



## LSBA SNAPSHOT 2018 LEGISLATIVE SESSIONS OVERVIEW

For all intents and purposes, the Louisiana Legislature has officially been in legislative session since mid-February beginning with the 1<sup>st</sup> Special Session, then moving right into the Regular Session which ended before its required adjournment date to make way for yet another session, the 2<sup>nd</sup> Special Session of 2018.

The 1<sup>st</sup> Special Session aimed at addressing an almost \$1 billion budget shortfall produced no solutions. In fact, the Senate had little to do since revenue raising measures must start in the House of Representatives and House members did not approve one revenue raising bill for the Senate to consider. This was like *Deja Vu* all over again, because that is also what happened in the 2017 Regular Session as well.

Lawmakers next headed into the 2018 Regular Session where they faced the unusual task of meeting their constitutional obligation to approve a balanced state budget without the ability to consider revenue-raising measures to try to close or at least narrow the significant budget gap. The 2018 Regular Session was a general session where specific revenue raising measures could not be considered. While legislators did approve an operating budget with the revenues available, the approved budget funded vital nursing home care, services for the disabled and elderly, public private partnerships, the health sciences centers in Shreveport and New Orleans and 70% of TOPS at the expense of every other governmental function. It was a budget that Governor Edwards vetoed, setting up the 2<sup>nd</sup> Special Session for lawmakers to wrestle with the budget and revenue issues again.

And, there were other issues on the table besides the looming budget conundrum. At the regular session lawmakers also addressed school safety, hazing crimes, crimes against the elderly, abortion restrictions, expansion of the allowable uses of medical marijuana, sexual harassment in the government workplace, modernization of the state's gaming laws, changes in state jury laws and more.

In the midst of all of the public policy debates, **one issue loomed – the budget**. The budget, along with how to fund it, took center stage in the 2018 2<sup>nd</sup> Special Session.

Unfortunately, the pressure of a looming July 1<sup>st</sup> deadline was not enough, and the session ended with no results setting up the 3<sup>rd</sup> Special Session for lawmakers.

The Louisiana State Legislature concluded the 3<sup>rd</sup> Extraordinary Session of 2018 on Sunday, June 24, 2018, ahead of the June 27<sup>th</sup> date prescribed by law. The House and the Senate passed two important instruments: House Bill 10 and a supplemental appropriation/state spending plan, House Bill 1.

HB 10 by Rep. Paula Davis successfully passed with a super majority vote of both the House and the Senate. The bill extends .45 percent of the 5<sup>th</sup> penny that expires on June 30, 2018. This amount represents \$482,948,770 million and is effective on July 1, 2018, through June 30, 2025. The extension of the revenue for seven years is the first step to bringing stability to our state funding. The Legislature also passed a supplemental bill HB1 which allocates \$482,948,770 raised by HB10. This bill contains \$43 million in priorities that remain unfunded below the line and provides language that says if additional revenue is raised, those priorities shall be funded on a pro rata basis through a recommendation from the Commissioner of Administration to the Joint Legislative Committee on the Budget. The amount raised by HB 10 is shy of the initial \$648 million requested by the Governor Edwards so there are cuts that total over \$150 million in various departments, including a \$66 million cut LDH. Restorations included in the budget include higher education, TOPS, district attorneys, state-run special schools and it will keep the food stamp program from elimination. Sheriffs are funded; however, they still have a significant cut within their transitional work program. Both instruments were signed by the Governor immediately.

## EDUCATION

This session resulted in very few changes in terms of K-12 education. Governor Edwards' public schools package, which sought to reduce the role of test scores in teacher evaluations and ensure teacher tenure, failed early on in the session as did other measures relative to guns in schools, mandated recess, school lunches and more. The legislature did, however, adopt a flat MFP formula for the next school year and several measures relative to public school letter grades, student health and safety, prayer in school, and early childhood education opportunities in Louisiana.

**MFP (SCR 48 - Morrish)** – The 2018-2019 Minimum Foundation Program (MFP), the basic state aid to local schools, totals \$3.72 billion. This year's MFP formula maintains per student funding at the current rate of \$3,961. It includes an increase of about \$13.8 million to be used as a cushion for an expected mid-year adjustment of 2,800 additional students.

**Public School Letter Grades (SB 152 – Morrish)** – Last year, the Board of Elementary

and Secondary Education (BESE) adopted a new, more rigorous system of calculating school performance and accountability scores. This new system, which makes it more difficult for schools to achieve higher school letter grades, is part of the state's plan to make its school rigor similar to that of other states. This measure requires the state to issue two public school letter grades and two school performance scores – one reflecting how students fared under Louisiana's previous grading system and the other reflecting how they performed under the new rules. It is aimed at not only lessening the blow of the new standards, but also allowing parents, teachers and other stakeholders to compare how the two systems operate. *ACT 522*

**Virtual Schools (SB 562 – Boudreaux)** – Establishes and defines virtual charter schools in state law. A virtual charter school is a school that delivers all or a majority of its instruction and lessons through the internet or other electronic medium such that a student is not required to be at a specific location in order to receive instruction. Virtual schools are not precluded from hosting some traditional classroom-based instruction and face-to-face meetings as part of their curriculums. *ACT 478*

**Procurement (HB 272 – Hall)** – This is purely a clean-up instrument. It clearly aligns that this cooperative purchasing can be used for material, equipment and supplies throughout the law. *ACT 306*

**Early Childhood Care and Education (HB 676 – Hilferty)** – There has been a nationwide call to emphasize the importance of early childhood education as a way of improving public school performance. And, state officials in Louisiana believe that at least half of children in the state are unprepared for kindergarten. This measure attempts to answer that call and improve kindergarten readiness by authorizing BESE to use public and private funds to create pilot programs to improve affordable early childhood education from birth to age four. It also creates the Early Childhood Care and Education Commission to study and create a vision for the future of early childhood care and education. The commission is tasked with collecting data, considering research, determining a sustainable infrastructure, identifying opportunities for collaboration, and determining a time frame and necessary funding. *ACT 639*

**Academic Improvement Plans (HB 509 – G. Carter)** – Requires schools that are struggling with academic performance to develop an academic improvement plan that details the need for improvement, what action is being taken, a timeline for implementation and attainment of performance goals, and plan implications for students, families and educators. The action plans must be published on the Department of Education's website and be presented to the community during at least one public interest meeting held at the applicable school. *ACT 555*

**Language Equality and Acquisition for Deaf Kids Task Force (HB 199 – P. Smith)** – Creates the Language Equality and Acquisition for Deaf Kids (LEAD-K) Task Force to develop a framework for assessing children who are deaf or hard of hearing. The Task

Force is charged with developing resources for parents to monitor and track deaf or hard of hearing children's expressive and receptive language acquisition. Another goal of the task force is to identify language development milestones for children to track their progress and determine kindergarten readiness. The group will be composed of 23 members from various backgrounds – parents, teachers, legislators, representatives from health organizations and others. *ACT 455*

**Prayer in Schools (SB 512 – Gatti)** – Allows school employees to quietly bow their heads whenever they supervise a student-led, student-initiated prayer at school. *ACT 674*

**“In God We Trust” (SB 224 – Barrow)** – Requires public schools to display the national motto, “In God We Trust.” At minimum, the motto should be displayed with a paper sign. *ACT 410*

**Financial Literacy (SB 315 – Thompson)** - Aims to strengthen financial literacy education requirements in Louisiana by requiring all public high school students who enter the ninth grade on or after July 1, 2019 to receive instruction in personal finance as a requirement for graduation. *ACT 154*

**Parents’ Bill of Rights (HB 387-Edmonds)** – Gives parents the right to obtain their minor child's attendance records, discipline records, and records associated with screening for learning challenges or exceptionalities. Parents also have the right to receive an annual school calendar, a list of required fees, and uniform requirements. Parents must also be notified if their child's academic performance could impact their advancement to the next grade level. *ACT 547*

**START K12 Program (HB 650 – Foil)** – Creates the La. Student Tuition Assistance and Revenue Trust Kindergarten Through Grade 12 (START K12) Program. START K12 is similar to the START program for higher education except that it is for certain expenses associated with enrolling children in grades K-12. *ACT 687*

**Maternity Leave for Adoption (HB 625 – Edmonds)** – Grants public school teachers and other school employees 30 days of leave when they adopt a child. *ACT 631*

**Teacher Hiring Policies (HB 796 – Harris)** – Prohibits schools from hiring anyone who has been convicted of or has plead no contest to any felony crime, rather than just those specifically enumerated under prior law. They are also prohibited from hiring a teacher who has submitted fraudulent documentation in the hiring process or has been found to have facilitated cheating on any state assessment as determined by BESE. Anyone already employed who has committed these offenses will be dismissed and anyone denied employment could file a formal appeal with BESE. BESE is authorized to assess a fine equal to the amount of the teacher’s salary against a school that knowingly employs teachers in violation of this bill. *ACT 634*

## STUDENT HEALTH

**Mental Health Services for Students (HB 766 – Pierre)** – Allows private behavioral health providers to treat students during school hours if requested by the student’s parent or legal guardian. The parent must present an evaluation that indicates the services are necessary to assist the student with behavioral health impairments. Students can receive services during recess or lunchtime; and, the services can also occur during class time if the school and healthcare provider agree that is in the best interest the student. *ACT 696*

**Meningococcal Vaccine (HB 176 – Leger)** – Requires students entering the eleventh grade or are 16 years old to provide proof that they’ve been immunized against meningococcal disease. Students can be exempt from the requirement if their parent or legal guardian signs a waiver stating that the student is not immunized for religious or other personal reasons, because a physician has deemed it inadvisable for medical reasons, or there is a shortage of available vaccines. Meningococcal disease is a potentially deadly illness caused by bacterial infection. *ACT 196*

**Opioid Education & Prevention at Schools (HB 755 – D. Miller)** – Requires schools to include education relative to opioids in its substance abuse prevention curriculums. The measure also authorizes schools to maintain a supply of naloxone, or any other opioid antagonists. Schools may train school nurses or other school employees on opioid emergencies and administration of opioid antagonists. *ACT 694*

## STUDENT SAFETY

**Gun Violence Prevention at Schools and Universities** – In February 2018, a teen gunman opened fire with a semi-automatic rifle at a high school in Parkland, FL, killing 17 of his former classmates and teachers. This incident, 19 years after the massacre at Columbine High School, sparked a renewed debate on how to protect students from guns and violence at Louisiana schools. Some lawmakers promoted stricter gun control

while others championed efforts to arm teachers and others on campuses. In the end, the legislature agreed on a bill to allow students to carry bulletproof backpacks and other measures relative to parent notification of emergency situations as well as recognizing and reporting potential threats.

**Bulletproof Backpacks (SB 178 – Walsworth)** – Allows students to wear bulletproof backpacks at Louisiana schools and on school busses. *ACT 523*

**Guns Within 1,000 Feet of Schools (HB 602 – Miguez)** – Clarifies current law to make it clear that concealed carry permit holders can carry a weapon within 1,000 feet of a school or university. Guns are still not allowed on school or campus grounds. *ACT 629*

**Reporting Threats of Violence (HB 898 – Bacala)** – Requires any school employee who learns of a threat of violence or terrorism to immediately report the threat to local law enforcement if there is a reasonable belief that the threat is credible and imminent. If the employee does not reasonably believe the threat to be credible or imminent, they must still report the threat to school administrators for further investigation. After receiving the report, the law enforcement agency must begin an investigation no later than the first day that school is in session and endeavor to complete it within three school days. Further, if the reported threat of violence involves a student, the student must not be allowed to return to school until after undergoing a formal mental health evaluation. The measure also requires public school boards to develop threat assessment procedures, reporting procedures for potential threats, and materials regarding recognizing and reporting threats in their crisis management plans. *ACT 716*

**Notifying Parents of Emergencies (HB 498 – Jordan)** – Requires schools to notify parents in the event of a shooting or other violent incident or emergency. *ACT 168*

**Recognizing Potential Threats to School Safety (HB 895 – Norton)** – Requires schools, in consultation with local law enforcement, to develop and distribute age appropriate information on recognizing and reporting internet, cell phone, and online content that signifies a potential threat to school safety. *ACT 641*

**(SCR 8 – Morrell)** – Requests the Department of Education to study the feasibility and cost of installing silent alarms in all elementary and secondary school classrooms.

## **PUBLIC EMPLOYEE RETIREMENT & BENEFITS**

**Unfunded Accrued Liability Payments (HB 874 – Henry)** – The supplemental appropriations bill sets aside \$12.26 million from the Fiscal Year 2017 surplus for payments to the unfunded accrued liability in the state's retirement systems. *ACT 79*

# TAX MATTERS & ECONOMIC DEVELOPMENT

**Internet Sales Taxes (HB 17/2<sup>nd</sup> Special Session – Foil)** – For the last several years, lawmakers have tweaked state sales tax laws in an effort to collect state and local sales taxes on remote sales such as Internet sales in a manner that would withstand court review and have in fact reached an agreement with some e-tailers to collect and remit the tax. This bill is an extension of that effort. HB 17 aligns Louisiana law with South Dakota law, recently upheld by the U.S. Supreme Court regarding the definition of a dealer. A dealer is redefined as a person or business not physically present in the state that makes more than \$100,000 in sales in the state or engages in 200 or more separate transactions with Louisiana customers. *ACT 5 – 2<sup>ND</sup> SPECIAL SESSION*

**Advanced Payment Agreements with Industries (HB 598 - Havard)** – This measure allows local governments to, in effect, borrow from taxpayers who are receiving the industrial property tax exemption and agree to pay property taxes in advance. In turn, the local government will provide a tax credit against property taxes owed in later years plus interest. The participating industry cannot claim more than 20% of the credit in any tax year. *ACT 328*

**Tax Incentives for Donations to Local Government (HB 684 – Abramson)** – This bill removes the limitations on the amount of tax incentives that local governments may provide private entities that donate cash, equipment, goods or services to local infrastructure projects. *ACT 513*

## LEGISLATION LSBA WORKED to DEFEAT!

**Constitutional Convention (HB 500 – Abramson)** Proposed a Constitutional Convention that would have included the ability to remove the protection of the MFP.<sup>1</sup>

**“Lunch Shaming” (HB 284 – P. Smith)** Proposed restrictions on schools taking actions to collect unpaid lunch charges for students who don’t qualify for the federal free lunch program

**Teacher Bill of Rights (HB 343 & HB 344 – S. Carter)** HB 343 proposed to add mandates and prohibitions on communications with teachers (Teacher Unions also opposed) HB 344 proposed to grant individual teachers control over curriculum

**Mandatory Recess (HB 842 – Amedee)** Proposed to mandate 30 minutes of recess to the school day in grades K-8

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<sup>1</sup> There were failed efforts in the Regular, Second Special and Third Special Sessions to create a Commission to study calling a Constitutional Convention.

**School Choice Act (HB 670 – N. Landry)** The bill passed (Act 459) but only after a significant amendment. Originally the bill proposed to have BESE set guidelines for when a school had sufficient capacity to require it to accept a student from another school or school district under the School Choice Act.

**School Board Election Dates (HB 565 – Edmonds)** The bill would have moved all school board elections to the gubernatorial election cycle. However, HR 203 does request that the House & Governmental Affairs Committee study moving school board elections to the gubernatorial election cycle.

**Angelle Trahan Act (SB 311 – Perry)** The bill, named for a high school softball player injured while in a dugout, proposed to mandate that the dugout of every field which hosted high school level softball or baseball games be fully enclosed with fencing or netting to prevent thrown or batted balls from entering the dugout. The LSBA did not actively oppose the measure, but, did raise the issue that there would be a cost to retrofit school board owned fields and that there are other fields owned by other public entities not under the control of the school boards that are used for high school games.

## **OTHER RESOLUTIONS OF NOTE**

### **Regular Session<sup>2</sup>:**

**Drinking Water Testing (HR 221 - Hunter)** Establishes a pilot program for drinking water testing in schools.

**MFP – Unfunded Accrued Liability of Retirement Systems (HR 224 - Pearson)** Directs BESE to explain to the House of Representatives how the MFP is calculated to fund the unfunded accrued liability of state retirement systems. **MFP Unfunded Accrued Liability of Retirement Systems (SR 248 - Morrish)** Directs BESE to explain to the Senate how the MFP is calculated to fund the unfunded accrued liability of state retirement systems.

**Report of Health and Physical Education Status (HCR 11 - Norton)** Requests LDOE to include school level and system level data in an annual report on the status of health and physical education and that schools and system respond to LDOE surveys.

**Heavy Backpacks (HCR 79 Amedee)** Requests public school governing authorities to take actions to help students avoid injury from heavy backpacks.

**School Lunch (SR 154 - Erdey)** Requests the LDOE to create a committee to study and develop mechanisms and processes to ensure every student is served a meal at school, regardless of ability to pay.

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<sup>2</sup> None in 1<sup>st</sup> Special Session

**Annual Financial and Statistical Report (SR 176 - Mizell)** Requests LDOE to resume publication of the AFSR regarding the data provided by public school governing authorities.

**Discipline Policy - School Websites (SR 213 - Bishop)** Requests LDOE to require public school boards to post discipline policies and processes on school websites.

**Charter School Compliance (SR 241 - Barrow)** Requests LDOE to provide information to the House and Senate Education Committees regarding compliance with the Charter School Demonstration Programs Law.

**Gifted & Dyslexia Screening (SR 247 - Barrow)** Requests public school governing authorities to review and consider results of screenings for giftedness and dyslexia.

**MFP Taskforce (SR 249 - Boudreaux)** Requests BESE to reconvene the MFP Taskforce

**Silent Alarms at Schools (SCR 8 - Morrell)** Requests LDOE to investigate the feasibility of installing silent alarms in all elementary and secondary school classrooms.

**Compliance with Jason Flatt Act (SCR 76 Johns)** Requests BESE to ascertain whether all public and non-public schools are providing suicide awareness training in compliance with Jason Flatt Act.

**Behavior Analysts (SCR 119 Morrell)** Requests BESE to update certification rules for behavior analysts.

### **Second Special Session:**

**Teacher Pay (HR 1 - Bagley)** Requests Governor and BESE to work with Legislature to increase average teacher pay.

**Student Fees (HR 12 – P. Smith)** Creates a task force to study the assessment of fees to students a public and voucher schools.

**Recess (HR 31 - Amedee)** Requests BESE to study and report on the feasibility and advisability of requiring daily recess for students in grades K to 4<sup>th</sup>.

### **Third Special Session:**

**Recreation of Sales Tax Streamlining and Modernization Commission (HCR 7 - Stokes)** Reestablishes the Commission that had operated under former Act 405 of 2015.

## OTHER ISSUES

### INDUSTRIAL TAX EXEMPTION PROGRAM

The Governor, working through the Board of Commerce and Industry and LA Economic Development, modified the process through which industry could be granted an exemption from local ad valorem taxes. Under the new rules, the exemption will be limited to only 80% of local ad valorem taxes, and a local entity, such as the school board, can vote to reject the application for exemption, in which case the industry would not be granted any exemption from that entities taxes.

### SALES TAXES ON REMOTE/ONLINE SALES – US SUPREME COURT *WAYFAIR* DECISION

The US Supreme Court, in the case of *South Dakota vs. Wayfair*, overruled a prior ruling, *Quill*, that had stood for a number of years. Under the prior ruling a company that did not have a physical presence in a State, such as a store, office, or warehouse, was not required to collect State and local sales taxes on sales made to residents of that State and remit those taxes as provided by that State's law, in the same way the traditional brick and mortar retailers are obligated to do. Th Court upheld a South Dakota law that provided that a remote retailer (one without that physical presence) was still required to collect and remit sales taxes on sales to residents of the State of South Dakota if the retailer had in the prior year sold over \$100K worth of goods or entered into 200 or more sales transactions for goods delivered to South Dakota addresses. The online retailer Wayfair.com challenged the law under the prior *Quill* ruling. The new ruling means that Wayfair and similarly situated companies like Amazon.com will be required to collect and remit sales taxes under the South Dakota law. In the Act 5 of the 2018<sup>2nd</sup> ES adopted the same \$100K and 200 transaction threshold for Louisiana. Thus, the ruling would indicate that remote/online retailers meeting one of those thresholds in LA will have to begin collecting and remitting sales taxes on those sales transactions delivered into the State of LA.

There are some who contend that the ruling + Act 5 means that that this obligation applies to both State and local sales taxes in LA. Others contend that there are more requirements implicit in the ruling and LA does not meet those implicit requirements so the ruling does not affect LA sales taxes. However, many of the companies to which Act 5 would seem to apply, such as Wayfair.com and Amazon.com, have already registered and have been collecting State and local sales taxes, in some situations for over a year, even prior to the ruling or the enactment of Act 5. As School Boards serve as the local sales tax collector for a majority of the parishes in LA, School Boards should be at the forefront in leading the effort to register remote sellers and enforcing the obligation that those remote sellers collect applicable local sales taxes.