finish and so fabricated that residue may be effectively removed by normal cleaning methods.

*Employee*—the permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a retail food store or market.

*Equipment*—an article that is used in the operation of a food store or market such as a reach-in or walk-in refrigerator or freezer, grinder, ice maker, meat block, mixer, oven, scale, sink, slicer, stove, table, thermometers, vending machine, or warewashing machine.

*FDA*—Food and Drug Administration.

*Food*—raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

*Food Contact Surfaces*—a surface of equipment or a utensil with which food normally comes in contact with, or a surface of equipment or a utensil from which food may drain, drip or splash into a food or onto a surface normally in contact with food.

*Food Establishment*—an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption. The term includes restaurants, cafeterias, caterers, delis, bars, lounges, or any other facility that prepares food for individual service or for a group of people, whether consumption is on or off the premises and regardless if there is a charge for the food. The term does not include private homes where food is prepared or served for individual family consumption.

*Game Animals*—an animal, the products of which are food, that is not classified by law as cattle, sheep, swine, goat, poultry, fish, and game birds or small animals as described in Chapter X of the State Sanitary Code.