



# 2003 BUSINESS ISSUES

## The Program of Work

### INTRODUCTION

With this final issue of the 2002 *Enterprise*, LABI proudly presents the 2003 Program of Work. This Program marks LABI's 28th year of service to Louisiana's business community. It outlines, by issue area, LABI's work for the new year. It also renews LABI's commitment to make Louisiana a better place to live and to do business.

The program development process is ongoing, spanning the entire year. LABI members serve on councils and task forces and consider issues that are important to you and your business. The work of the councils and task forces then goes to LABI's Program Committee. This Committee reviews all of the issues presented with the goal of understanding how each issue area relates to other issues important to the business community. Program Committee recommendations are then presented to the LABI Board of Directors for their review and final approval.

This Program of Work drives LABI's activities at the Legislature, regulatory and policymaking agencies. It is important to you because our work in these arenas ultimately affects your business' operations. Though

the entire program is important to Louisiana's business community, three priorities will stand out in 2003. The business community must:

- Focus resources on electing state officials who will work effectively to reverse the loss of Louisiana's brightest and most productive workers by enhancing our business climate and aggressively pursuing economic development opportunities.
- Defend existing strengths in Louisiana's civil justice system and continue working to make the system fair and predictable.
- Enhance Louisiana businesses, especially small businesses, by streamlining the state and local sales and use tax systems, defeating proposals to establish a state minimum wage, and identifying ways to stabilize health care costs.

To all of you who gave of your time to work on this Program—the most fundamental aspect of our work—we offer our sincere thanks for another job well done.

### POLICY STATEMENT ON COMPETITION

LABI supports a free, open and diverse marketplace that encourages competition in all areas of business and industry. LABI believes that competition benefits consumers by providing them with more choices. LABI opposes any government-imposed ban on businesses engaging in commerce, and it also opposes predatory practices designed only to drive out competition, not to enhance consumer choices. LABI further believes that direct government competition with the private sector for the provision of goods and services is antithetical to the concept of free enterprise. Additionally, LABI supports a strong public bid law at the state and local levels to ensure fairness and fiscal integrity in the use of taxpayers' dollars.

## Issues Are Classified As Follows:

### Major Issue —

Those items LABI will strongly support or oppose, and take the lead in the effort.

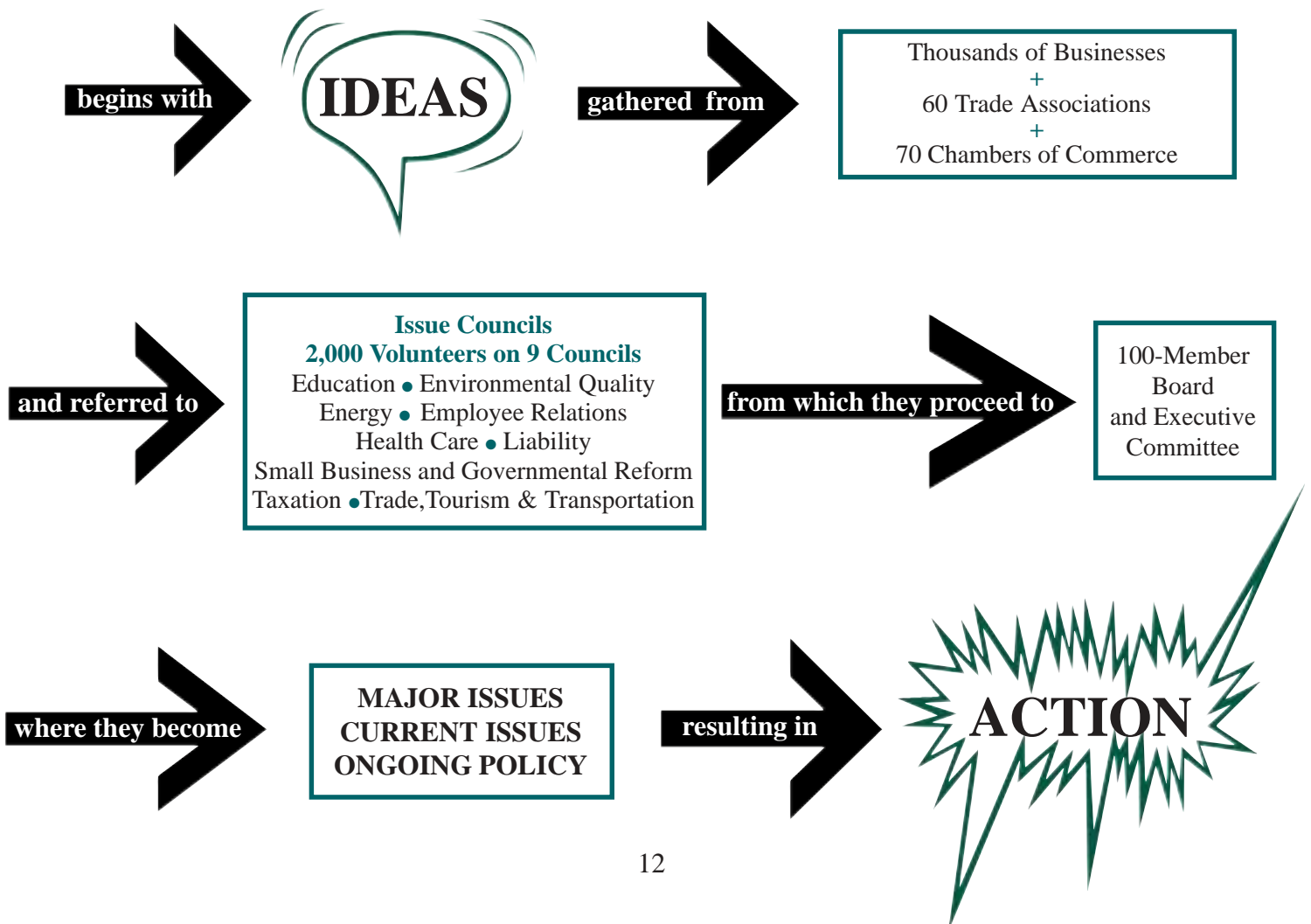
### Current Issue —

Those items on which LABI has a position and which may be addressed during the year by the Legislature and/or regulatory agencies.

### Ongoing Policy —

Items on which LABI has taken a position, but which are not anticipated to be addressed during the year. A new item could appear in this category if a council/task force takes a position but does not feel it falls in higher priority categories. Oftentimes, “ongoing” issues are statements of principle.

## The LABI Program Development Process



# EDUCATION AND WORKFORCE DEVELOPMENT

*LABI recognizes that a strong education system is the key to economic prosperity in the state. Improvement in education will not occur and be maintained until more people get involved and demand it. With the recent U.S. Supreme Court's decision in the Zelman case, which declared that school vouchers are not unconstitutional, parents have more of an opportunity to have real school choice options than ever before. LABI will concentrate its efforts on the following areas to achieve its goal of improving educational opportunities for all Louisiana citizens.*

## MAJOR ISSUE

### Public School K-12 Accountability Plan

**The Issue:** It is exceedingly important that Louisiana business people continue to support, closely monitor, defend and strengthen the K-12 public school accountability program. As school performance standards become more stringent in 2003-04, and again in 2005-06, the program will come under increased scrutiny and attack from those who would see it watered down or repealed. If there is ever to be a strong public education system in Louisiana, the current accountability program, as strengthened by new mandates resulting from the federal *No Child Left Behind* legislation, must be protected at all costs.

**LABI Position:** Support, protect and strengthen the K-12 accountability program. Additionally, support legislation that would allow the Board of Elementary and Secondary Education to take over failed schools.

**Reasoning:** The foundation of a strong public school system must be academically rigorous standardized tests and a plan to determine what to do about schools and school systems with poor student achievement results. This means we must defend the high stakes testing program for students in grades 4 and 8 to measure how well students are learning. We must continue to support the Graduation Exit Exam as a requirement for high school graduation and administering norm-referenced achievement tests at other grade levels. We should continue to support the use of an individualized reading test to be given in the first, second and third grades. And, we must vigorously oppose efforts to create a "second-class" diploma, which would allow students to graduate from high school without passing the Graduation Exit Exam. We must more stringently monitor and strengthen the state's pre-GED Options program. Finally, we should support a better performance evaluation system for teachers and administrators and a plan to sanction and/or reward school personnel based upon student academic achievement.

—Direct Small Business Impact—

## CURRENT ISSUES

**School Choice:** Create or support legislation to implement a system of publicly supported education that gives parents maximum choice among government and non-government schools.

**Teacher Quality:** Support efforts to improve teacher quality in Louisiana. LABI recognizes that the classroom teacher is the single most important factor in and influence on students' educational success, and will work to strengthen the state's professional teaching corps.

**8(g):** Support the integrity of the 8(g) fund and oppose any attempts to use 8(g) funds to supplant general fund revenues for education.

**Adult Education/GED Programs:** Support legislation and long-range public policy decisions to reorganize and improve the GED Program and other training options for those over age 19.

**Workforce Development/Vocational Education:** Continue to support efforts of the Louisiana Community and Technical College System (LCTCS) to improve the delivery of training in vocational education and community colleges. With strong LABI support in 1998, the constitutional amendment to reorganize the system and the enabling legislation outlining how the system would operate were passed. Much work remains to be done since the challenge of creating this new system is massive. Business people all over Louisiana still share a common problem. Employers have good jobs to fill, but potential new hires don't have the requisite skills. The purpose of creating the LCTCS is to solve this problem and put competent people in the workforce.

To this end, LABI will encourage the development of a post-secondary education system (adult education, vo-tech, community college and university systems) that will be efficiently coordinated to provide shared resources, shared facilities, non-duplicated offerings and articulation agreements. This system should be tailored in each region

of the state to address the proper mix of special workforce training programs, vocational and technical training, two-year associate degrees and advanced degrees, and to provide a rapid response to changes in the business environment. Development and direction of these systems should include substantial input from the business community and include systems designed to measure the progress of each educational component, holding accountable those responsible for the success of their students. The business community should expect coordination of money and resources among the Louisiana Workforce Commission, the Incumbent Workers Program at the Department of Labor and training funds from the Department of Economic Development targeted at new businesses. Eliminating duplicative funding streams from these sources and the vocational-technical colleges is essential if we are to use tax money wisely.

**Higher Education:** Support stable funding for higher education and greater accountability for these expenditures. Support recommendations in the Board of Regents' Master Plan for Higher Education that call for defining the role, scope and mission of higher education institutions, including the adoption and full implementation of new admission requirements; discontinuing low-enrollment programs; rewarding faculty for teaching as well as research; reducing remediation; developing a "state-wide engineering and technology extension service"; improving articulation; and encouraging electronic distance learning.

**Classroom Funding:** Support the funding of classroom instruction and improved accountability in all areas, including category-specific financial reporting, as the top priorities in K-12 education funding.

## ONGOING POLICY

**Alternative Schools:** Support efforts to create effective alternative schools for students who do not perform well in traditional school settings.

**School-To-Work:** Request a report from state officials that delineates how federal money for "school-to-work" programs was spent and what improvements resulted from the expenditure.

**Early Childhood Education:** Support providing a better quality academic program in pre-K and in the first three years of elementary school to lay the proper foundation for later learning.

**Charter Schools:** Facilitate the expansion of charter schools by amending the charter school law or recommending policy changes to BESE to streamline the approval process. Support increasing the number of charter schools in Louisiana by changing the present charter school law to remove the 40-school limit statewide.

**Parent/Teacher/Citizen Empowerment:** Support efforts to provide parents, citizens and educators with factual information about education issues at all levels and teach them how to get involved and make the education system work for them and their children.

**Collective Bargaining:** Oppose legislation requiring collective bargaining and/or binding arbitration by any public body.

**Contact: Brigitte Nieland (225/928-5388 ext. 270)** As Director of the Education Council, Brigitte coordinates business' involvement in education reform issues, including workforce development. She also oversees the communications operation as Vice President of Communications.



**Brigitte Nieland**  
Director, Education and Workforce  
Development Council  
Vice President, Communications  
LABI



**Polly Broussard**  
Chairman  
Education and Workforce  
Development Council  
Associated Professional Educators  
of Louisiana

# EMPLOYEE RELATIONS

*At the top of the Employee Relations Council's agenda is opposing legislation to create a statewide minimum wage. Advocates for local minimum wages around Louisiana were rebuffed by the state's Supreme Court and have vowed to bring their fight to the Legislature. Also on our radar screen will be any bills that would increase the cost of workers and unemployment compensation, as well as preventing any repeal or erosion of laws that protect workers from being forced to join a union.*

## MAJOR ISSUES

### Minimum Wage

**The Issue:** Should Louisiana have a minimum wage that exceeds the federal standard?

**LABI Position:** Oppose legislation establishing a state minimum wage.

**Reasoning:** A statewide minimum wage would seriously harm Louisiana's economic development. It would negatively impact Louisiana's business climate and accelerate the outmigration of jobs that is already occurring in this state.

If the Legislature were to enact a minimum wage for Louisiana higher than the existing federal minimum, some businesses could pass the increase to consumers by raising the price of their goods and/or services, but their capacity to do this is limited. Louisiana companies with interstate competitors would be even more restricted in their ability to pass along the increase if they wish to remain competitive.

While proponents of a minimum wage increase claim that it will help workers, the reverse is more often the case. The negative impact on their profitability will force some employers to consider laying off workers in order to remain in business. Others may choose to cut the benefits they provide their employees. Still other businesses would move their operations to a state without a minimum wage law.

—Direct Small Business Impact—

### Workers Compensation

**The Issue:** Should workers compensation (WC) benefit levels and coverage be increased beyond those currently provided under the law?

**LABI Position:** Support legislation to strengthen Louisiana's WC law, and oppose legislation that would expand WC coverage and increase costs to employers.

**Reasoning:** WC is the exclusive remedy for workers injured on the job. All medical expenses incurred in treating the injury are paid by employers through their WC insurer, and the worker receives a weekly benefit reflective of his wage earning capacity at the time of injury. Louisiana's WC law already provides for an annual automatic escalation in the weekly benefit amount as a percentage of the statewide average weekly wage.

Louisiana ranks fifth among states with the highest statutory benefit provisions and 16<sup>th</sup> among states with the highest WC insurance costs for manufacturers, according to the ATS 2002 report on Workers Compensation State Rankings. WC insurance premium costs are among the factors considered by site selection managers and consultants when deciding where to locate new plants and

facilities. Affordability and accessibility of WC insurance has been an ongoing problem for Louisiana employers, particularly small business owners. Therefore, any benefit increases or expansions in coverage that may increase the cost of Louisiana's WC system to employers would be unacceptable.

—Direct Small Business Impact—

### Unemployment Compensation

**The Issue:** Should unemployment benefit coverage be expanded during a period of economic uncertainty and while current benefit payout already exceeds tax receipts?

**LABI Position:** Support legislation to lower unemployment compensation (UC) taxes, which are paid exclusively by employers, and oppose any legislation that would jeopardize the state UC trust fund's solvency and risk higher employer taxes.

**Reasoning:** The recession of the 1980s depleted Louisiana's UC trust fund and saddled employers with nearly \$800 million of debt to the federal government. This debt was eventually retired through substantial tax increases, putting many small employers out of business and adding their employees to the unemployment lines. Before the recession, Louisiana's trust fund balance was inadequate because benefits paid to workers were among the highest in the country while tax rates were relatively low.

Today, Louisiana's trust fund exceeds \$1.5 billion and is one of the strongest in the country. It is large enough to cover the benefit payout that bankrupted the fund in the '80s. However, the statute that governs tax and benefit levels as they relate to the fund's solvency provides for automatic tax increases and weekly benefit reductions should the fund fall below certain benchmarks. Legislators should avoid any actions that could lead to the triggering of such tax increases and benefit reductions. Expanding coverage to a few individuals now might cause a large number of unemployed workers to receive lower benefits later when they need them the most.

## CURRENT ISSUES

**Right-to-Work:** Do everything necessary to maintain Louisiana as a Right-to-Work state, including opposing "agency shop" legislation, which would force non-union employees to pay dues to a union just like its members.

**Workers Compensation:** Promote prosecution of the crime of WC fraud and protect employers' ability to defeat fraudulent claims.

**Exclusive Remedy/Statutory Employer:** Defend the exclusive remedy and statutory employer provisions of the WC law.

**Mandated Employee Benefits:** Oppose any statutory intrusion into the area of employee/employer relationships, including but not limited to mandated benefits. Oppose any creation or expansion of government-mandated benefits under employer health plans except when there is a documented, actuarially positive cost/benefit for such mandates.

**Workers Compensation:** Support legislation to provide for quality (but not excessive or unnecessary) medical treatment and ancillary services, and pursue other alternatives designed to lower WC medical costs.

**Noncompetition Agreements:** Support legislation to protect businesses against unfair competition by allowing them to enter into noncompetition agreements with their employees that would place reasonable restrictions on such employees.

**Incumbent Worker Training Fund:** Create and support legislation that would allow businesses – in particular, small businesses – better access and greater flexibility in the use of monies from the incumbent worker training fund.

**Employer Liability:** Support legislation to repair judicially imposed employer liability doctrines established contrary to legislative intent.

**Labor Relations:** Support legislation to prohibit state and local government interference with employers' rights and protections as provided under existing federal laws governing labor/management relations. Oppose any state legislation designed to weaken employers' protections under existing federal laws governing labor/management relations.

**Employment-at-Will:** Support legislation to ensure employment-at-will as a right of all Louisiana employers.

**Second Injury Fund:** Continue to assess the viability of the Second Injury Fund and support legislation to establish an equitable assessment method for its funding.

**Equal Employment Opportunity:** Support equal employment opportunity by coordinating existing state and federal antidiscrimination laws, but oppose any legislation that would expand upon existing remedies and protections.

**Forum Selection:** Support legislation to protect and enhance the freedom to contract with respect to forum selection in the employment relationship.

**Collective Bargaining:** Oppose legislation requiring collective bargaining and/or binding arbitration by any public body.

**Employee Leasing:** Support legislation to ensure that employee-leasing firms do not insulate their clients from their WC and/or UC experience rating, and oppose any erosion of existing statutory protections.

**Prevailing Wage:** Oppose any attempts by the Legislature to re-enact a prevailing wage law, which would result in

the state or local governments paying more for goods and services than is paid by businesses in the private sector.

**Unemployment Compensation:** Support legislation to fine-tune the UC law in Louisiana and eliminate employee and employer abuses.

**Drug-Free Workplace:** Support legislation and promote administrative policies that make it easier for employers to maintain a drug-free workplace in Louisiana.

## ONGOING POLICY

**Judicial Monitoring:** Advise the employer community of judicial and administrative decisions that destroy the effectiveness of legislated reforms in workers compensation.

**Seminars:** Plan and implement seminars on such issues as WC, UC, employer liability, private and public sector unionism, and employment and labor laws.

**Workers Compensation:** Update and publish the LABI WC Desk Book.

**Unemployment Compensation:** Update and publish the LABI UC Manual.

**Workers Compensation:** Support efforts to create an efficient and less costly WC market by encouraging continued growth and increased competition within the voluntary market.

**Unemployment Compensation:** Support legislation to coordinate federal and state laws defining taxable employment.

**Workers Compensation:** Study the possibilities of amending the WC confidentiality rules to allow for discovery of prior accidents, injuries and/or other claims.

**Workers Compensation:** Support legislation equalizing all WC benefits to a percentage of after-tax income.

—See also the Federal Program—

**Contact: Jim Patterson (225/928-5388 ext. 257)** Serving as Employee Relations Council Staff Director, Executive Director of the Louisiana Right-to-Work Committee and Vice President, Governmental Relations, Jim's responsibilities include labor issues such as workers and unemployment compensation, and coordinating the lobbying team's efforts at the Legislature.

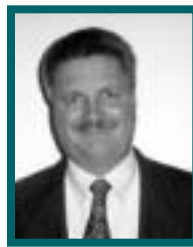


**Jim Patterson**

Director, Employee Relations Council  
Executive Director, Louisiana  
Right-to-Work Committee  
Vice President, Governmental Relations  
LABI



**Gary O'Rielly**  
Chairman  
Employee Relations  
Council  
International Paper



**Ronnie Provensal**  
Chairman  
UC Task Force  
The Waterfront  
Employers of New  
Orleans



**David Tatman**  
Chairman  
WC Task Force  
The Tatman Group

# ENERGY

*LABI, representing energy producing, transporting and consuming industries, will continue to support healthy economic growth of the state by promoting production of adequate supplies of all forms of energy at competitive prices, opposing increased taxes and fees on energy sources, encouraging conservation of resources, and balancing environmental concerns with energy production and usage.*

## CURRENT ISSUES

### Energy Taxation

**Energy Taxation:** Oppose increased or new taxes or fees on oil, natural gas and other hydrocarbons, such as:

- a processing, transportation, or refinery tax
- a change in the calculation of the natural gas or other energy franchise taxes which would increase the cost
- an increased severance tax
- a sales tax on natural gas transportation
- a coastal wetlands environmental levy
- a “first use” tax
- a minerals-in-place or reservoir tax.

**Competition:** Support a fair and fully competitive retail electricity market that allows all consumers, individually or as a group, the right to choose their supplier of electricity.

The move to competition should:

- Provide for the transition to competition for all consumers.
- Require the continued regulation of the transmission and distribution of electricity.
- Provide incentives that will encourage the expansion and upgrade of electricity transmission facilities.

- Promote reliability of electric service for all consumers.
- Require the equitable sharing of net verifiable stranded costs that cannot be mitigated.
- Protect consumers from unwarranted shifts in tax burdens.
- Provide for the prompt amendment or repeal of statutory constraints to open access, including the 300-foot rule.

**Sales Taxes:** Support legislation that would eliminate or reduce sales and use taxes on energy and energy sales to all classes of customers.

**Assessment Practices/Electric Utilities:** Oppose redistribution of tax proceeds to parishes other than the parish where the electric utility plant is located.

**Competition:** Support a fair and fully competitive retail natural gas market that allows all consumers, individually or as a group, the right to choose their supplier of natural gas.

**Public Education and Research:** (1) Support research and compilation of data that reflects the impact of agency fees on business. (2) Support legislation to provide funding for energy-related research by the LSU Center for Energy Studies. (3) Support educational programs to inform the Louisiana public of the serious nature of the changes in energy costs and availability, encourage active energy conservation programs and plan a program for community activities to facilitate such educational efforts, which will be developed and implemented by LABI Energy Council members.

**Intrastate and Interstate Pipelines:** Participate actively with governmental entities and leaders to ensure the viability and integrity of the state’s intrastate natural gas systems and those interstate natural gas systems that operate and serve customers in Louisiana.

**Electricity Transmission:** Support legislation which would grant tax incentives for upgrading the state’s electric transmission and distribution grid.

## ONGOING POLICY

**By-Products:** Maintain the non-taxable status of by-products and intermediate materials.

**Oil and Gas Development:** Support legislation that will continue to offer incentives to stimulate oil and gas exploration and production in Louisiana.

**Lease Use/Plant-Use Gas:** Support legislation affirming the historical treatment of natural gas used at the lease and at gas processing plants as not being subject to sales or use taxes.

**Mineral Property Taxes:** Oppose efforts to undermine the current protection of oil, gas and associated mineral rights from the imposition of property taxes.

**Mineral Taxes:** Support legislation and/or regulations that will establish the fair market value for oil, natural gas, and oil and natural gas equipment for taxation purposes.

**Oil and Gas Development:** Oppose legislation that would impose additional restrictions on mineral leasing, drilling permit acquisition, or other onerous requirements that act as a disincentive to exploration, production and transportation of natural gas and oil unless and until valid, scientific studies document significant adverse impacts on the environment and risk assessments are attached.

**Assessment Practices/Pipelines:** Support equitable assessment practices for pipelines classified as public service properties.

**Oil and Gas Development:** Support streamlining of exploration, production and transportation permitting and reduction of regulatory burdens.

**Oilfield Wastes:** Support the current jurisdiction of the Department of Natural Resources and the Department of Environmental Quality and oppose changing the jurisdiction thereof to the Attorney General or to any other department or agency.

**Oilfield Wastes:** See the Environmental Quality Council Program, page 21.

**Fees/User Pays:** Ensure that fees assessed by regulatory agencies are limited to those that are necessary to adequately support programs and personnel with

expertise and are relevant and in proportion to the services rendered and are equitably assessed on all classes of users.

**Injection Wells:** Support the retention of the responsibility for Class I and Class II injection wells related to oil and gas exploration and production within the Department of Natural Resources.

**Consumer Advocacy:** Oppose legislation that would establish new programs within new or existing agencies or departments that require public funding for representation or intervention in regulatory proceedings.

**Energy Development:** Support legislation that will promote use of Louisiana energy sources but does not unduly favor one energy form over another.

**Expropriation:** Support the existing Louisiana statutes and constitutional guarantees for the orderly expropriation of property and for the compensation for those properties expropriated.

—See also the Federal Program—

**Contact: Ginger Sawyer (225/928-5388 ext. 244)** As Energy Council Director, Ginger handles issues impacting Louisiana’s energy producing and consuming industries. Ginger’s oversight as Vice President of Political Action encompasses managing the day-to-day operations of LABI’s four affiliated political action committees, which recruit and help elect pro-business candidates. She directs the grassroots efforts that are integral to our legislative success.



**Ginger Sawyer**  
Director, Energy Council  
Vice President of Political Action  
LABI



**Chuck Bellon**  
Chairman  
Energy Council  
PPG Industries, Inc.

# ENVIRONMENTAL QUALITY

*LABI's goal is to protect and improve the environment while maintaining a strong economic base.*

## CURRENT ISSUES

**State Water Policy:** Support a fair, flexible, and scientifically based state-wide water use policy that considers the needs of all water users.

**Economic Development:** Support fair and consistent enforcement of Louisiana environmental laws and regulations, but oppose using unrelated measures, such as restricting the availability of tax exemption programs, as penalties for environmental violations. Additionally, encourage state agencies to set long-term objectives so that business and industry can accomplish necessary planning vital to further economic development.

**Agency Funding:** Support adequate state general revenue funding of DEQ that reflects its regulatory mandate and the services rendered to governing authorities and the general populace. Stable, consistent funding with strict guidelines for expenditures and outside contracts, grants and contributions must be implemented to maintain needed services and ensure accountability.

**Agency Fees:** Support a streamlined DEQ fee structure that accurately reflects the cost of the service provided, does not exceed that cost, funds only the specific program for which the fees are collected, and with rates distributed fairly between industry and local governing authorities. LABI will support new or increased fees only if DEQ can justify the need for the additional revenue, assures the fees will be used only for the services for which they are intended, and provides evidence of increased efficiency measures. Work with DEQ to create a consolidated and itemized fee invoicing system.

### Permit Issuance:

- Support legislation and/or regulation which minimizes uncertainty and provides clear guidance to the Louisiana Department of Environmental Quality (DEQ) and regulated entities relative to information, such as compliance with the “IT decision” (*Save Ourselves, Inc. v Louisiana Environmental Control Commission*, 452 So.2d 1152 (La. 1984)), which is required for issuance of permits and, upon compliance, ensures the issuance of permits.
- Oppose the use of “environmental justice” as a means of stopping economic development. Assure the rights of minorities are protected under the Civil Rights Act.

- Streamline the permitting process. Encourage the development and use of general permits for similar groups of facilities.
- Support and encourage the granting of permits that are valid for the life of the facility, especially solid waste facilities.

**Liability:** Oppose any expansion of punitive damages, criminal penalties or “bad actor” provisions in environmental law or regulations.

**Emergency Response:** Support legislation to give the appropriate governmental entities principal jurisdiction over emergency response action.

**Rule Flexibility:** Support implementation of 1997 Act 992, which authorizes regulatory flexibility in return for improved environmental performance and recognizes DEQ as the sole authority.

**Consistency, Validity and Consolidation of Regulations:** Encourage state and local agencies to streamline and simplify compliance with environmental programs by revising laws, regulations, standards, enforcement procedures, fees and penalties to be identical with federal requirements. Duplicative or overlapping regulatory programs and reporting should be consolidated, merged or eliminated to reduce the costly regulatory burden on industry. Regulations should be founded on valid science, rather than upon unsupportable allegations or claims. LABI supports DEQ’s efforts to coordinate federal and state environmental programs and recognizes DEQ’s primacy in federally delegated programs.

**Clean Air:** Support efforts to make Louisiana’s air quality programs equivalent to and no more restrictive than the 1990 amendments to the federal Clean Air Act. Support legislation and rules that equitably distribute the responsibility for meeting air quality requirements among all emission sources. Support DEQ efforts to promote federal acceptance of reasonable state air quality programs.

## ONGOING POLICY

**Public Communication:** Encourage the use of sound science to explain the issues, quickly addressing inaccurate media coverage and publishing information on

environmental progress. Develop and maintain ongoing proactive programs and dialogue with government, news media, regulators and the public to promote maximum understanding of environmental quality issues, including risk management programs, and associated risks and benefits. Encourage member companies, local chambers of commerce and other business and professional organizations, as well as governmental agencies, to further improve internal and external communication of environmental issues and progress.

### **Permitting:**

- Encourage the state to adequately fund environmental programs and to set compensation levels and implement other modifications to attract and retain trained environmental professionals to manage DEQ and to process permit applications in a timely manner.
- Encourage informal dialogue between DEQ and the regulated community about permitting and enforcement matters.
- Oppose the banning of any permitted business activity unless and until valid, scientific studies document significant adverse impact on the environment.

**Environmental Compliance Records:** Support accurate facility compliance records by encouraging clear, concise differentiation by DEQ between an issued and/or pending order and a resolved and recorded legal enforcement action. Encourage DEQ to include in the official compliance record only settled or resolved enforcement actions.

**Landowner Rights:** Oppose the regulation of any use or condemnation of private property unless based on adequately demonstrated public need. Support legislation to require the governing body to deal openly with the landowner and to adequately compensate property owners for loss of use or devaluation of their property caused by environmental regulations, laws or policy.

**Development of Regulations:** Support the continued publication by DEQ of the agency's regulatory agenda and continued expansion of information available from and submitted to DEQ on the Internet and other electronic media. Additionally, the full text of proposed regulations should be published in the *Louisiana Register* and available on the DEQ web site; copies of proposed rules should be promptly available in DEQ's regional offices; fiscal and economic impact statements should realistically reflect compliance costs to industry and local government. Oppose the development of "unwritten policies" and "guidelines" by DEQ in lieu of properly promulgated and authorized rules.

**Emergency Reporting:** Support efforts to implement 1989 Act 200 requiring DEQ and the Department of Public Safety to create a statewide uniform emergency reporting and notification system. Lists of reportable chemicals and

quantities must be made identical, with penalties prohibited for substances not on the DEQ list.

**Hazardous Waste Tax:** Oppose new or increased taxes on the generation, transportation, storage, disposal, incineration, recycling, injection or treatment of hazardous waste or any permitted emission.

**Environmental Leadership:** Support and encourage member participation in the Louisiana Environmental Leadership Pollution Prevention Program.

**Exclusionary Provisions:** Oppose any regulatory or legislative attempt to introduce unnecessary exclusionary language that would, by inclusion or exclusion, restrict to any group or groups of environmental professionals the delivery of environmental services.

**Gulf of Mexico Program/Barataria-Terrebonne National Estuary Program:** Support programs that are based on scientific information and that balance environmental concerns with economic development; encourage DEQ and LABI members to participate to the greatest extent possible and to communicate the programs' progress with other members and the public.

**Small Business:** Support efforts to minimize the regulatory burden on small business, and support and participate in activities to assist small business with environmental compliance.

**State Jurisdiction:** Support existing laws granting exclusive jurisdiction of the Louisiana Environmental Affairs Program and the Coastal Zone Management program at the state level, and maintain the present DEQ jurisdiction.

**Interagency Consistency:** Encourage an ongoing dialogue among state agencies to ensure interagency regulatory consistency and the promotion of a favorable business climate while continuing to protect and improve the environment.

**Management of Waste:** Support legislation and regulations that allow business, industry and local governing authorities to take advantage of all environmentally sound waste management technologies, including but not limited to reuse, recycling and waste exchanges. LABI supports regulatory programs that encourage free enterprise and a competitive business climate. LABI opposes excessively complex regulations that discourage the beneficial use of sound technologies and by-products.

**Litter:** Support and encourage all reasonable efforts to eliminate litter in Louisiana, including anti-litter public campaigns.

**Access to Information:** Support implementation of state law (Act 1063 of 1990) with regard to freedom of information to assure that it adequately serves the needs of

the general public and the private sector, while protecting the confidentiality of sensitive information where appropriate.

**Right-to-Know:** Support making Louisiana’s Right-to-Know program consistent with the Superfund Amendment and Reauthorization Act (SARA), Title III.

**Oilfield Wastes:** Oppose legislation that would unilaterally reclassify oilfield wastes as hazardous or any other inappropriate classification. LABI supports EPA’s current definition of hazardous wastes related to oil and gas exploration and production activities. Encourage the development of scientifically appropriate, reasonable testing regulations that accurately demonstrate the non-hazardous nature of the majority of oilfield wastes.

**Coastal Zone:** Continue to support efforts to conserve the coastal zone in accordance with Act 361 of 1978, particularly with regard to state jurisdiction.

**Water Conservation:** Monitor the development of state and federal water conservation programs to ensure that all water users — industrial, residential and commercial — are assured adequate access to usable water sources.

**Administrative Procedures:** Ensure that all provisions of Act 739 of the 1995 Regular Legislative Session relative to the division of administrative law be maintained. Further, require DEQ adherence to the Administrative Procedure Act (APA) to ensure due process, fairness and

accuracy in the promulgation and implementation of regulations and policies. The APA should guide the conduct of administrative procedures relative to actions and decisions by the department.

—See also the Federal Program—

**Contact: Emily Stich (225/928-5388 ext. 262)** Emily’s responsibilities as Vice President for Research and Programs include the yearlong task of coordinating the entire program development process that results in this document. She is also the Director of the Environmental Quality Council and a House floor lobbyist.



**Emily Stich**  
Director, Environmental Quality Council  
Vice President, Research and Programs  
LABI



**Judy McCleary**  
Chairman  
Environmental Quality Council  
McCleary & Associates

## GOVERNMENTAL REFORM

*LABI encourages the enactment and enforcement of state laws and policies that promote honest, fair and responsible government and that allow all citizens to participate in the electoral and governmental processes. Businesses should be able to operate in an atmosphere in which the political arena is not a hindrance to economic development.*

### MAJOR ISSUE

#### Initiative

**The Issue:** Should Louisiana retain its current system of lawmaking through elected representatives or move to a different system?

**LABI Position:** Maintain Louisiana’s current referendum system, which requires that voters approve all changes to Louisiana’s constitution.

**Reasoning:** LABI encourages and supports the public’s participation in the political process through their right to approve amendments to the state constitution. However, initiatives are all too often used to promote anti-economic development proposals. Even if successful in defeating such propositions, the business community must spend exorbitant sums of money to fight them in states with public initiatives. In all too many instances, ballot initiatives are like frivolous lawsuits: Even when businesses prevail against them, the cost of winning is a heavy burden to bear.

Contrary to the original intent, initiatives are increasingly becoming a tool of special interests. The days of “mom

and pop” groups running successful initiative campaigns out of someone’s kitchen are over. Instead of reining in special interests, states with the initiative process have seen an explosion of special interest groups.

While not perfect, the legislative process does contain some important safeguards. For example, there is no provision in the initiative process to amend the language once the required number of signatures has been verified for placement on the ballot. In the legislative process, the ability to amend legislation as it advances can correct defects and build a greater consensus for a proposal.

—Direct Small Business Impact—

## CURRENT ISSUES

**Constitutional Convention:** Conduct a historical review and study of amendments to the Louisiana constitution, determine whether a constitutional convention should be convened, and report the findings to the appropriate bodies within the organization.

### Ethics

- Support the retention of a single board governing ethics for elected officials, public employees and lobbyists, and support the enforcement of existing laws. Monitor the activity and decisions of this board, particularly with regard to their effects on the business community and the election process.
- Strengthen enforcement of Louisiana’s ethics law regarding campaign finance, lobbyist disclosure and implementation and enforcement of the Code of Ethics as it relates to public employees and elected officials.
- Support retention of a strong campaign finance disclosure law, including provisions to require full disclosure of all campaign contributions. Support the current rights of citizens and corporations to contribute to political campaigns, both individually and as legally constituted committees.
- Support retention of a strong lobbyist disclosure law.

**Civil Service:** Support legislation to reform civil service to achieve maximum efficiency in state government.

**Public Access to Legislators:** Oppose any efforts to limit and/or restrict public access to legislators and/or House and Senate chambers.

**Government Efficiency:** Support efforts to operate state government in a more efficient, cost-effective and fiscally responsible manner, including privatizing state government services where feasible.

**Retirement Systems:** Support consolidation and reform of state retirement systems, including elimination of early retirement after 20 years of service regardless of age for future

state employees. Oppose any expansion of benefits or coverage in order to help ensure fiscally responsible funding and actuarial soundness of Louisiana’s public retirement systems.

**Judicial Ethics:** Support the placement of judges under the Code of Governmental Ethics.

**Judicial Reform:** Support programs and legislation to foster judicial excellence, including merit selection of judges.

**State Contracts:** Support strengthening existing law that prohibits awarding state contracts for goods and services to any public official or his/her immediate family.

**Government Appointments:** Support efforts to change appointed governmental positions and certain elected positions to professional positions.

**Little Hatch Act:** Support “Little Hatch Act” provisions in the state constitution that prohibit state and local classified civil service employees from participating in certain partisan political activities while so employed.

**Term Limits:** Support legislation to limit the terms of all statewide elected officials.

**Term Limits:** Continue to support existing law that limits the number of terms a person can serve in the Louisiana Senate and House of Representatives.

**Boards and Commissions:** Support legislation to promote experience and expertise by allowing individuals to serve on boards and commissions and to recuse themselves when an issue arises involving a conflict of interest.

**Boards and Commissions:** Support legislation that would require public or quasi-public boards and commissions to adhere to the same legal requirements and accountability standards as other public bodies. Also, support legislation to limit the number of terms a person can serve on certain boards and commissions.

**Public Meetings, Public Records:** Oppose efforts to weaken the Open Meetings Law, the Public Records Law, the Election Code, the Public Bid Law and the Local Government Budgeting Act; and protect the rights of individuals and organizations to full and open participation in governmental processes.

**Office of the Inspector General:** Support appropriate legislation to protect the Office of Inspector General in state law, rather than just by executive order.

**Contact: Bridgette J. Richard (225/928-5388 ext. 258)** An attorney licensed in Louisiana, Bridgette is LABI’s Legislative Legal Counsel. She also serves as Staff Director for the Small Business Council and the Health Care Task Force.

OR

**Contact: Bruce Bradley (225/928-5388 ext. 259)** As Assistant Director of Political Action, Bruce’s purview includes ethics and governmental reform issues. He is also a House floor lobbyist and Director of the Trade, Tourism and Transportation Council.



**Bruce Bradley**  
 Director  
 Trade, Tourism and Transportation  
 Council  
 LABI



**Bridgette J. Richard**  
 Director, Governmental Reform  
 Legislative Legal Counsel  
 LABI



**Dick Juneau**  
 Chairman  
 Small Business Council  
 International Manufacturers  
 Representatives

# HEALTH CARE

*LABI encourages a cost-effective, competitive health care market as an incentive to economic growth and development while assuring that consumers in Louisiana continue to receive high quality, accessible health care.*

**LABI shall:**

- *be active in issues that would affect cost, an employer’s right to contract, or an employer’s flexibility to determine and provide employee benefits.*
- *participate in those issues pertaining to licensure, scope of practice, credentialing and registration only if it can be proven that those issues produce an undue burden upon employers.*
- *take an active role in opposing burdensome employer health care mandates.*
- *take an active role in other issues affecting the cost of health care to employers.*

## MAJOR ISSUES

### Mandated Benefits

**The Issue:** Should employers be forced to bear the additional cost of governmentally imposed mandates?

**LABI Position:** Oppose new or expanded governmentally mandated benefits under employer health plans, except those benefits that are effective in controlling health care costs. Oppose new or expanded governmentally mandated payments by health plans for the benefit of a limited population or specific providers, except when there is a documented, actuarially positive cost/benefit for such mandates.

**Reasoning:** Most employers already voluntarily offer health care plans that benefit the majority of employees across the board. Mandating coverage in any area would

result in higher insurance premiums, making it difficult, if not impossible, for small business owners to provide health insurance for their employees. If employers are forced to drop coverage because of the continued imposition of mandates, this will increase the uninsured and underinsured population and make Louisiana employers less competitive with employers in neighboring states. Mandated benefits are unnecessary government interference, and they restrict employer/employee choices.

—Direct Small Business Impact—

### Civil Liability

**The Issue:** Should employers be exposed to a new form of civil liability?

**LABI Position:** Oppose legislation that would create civil liability for employers and their health plans.

**Reasoning:** Attempts are being made to expose employers and/or their health plans to a new form of civil liability. If employees allege that they have not received appropriate care or have been denied care that they believe they are entitled to, they would be able to sue the health plan and the employer. This new form of liability would have a severe impact on all employers and health plans.

—Direct Small Business Impact—

## CURRENT ISSUES

**The Uninsured:** Support measures that enable employers to offer affordable employment-based health care coverage in a way that encourages maximum participation.

**Health Care Cost Drivers:** Support proposals that would help the state to reduce the rate of increases in health care costs for employers and employees while protecting the quality of care.

**Professional Liability:** Support the creation of a legislative study commission to research the need, feasibility, methodology and financing to create an insurance entity for health care liability coverage.

**Mandated Benefits:** Support measures that allow employers to purchase mandate-free coverage. Oppose any expansion of government-mandated benefits except when there is a documented, actuarially positive cost/benefit for such mandates.

**Payor Responsibility:** Support the current system that clearly defines responsibility between health care insurers and workers compensation carriers.

**Medical Necessity Review Organization (MNRO):** Continue to support the legislative rules and regulations as they are currently in effect.

**Managed Care:** Support the continued development of cost-effective managed care that ensures quality and access to appropriate medical services. Oppose attempts to limit or restrict purchasers' and their agents' efforts to negotiate for lower medical costs and exclusively contract for health care services when appropriate. Oppose legislation that imposes unreasonable requirements for credentialing or residency of medical professionals performing medical necessity review. Oppose regulatory efforts to impose unnecessary restrictions on utilization review. Oppose attempts to circumvent managed care cost containment strategies or controls.

**Business Coalitions:** Support efforts by business groups, organizations and health care coalitions to aid businesses in their quality improvement and cost containment efforts.

**Continuum of Care:** Support the continuum of care (through the Medicaid program), which is cost effective and, within that continuum, support the development of home and community-based services for Louisiana's aging population.

**Mandated Coverage:** Oppose government mandates that require employers to provide or pay for health insurance.

**Cost Containment/Provider Reimbursement:** Support appropriate market cost containment efforts in the health care marketplace. Oppose rate-setting legislation that would shift costs to the private sector.

**Alleviate Shortages:** Support efforts to alleviate shortages of primary care physicians and allied health care professionals as appropriate through, but not limited to, scholarships, training and continuing education.

**Health Care Commission:** Support public policy efforts of the Louisiana Health Care Commission that will result in cost-effective delivery of quality health care services and appropriate benefits and will deal fairly with consumers, employers, providers and insurers.

**Technology and Innovations:** Support and encourage effective use of technology and innovations to deliver health care services.

**State Funding:** To the extent consistent with LABI's Taxation and Finance Program positions, support realistic and reliable funding for care of the indigent population through broad-based public support that does not unfairly burden health care purchasers or providers.

**State Benefits Program:** Support cost-effective design and management of the state group employee benefits program.

**Collective Bargaining:** Oppose legislation that would exempt any health care organization from antitrust laws.

**Balanced Billing:** Support measures to prohibit providers' billing of health plan members for amounts above contracted rates.

**Health Care Incentives:** Support the study and passage of appropriate incentives to encourage employers to offer or maintain employer-based health care coverage and for employees to participate.

**Cost Shifting:** Support establishment of appropriate budget priorities to ensure proper funding for indigent care, medical coverage for the uninsured and state-funded health programs.

**Facility Licensing and Regulation:** Support competition in the health care industry by opposing state imposition of restrictive licensing, regulations, or similar requirements.

**Scope of Practice:** Oppose expansion of scope of practice by health care practitioners unless it can be proven to be cost effective.

## ONGOING POLICY

**Purchasing Cooperatives:** Support the establishment of private, voluntary, employer group purchasing cooperatives through which eligible employees can purchase health care insurance.

**Medical Savings Accounts:** Support the extension of current law relative to medical savings accounts.

**Employer Programs:** Support employer programs that provide for employee education, health and wellness promotion, managed care programs and other measures that enhance quality improvement and health care cost containment efforts.

**Premium Tax Credit:** Support efforts to preserve premium tax credits for insurers investing in qualified Louisiana investments and assessments paid to the guaranty associations.

**Provider Taxes or Premium Taxes:** Oppose efforts to develop or expand public programs through new taxes on health plans or health care providers that would increase the cost of employer-sponsored health care benefits.

**Tax Credit:** Support legislation to provide employers with a tax credit for every mandated health care benefit they are required to provide.

**Tax Credit:** Study the potential of making health care coverage more affordable, reducing the number of uninsured and taking pressure off of the indigent care system through a system of tax credits or other incentives to employers for providing such coverage.

**Long-Term Care:** Support legislative efforts to investigate the features and economics of long-term care insurance.

**Other Government Mandates:** Oppose burdensome regulation of private healthcare organizations that are not necessary to protect consumers and that increase administrative costs ultimately borne by patients and health plan members.

—See also the Federal Program—

**Contact: Bridgette J. Richard (225/928-5388 ext. 258)** An attorney licensed in Louisiana, Bridgette is LABI's Legislative Legal Counsel. She also serves as Staff Director for the Small Business Council and the Health Care Task Force.



**Bridgette J. Richard**  
Director, Health Care Task Force  
Legislative Legal Counsel  
LABI



**Steve Deist**  
Chairman  
Health Care Task Force  
Deist & Associates

## LIABILITY

*Liability exposure is a major concern to individuals, government, professionals and businesses, both large and small. Since 1996, the governor and Legislature have been instrumental in bringing about some much needed changes to our civil justice system. LABI welcomed the opportunity to work with them for such changes. We will fight to hold on to the gains made and to continue improving our system, while monitoring our courts' interpretations of pertinent laws.*

### MAJOR ISSUES

#### Tort Reform Defense

**The Issue:** Louisiana citizens and businesses deserve a predictable, level playing field in our civil justice system.

**LABI Position:** Defend existing strengths in Louisiana's civil justice system.

**Reasoning:** In recent years, many bills have been passed to restore balance to our state's civil justice system. These

gains must be maintained for the economic well-being of individuals and businesses. Having a fair and predictable civil justice system serves the best interest of all Louisianians.

—Direct Small Business Impact—

#### Double Recovery

**The Issue:** A rule of evidence known as collateral source hides from the jury the fact that a plaintiff has already

received benefits from third parties and permits double recovery from defendants in civil litigation.

**LABI Position:** Support legislation to eliminate double recovery of damages.

**Reasoning:** This artificial form of recovery drives up the amount of damages recoverable by the plaintiff. The goal here is to make a deserving plaintiff whole, not to give him a windfall. If the jury is made aware of all sources of compensation, chances of true justice are much better.

### Direct Action

**The Issue:** The existence of an insurance policy is admissible in our civil courts. Also, Louisiana is one of only two states having a direct action statute. That law allows the insurance company to be sued directly, bypassing the defendant.

**LABI Position:** Support legislation to reform Louisiana's unique direct action law and to outlaw presentation of evidence of liability insurance to the jury.

**Reasoning:** Whether or not a defendant has insurance has absolutely nothing to do with his guilt or innocence. It has nothing to do with his legal liability or the amount of damages he may have to pay. Why should the fact that you carry insurance enter the picture? Do you have to tell the court about the type of home or car you own?

Louisiana is one of only two states having a direct action statute. This law removes a requirement that should be basic to any system of civil justice: that the injured person sue, and diligently attempt to serve, the person he claims to be responsible for his injury. A defendant's interests are given equal consideration only by a system that requires the defendant to be notified if a suit is filed in his local courthouse claiming he is legally liable.

## CURRENT ISSUES

**Frivolous Suits:** Support appropriate legislation to discourage the filing of frivolous lawsuits and to curb abusive litigation tactics.

**Liability Insurance:** Support appropriate legislation to reduce liability insurance costs.

**Judicial Reform:** Support programs and legislation to foster judicial excellence, including merit selection of judges.

**Trial by Jury:** Support reducing the monetary threshold amount required for a civil jury trial.

**Substance Exposure Liability:** Support appropriate legislation that ensures that liability based on exposure to allegedly injurious or hazardous substances is supported by reliable scientific evidence and that monetary awards

for exposure compensate only to the extent of injuries actually sustained. Support appropriate legislation that would establish medical criteria that separates the sick from those who are not and compensates only those who are sick. This legislation would guarantee those who are healthy their day in court, if, and when, they become ill.

**Expert Testimony:** Work with appropriate branches of government to resolve problems arising from admissibility of certain opinion testimony by witnesses presented as experts.

**Court Watch:** Continue to raise awareness, especially in the business community, of key judicial decisions that impact economic development in Louisiana.

**Pre-judgment Interest:** Support efforts to reform pre-judgment interest.

**Class Action/Multi-Party Litigation:** Monitor developments in the use of the class action/multi-party procedure and respond as needed with appropriate legislation.

**Government-sponsored Lawsuits:** Support efforts to stem the tide of government-sponsored litigation.

**Venue:** Support legislation that sets forth appropriate venue rules in class action and multi-party cases.

**Personal Responsibility:** Encourage use of safety devices by allowing introduction of evidence on their non-use/misuse to establish comparative fault.

**Product Liability:** Support legislation that protects manufacturers and sellers of legal products from litigation that attacks the inappropriate usage of products by third parties.

**Single Business Enterprise Theory:** Support legislation that prohibits the application of the single business enterprise theory to extend liability beyond a separate entity.

## ONGOING POLICY

**Filing of Lawsuits:** Oppose efforts to lengthen the time frame in which lawsuits can be filed. Support legislation to re-establish, expand and strengthen traditional defenses.

**Protective Orders:** Lower excessive court costs by repealing protective orders legislation enacted in 1995. Support legislation limiting "fishing expeditions" for extraneous information in lawsuits.

**Professional Liability:** Support appropriate professional liability reform.

**Alternative Dispute Resolution:** Support appropriate legislation that would encourage alternative dispute resolution.

**Committee Structure:** Work to assure balanced membership on legislative committees to which liability-related legislation is referred.

**Appellate Review of Fact:** Study the effects of Louisiana’s unique rule that allows appellate courts to overturn lower court decisions on issues of fact without returning cases to trial courts for determination of facts.

**Tort Defense:** Oppose tort legislation that would expand exposure of individuals, professionals and businesses to unreasonable or excessive judicial awards.

**Bifurcation of Trials:** Support legislation to eliminate the requirement that all parties to a civil suit consent to the separate determination of liability and damages.

—See also the Federal Program—

**Contact: Jonica Coates (225/928-5388 ext. 255)** As Director of the Liability Task Force, Jonica handles civil justice reform issues. She is the editor of *Court Watch*, LABI’s periodic newsletter covering court decisions that impact business. Also under her purview: federal issues.



**Jonica Coates**  
Director, Liability Task Force  
Editor, *Court Watch*  
Federal Issues  
LABI



**Jimmy Burland**  
Chairman  
Liability Task Force  
Burland & Associates, Inc.

## SMALL BUSINESS

*The future growth of the economy in Louisiana will greatly depend on maintaining a healthy industrial base coupled with a thriving small business community. Over 80% of LABI’s membership is comprised of small businesses. LABI recognizes their concerns over the growing risk of liability associated with routine business operations and governmentally imposed costs and regulations.*

### MAJOR ISSUE

#### Streamlining Louisiana’s State and Local Sales and Use Tax Systems

**Sales Tax:** Support legislation to centralize the collection of sales tax.

**The Issue:** In 1992, the United States Supreme Court (*Quill*) held that out-of-state vendors may not be required to collect sales and use tax unless the taxpayer had physical presence (“substantial nexus”) with the taxing jurisdiction. Economists estimated that Louisiana lost over \$300 million in 2001 due to Internet, mail order, and other transactions for which out-of-state vendors were not required to collect Louisiana use tax.

**LABI Position:** Promote and support the streamlining of our state and local sales and use tax systems necessary for participation in the Streamlined Sales Tax Project.

**Reasoning:** In an effort to address the collection burden on out-of-state vendors, state administrators and the national business community have organized the

“Streamlined Sales Tax Project” (the “Project”) to promote simplifying and modernizing state and local sales and use tax systems across the country. The goal of the Project is to reduce the burden on interstate commerce by the streamlining of sales and use tax systems, thereby encouraging: (1) voluntary compliance by out-of-state vendors, and (2) action by Congress in requiring use tax collection by out-of-state vendors. As this issue relates primarily to the regulation of interstate commerce, Congress has the ultimate jurisdiction of this matter under the Interstate Commerce Clause.

*For additional information, see the Taxation and Finance Council Program, page 30.*

**State Minimum Wage:** Oppose legislation establishing a state minimum wage.

#### Minimum Wage

**The Issue:** Should Louisiana have a minimum wage that exceeds the federal standard?

**LABI Position:** Oppose legislation establishing a state minimum wage.

**Reasoning:** A statewide minimum wage would seriously harm Louisiana’s economic development. It would negatively impact Louisiana’s business climate and accelerate the outmigration of jobs that is already occurring in this state.

*For additional information, see the Employee Relations Council Program, page 15.*

### **Frivolous Suits**

**The Issue:** Individuals and businesses are sick and tired of being sued or living under the threat of being sued. Many of these cases have no merit. They are nuisances.

**LABI Position:** Support appropriate legislation to discourage the filing of frivolous lawsuits and to curb abusive litigation tactics.

**Reasoning:** The existing guidelines for dealing with frivolous suits, spelled out in Louisiana’s Code of Civil Procedure, are obviously not working. Surveys of LABI’s membership showed anger, frustration and helplessness among a startling number of respondents — feelings that have only grown stronger through the years. If the present way of doing it isn’t getting the job done, other avenues must be explored. A solution must be found to give much-needed relief.

## **CURRENT ISSUES**

**Unemployment Compensation:** Support legislation to allow small business owners to forgo paying unemployment compensation (UC) taxes on only themselves by choosing not to be eligible for unemployment benefits.

**Fees:** Support legislation to limit or reduce the amount of fees assessed on small businesses.

**Small Business Day at the Legislature:** Continue to hold Small Business Day at the Legislature annually to promote the legislative agenda developed by the Small Business Council and to provide small-business people the opportunity to visit with their legislators regarding issues important to them.

**Incumbent Worker Training Fund:** Create and support legislation that would allow businesses—in particular, small businesses—better access and greater flexibility in the use of monies from the incumbent-worker training fund.

**Industry Training/Workforce Development:** Promote cooperative efforts between business owners, education institutions and the Department of Labor to ensure that workforce training programs are easily available to small businesses in Louisiana, are updated regularly and are customized to meet the needs of small business owners.

**Education:** Continue to support efforts to improve the quality of education at all levels in Louisiana by making the best possible use of tax dollars spent on education, to try new or more effective methods of education, and to

demand better accountability, which will improve the quality of the workforce and economic prosperity in the state.

**Unemployment Compensation:** Oppose legislation that would jeopardize the solvency of the UC Trust Fund, or would repeal or dilute previously enacted UC reforms.

**Unemployment Compensation:** Oppose expanding the use of the UC Trust Fund for any purpose other than UC benefits.

**Unemployment Compensation:** Support efforts to further tighten the eligibility requirements for receiving unemployment benefits, and impose stronger penalties for fraudulent claims.

**Tort Reform:** Oppose liberalization of Louisiana’s tort laws with specific emphasis on preserving reforms enacted in the following areas: strict liability, joint and several liability, punitive damages, product liability, class actions and government liability.

**Public Bid Law:** Oppose any efforts to circumvent or make exceptions to the public bid law.

**Public Bid Law:** Support legislation to strengthen enforcement of the public bid law.

**Preference Laws:** Support bid preference laws only on a reciprocal basis against companies from states that deny or restrict opportunities for competition by Louisiana businesses.

**Workers Compensation:** Support legislation to reduce workers compensation (WC) costs by overturning liberal court decisions, addressing factors responsible for escalating medical costs, and opposing the imposition of any tort remedy in WC cases. Continue to participate in the Louisiana Workers Compensation Corporation, particularly in its capacity as WC insurer of last resort in Louisiana.

**Mandated Benefits/Mandated Coverage:** Oppose new or expanded governmentally mandated benefits in group health plans, except those benefits that are effective in controlling health care costs. Oppose new or expanded governmentally mandated payments by health plans for the benefit of a limited population or specific providers, except when there is a documented, actuarially positive benefit for such mandates. Oppose governmentally mandated employer-provided or employer-paid health insurance.

**Right-to-Work/Agency Shop:** Do everything necessary to maintain Louisiana as a Right-to-Work state, including opposing repeal through any “agency shop” legislation.

**Project Labor Agreements:** Support legislation which would prohibit the use of project labor agreements on publicly funded projects.

**Labor Relations:** Support legislation to prohibit state or local government interference with employers’ rights and protections as provided under existing federal laws

governing labor/management relations. Oppose any state legislation designed to weaken employers' protections under existing federal laws governing labor/management relations.

**Government Efficiency:** Support efforts to operate state government in a more efficient, cost-effective and fiscally responsible manner, including privatizing services wherever feasible.

**Small Business Financing:** Support legislation providing incentives for commercial financial institutions to extend credit to small businesses.

**Government Contracts:** Support an appeals process for small businesses that are discriminated against in federal, state and local government contract bids.

**Government Prompt Payment:** Support prompt payment legislation that would require state and local governments to pay their bills within 30 days and to be subject to interest, fines and penalties.

**Government Competition:** Restrict efforts by government to provide goods and services in competition with private businesses.

**Prison Enterprises:** Oppose expansion of prison enterprises or inmate labor and services not used solely in prison facilities, and support legislation requiring a public certification process, including economic impact studies, prior to the establishment of such programs.

**Department of Economic Development:** Support additional emphasis by the Department of Economic Development on providing assistance to Louisiana's small businesses.

**Regulatory Burden:** Support the reduction of the regulatory burden on all businesses, especially small businesses.

**Regional Meetings:** Hold regional council meetings and educational seminars.

**Double Recovery:** Support legislation to eliminate double recovery of damages.

## ONGOING POLICY

**Franchise Tax:** Support legislation to eliminate the debt portion of the corporate franchise tax base.

**Franchise Tax:** Support legislation to eliminate the franchise tax.

**Sales Tax on Machinery and Equipment:** Support legislation to reduce or eliminate the sales tax on machinery and equipment.

**Business Activity Tax:** Oppose legislation that would impose additional taxes on businesses, thus decreasing Louisiana's ability to attract and retain jobs and investment.

**Energy Taxation:** Oppose increased or new taxes or fees on energy sources, such as:

- a processing, transportation, or refinery tax
- a change in the calculation of the natural gas or other energy franchise taxes which would increase the cost
- an increased severance tax
- a sales tax on natural gas transportation
- a coastal wetlands environmental levy
- a "first use" tax
- a minerals-in-place or reservoir tax.

**Inventory Tax:** Support retention of Louisiana's inventory tax credit at the current level.

**Inheritance Tax and Gift Taxes:** Support the continuation of the phase-out of inheritance taxes and the corresponding repeal of the gift tax.

**Tax Credit:** Support legislation to provide employers with a tax credit for every mandated health care benefit they are required to provide.

**Tax Credit:** Study the potential of making health care coverage more affordable, reducing the number of uninsured and taking pressure off of the indigent care system through a system of tax credits or other incentives to employers for providing such coverage.

**Business Tax Burden:** Oppose the elimination, reduction or modification of any tax exemptions, deductions, exclusions or credits, including the inventory tax credit. Oppose the imposition or increase of any taxes or fees, including those on energy or energy resources, that would increase the imbalance in the tax/financial burden borne by business in Louisiana. Support efforts to limit or reverse judicial expansion of the business tax burden.

—See also the Federal Program—

**Contact: Bridgette J. Richard (225/928-5388 ext. 258)**

An attorney licensed in Louisiana, Bridgette is LABI's Legislative Legal Counsel. She also serves as Staff Director for the Small Business Council and the Health Care Task Force.



**Bridgette J. Richard**  
Director, Small Business Council  
Legislative Legal Counsel  
LABI



**Dick Juneau**  
Chairman  
Small Business Council  
International Manufacturers Representatives

# TAXATION and FINANCE

## MAJOR ISSUE

### Streamlining Louisiana's State and Local Sales and Use Tax Systems

**The Issue:** In 1992, the United States Supreme Court (*Quill*) held that out-of-state vendors may not be required to collect sales and use tax unless the taxpayer had physical presence ("substantial nexus") with the taxing jurisdiction. Economists estimated that Louisiana lost over \$300 million in 2001 due to Internet, mail order, and other transactions for which out-of-state vendors were not required to collect Louisiana use tax.

**LABI Position:** Promote and support the streamlining of our state and local sales and use tax systems necessary for participation in the Streamlined Sales Tax Project.

**Reasoning:** In an effort to address the collection burden on out of state vendors, state administrators and the national business community have organized the "Streamlined Sales Tax Project" (the "Project") to promote simplifying and modernizing state and local sales and use tax systems across the country. The goal of the Project is to reduce the burden on interstate commerce by the streamlining of sales and use tax systems, thereby encouraging: (1) voluntary compliance by out of state vendors, and (2) action by Congress in requiring use tax collection by out-of-state vendors. As this issue relates primarily to the regulation of interstate commerce, Congress has the ultimate jurisdiction of this matter under the Interstate Commerce Clause.

Of the 45 states and the District of Columbia that impose a sales and use tax, 39 states (including Louisiana) and the District of Columbia are involved in the Project. In the second phase of the Project, the participating states intend to amend or modify their sales and use tax laws to be in compliance with the Streamlined Sales and Use Tax Agreement, as agreed to by the members of the Project (the "Agreement"). Most of the states have only minor changes that need to be implemented in order to comply with the Agreement. Louisiana, on the other hand, is among four states (Alabama, Colorado, and Arizona are the others) that have substantial changes that need to be implemented in order to be in compliance with the Agreement.

The substantial changes that Louisiana needs to adopt with respect to its local sales and use tax system to be in compliance with the Agreement are set forth in 2001 La. Act No. 71, which include: (1) restricting variances in its

state and local bases; (2) requiring the state to administer sales and use taxes levied by local jurisdictions; and (3) not requiring sellers to register, file returns, remit funds to or be subject to independent audits from local taxing jurisdictions.

If Louisiana is unable or unwilling to adopt these necessary changes streamlining its state and local sales and use tax systems in order to be in compliance with the Agreement, then it will be faced with substantial consequences, such as: (1) it will not be a member to the final Agreement and able to participate in the Streamlined program; (2) even if Congress does act, Louisiana will be in the minority of states prohibited from requiring out-of-state vendors to collect its use tax; (3) hundreds of millions of tax dollars owed the state and local governments will continue to go uncollected; and (4) out-of-state vendors will continue to have a competitive advantage over Louisiana businesses.

## CURRENT ISSUES

### Business Tax Policy:

- Support efforts to limit or reverse judicial and regulatory expansion of the business tax burden.
- Continue to educate the public, the media and public officials regarding (a) Louisiana's tax structure, (b) the imbalance in the tax burden borne by business, (c) the benefits of a competitive, properly balanced and predictable tax system, and (d) needed fiscal and spending reform.
- Oppose the imposition or increase of any taxes or fees, including an oil and gas processing or transportation tax, that would increase the imbalance in the tax/economic burden borne by business in Louisiana.

**Spending and Fiscal Reform:** Support spending and fiscal reforms that promote the growth and diversification of the state's economy. Support spending reform measures to restore voter confidence in state government, and thereby create a climate for fiscal reform, such as:

- efforts to manage budget deficits without new or increased taxes or fees;
- prioritized spending;
- gradually shifting to local governments the primary responsibility of funding local services; and
- achieving cost-savings through the elimination or consolidation of programs and/or agencies that would

not have a detrimental impact on the delivery of needed services.

Support tax modifications at both the state and local levels, which in general would have the effect of:

- a revenue-neutral shift from state sales/use taxes to income taxes that would stimulate the economy through the elimination of tax disincentives on business, in conjunction with
- a reduction in both the homestead exemption and the ten-year industrial tax exemption that would enhance the tax base of local governments with which to fund local services including education, police, fire, and capital outlay.

Oppose further expansion of state government, at least until economic growth provides additional, stable revenue from the existing tax base.

**Fiscal/Tax Policy:** Support measures to correct the imbalance in the tax burden borne by business and to encourage industrial and business investment in Louisiana. Such measures should include: (1) reducing the homestead exemption; (2) eliminating the sales and use tax on machinery and equipment used in manufacturing and distribution; (3) eliminating or reducing sales and use taxes on energy and energy sales; (4) eliminating inconsistencies in the administration of the state and local tax systems; (5) allowing Louisiana taxpayers to avoid unnecessary tax payments to the federal government; (6) shifting the financing and delivery of many governmental services from the state level to the local level; and (7) eliminating the local sales/use tax on repairs to property that will be shipped out of state.

**Industrial Tax Exemption:** Oppose efforts to restrict the availability of the ten-year industrial tax exemption, including efforts to tie the exemption to considerations not directly related to industrial development.

**Processing Tax:** Oppose efforts to impose any type of processing tax.

**Business Activity Tax:** See the Small Business Council Program, page 29.

**Combined Reporting (Unitary Tax):** Oppose efforts to impose mandatory combined reporting for corporate income tax purposes, as the imposition of this reporting method would have a detrimental impact on economic development in the state.

**Dedicated Expenditures:** Support efforts to allow cuts to dedicated expenditures (those *without* a dedicated revenue source) when state revenues, as certified by the Revenue Estimating Conference, are below those of prior years.

**Constitutionally Dedicated Expenditure:** Oppose efforts to redirect trust fund dollars (those *with* a dedicated revenue source) to expenses other than those to which they are constitutionally dedicated.

**Statewide Centralized Collection:** Support measures to promote consistency in the administration of the state and local sales tax systems, including measures to promote statewide centralized collection and administration of local sales taxes.

**Sales Taxes:** Oppose measures to levy or authorize additional statewide sales taxes and to levy or authorize local sales taxes without voter approval.

**Statewide Taxing Districts:** Oppose measures to create a statewide taxing district, whose boundaries are coterminous with the state, which has the authority to levy sales, use, or any similar tax for any purpose.

**Tax Administration:** Support measures to limit abuse of authority by state and local tax collectors. Support measures restricting the imposition on taxpayers of attorney fees and audit costs of state and local governments in tax cases.

**Refund Procedures:** Support taxpayers' fundamental right to a prompt refund of taxes not due to a taxing authority.

**Tax Incentives:** Support the availability of fair and equitable tax incentives for economic development and support measures to simplify the process for obtaining tax incentives and exemptions.

**Vote Requirement for Tax Relief:** Oppose restrictions on the ability of the Legislature to lower taxes or grant tax relief.

**Assessment Appeals Procedure:** Support legislation to simplify the procedures for contesting property tax assessments.

**Property Tax Assessments:** Support legislation and changes in the Louisiana Tax Commission rules and regulations to improve the accuracy of assessments. Support the current use value system for determining the assessed value of property that is classified as agriculture, timberlands, horticulture and marshlands.

**Ad Valorem Property Taxes:** Support a reduction in the ad valorem tax on property acquired by public service entities after deregulation of those companies has been implemented. Any revised system of public service property taxation should not result in a shifting of the property tax burden from regulated to non-regulated businesses.

**Direct Pay Permits:** Support measures to expand the availability of sales and use tax direct pay permits to all affected industries.

**Mineral Property Taxes:** See the Energy Council Program, page 18.

**Hazardous Waste Tax:** See the Environmental Quality Council Program, page 20.

## ONGOING POLICY

**Franchise Tax:** Support legislation to remove long-term debt from the state corporate franchise tax base.

**Sunsetting Exemptions:** Support the continuation of the statutory business tax incentives, exemptions and exclusions that are scheduled to expire in 2004.

**Cost-Savings in Government:** Support the creation of an ongoing “Cost-Savings in Government” coalition, focusing on identifying potential cost savings in government.

**Prevailing Wage:** See the Employee Relations Council Program, page 16.

**State and Local Taxes:** Support a competitive business tax environment for Louisiana’s industries that are subject to substantial interstate competition.

**Retirement Systems:** See the Governmental Reform Program, page 22.

**Government Efficiency:** Support efforts to operate state government in a more efficient, cost-effective and fiscally responsible manner, including privatizing state government services where feasible.

**Advance Collection of Sales Tax:** Support legislation to eliminate the advance collection of sales and use tax by wholesalers.

**Capital Outlay Program/Highway Priority Program:** Support strengthening the capital outlay program controls, and oppose attempts to weaken the Highway Priority Program.

**Inheritance Tax and Gift Taxes:** Support the continuation of the phase out of inheritance taxes and the corresponding repeal of the gift tax.

**Annexation:** Support legislation to require municipalities to notify affected property owners before annexing any property.

**“Fiscal-Only” Legislative Sessions:** Support the continuation of a system of alternating fiscal/non-fiscal legislative sessions.

**TOPS Reimbursement:** Support measures whereby the state can secure reimbursement for TOPS payments through federal tax credit programs.

—See also the Federal Program—

**Contact: John LeBlanc (225/928-5388 ext. 256)** As a Board Certified Tax Attorney and CPA (inactive), John has an in-depth knowledge of the taxation and fiscal issues confronting LABI’s members. He serves as Staff Director for the Taxation and Finance Council and as a Senate floor lobbyist.



**John LeBlanc**  
Director  
Taxation and Finance Council  
LABI



**Paul Hargrove**  
Chairman  
Taxation and Finance Council  
Century Telephone Enterprises

# TRADE, TOURISM AND TRANSPORTATION

*LABI supports maintaining an economic and political climate in which Louisiana’s trade and tourism industries can flourish.*

## CURRENT ISSUES

**River Pilotage:** Support legislation to create an effective regulatory structure for pilotage with the overall objective of establishing safe, reliable, and cost-effective pilot service.

**Air Transportation:** Support the development of adequate air transportation facilities in Louisiana.

**International Marketing:** Support the creation of a central clearinghouse to coordinate the international marketing efforts of state government agencies.

## ONGOING POLICY

**Business Tax Burden:** Oppose tax increases that would have a negative impact on trade and tourism.

**International Trade:** Support legislation that promotes national and international trade opportunities for Louisiana businesses. Oppose legislation that restricts free trade.

**International Tourism:** Support continuation of tax-free shopping as an incentive to attract international tourists.

**Minimum Wage:** Oppose legislation establishing a state minimum wage.

**Tourism Promotion Funding:** Support adequate revenues dedicated to the promotion of tourism in Louisiana.

**State Infrastructure:** Study ways to improve air, land, and water transportation affecting trade and tourism.

**Ports:** Actively support the development of a major intermodal port facility in Louisiana.

**State Beautification:** Support and encourage all reasonable efforts to eliminate litter in Louisiana, including anti-litter public campaigns.

**International Trade Promotion:** Monitor and evaluate legislation and other activities in the state of Louisiana with regard to the promotion of international trade.

**Free Enterprise:** Oppose any government restrictions that would make Louisiana businesses less competitive relative to businesses in other states.

**Maritime Industry:** Monitor efforts of the Mississippi River Corridor Initiative regarding factors that impact competition and economic viability of Louisiana maritime commerce.

—See also the Federal Program—

**Contact: Bruce Bradley (225/928-5388 ext. 259).** As Director of the Trade, Tourism and Transportation Council, Bruce handles issues impacting Louisiana’s tourism and international trade industries, as well as transportation matters. He is also Assistant Director of Political Action and a House floor lobbyist.



**Bruce Bradley**  
Director  
Trade, Tourism and Transportation  
Council  
LABI



**Larry Mann**  
Chairman  
Trade, Tourism and Transportation  
Council  
CF Industries, Inc.

# FEDERAL PROGRAMS

## EMPLOYEE RELATIONS

**Ergonomics:** Oppose any Occupational Safety and Health Administration (OSHA) rule which requires employers to meet an unreasonable and costly ergonomics standard established without scientific validation of its value.

**Right-to-Work:** Oppose legislation to repeal or weaken Section 14B of the Taft-Hartley Act, which authorizes state Right-to-Work laws.

**Unemployment Compensation:** Support legislation to lower federal unemployment taxes by giving states the authority to collect and appropriate Federal Unemployment Tax Act (FUTA) revenues to operate their employment security agencies.

**Unemployment Compensation:** Oppose legislation that would liberalize UC benefits and/or increase employers’ costs.

**Mandated Employee Benefits:** Oppose increased costs on employers resulting from governmentally mandated benefits, including parental leave and health care plans.

**Drug-Free Workplace:** Support legislation to promote a drug-free workplace.

**Comparable Worth:** Oppose attempts to impose “comparable worth” in the workplace.

**Federal Minimum Wage:** Oppose any increase in the federal minimum wage.

**National Labor Relations Act (NLRA):** Continue to support legislation that would remove the requirement that unions represent nonmembers in a bargaining unit. Oppose legislation that would expand the NLRA to facilitate union organizing, prohibit construction industry double breasting or allow *common situs* picketing, and support legislation to restrict liberalization promoted by the National Labor Relations Board and the courts.

**Employee/Management Teams:** Support amendments to the NLRA that would permit both union and nonunion employees to share decision-making responsibility with management.

**Davis-Bacon Act:** Support repeal of the Davis-Bacon Act.

**Striker Replacement:** Oppose legislation that would prohibit an employer from hiring permanent replacement workers for employees who walk off the job.

**Federal Intervention in Benefit Plans:** Oppose legislation and regulations that restrict employers or place further burdens on employers sponsoring benefit plans, including cafeteria plans.

**Federal Employees Wage Garnishment:** Support legislation to allow garnishment of federal employees' wages.

**Unemployment Compensation:** Support legislation to allow small business owners to forgo paying UC taxes on themselves by electing to be excluded from unemployment benefits.

## ENERGY

**Federal Leasing and Regulatory Programs:** Support legislation that seeks to establish aggressive Outer Continental Shelf (OCS) and Arctic National Wildlife Refuge leasing programs for oil and gas development. Revenues from such production should be shared with states that permit such activities. Oppose any efforts to restrict leasing on federal and OCS lands. All potential reserves must be explored and added to the nation's production, and a balanced program between environmental and economic concerns must be achieved, rather than withdrawing properties based on unwarranted environmental pressures.

**Revenue Sharing:** Support efforts to assure a fair and equitable distribution of revenues from offshore oil and gas production.

**CAFÉ:** Oppose raising Corporate Average Fuel Economy standards which would unreasonably burden businesses; that would cause trucks, vans and SUVs to be less effective in towing capability; and that would reduce fleet safety.

**Royalty Valuation:** Support improvements in the method by which the federal government values and collects oil and gas royalties from leases on federal property. Those improvements should be designed to create a more efficient system that adds fairness, certainty and simplicity to the

royalty valuation process while preserving the lease terms agreed upon by the producer and the federal government.

**Oilfield Wastes:** See the Environmental Quality Council Program, page 21.

**Risk Assessment:** Support legislation that will attach cost-to-risk assessments to the process by which rules are promulgated.

**Oil Spill Financial Responsibility:** Support federal legislation to correct provisions of the Oil Production Act of 1990, which extended the \$150 million fiscal responsibility requirements to onshore jurisdictions.

**Wetlands:** Oppose any regulatory efforts by the Department of the Interior that would impede or curtail oil and gas exploration and production in the wetlands.

**Energy Taxation:** Support federal taxation policies that would preserve domestic energy security by stimulating exploration and production. Such incentives would assist energy-intensive industries, which are suffering from high energy costs and foreign competition, as well as the energy-producing industry. Additionally, oppose additional gasoline and special fuels taxes as a source of revenues for non-highway purposes.

**Competition:** Support a fair and fully competitive retail electricity market that allows all consumers, individually or as a group, the right to choose their supplier of electricity.

**Natural Gas Deregulation:** Support legislation to remove all governmental barriers to competitive pricing and accessibility to all onshore and offshore production, transportation and use of natural gas.

**Energy Development:** Assist in the development of a program that will promote use of Louisiana energy sources but does not unduly favor one energy form over another.

**Federal Research Funding:** Support legislation that would provide for the use of federal fossil fuel funding for research and development related to oil and gas exploration and production and efficient utilization of energy resources.

**Nuclear Fuel:** Support legislation which would ensure the long-term viability of nuclear power for electricity generation, assure safe storage of spent nuclear fuel, and require safe transportation of nuclear products.

## ENVIRONMENTAL QUALITY

**Permits:** Support and encourage the granting of permits that are valid for the life of the facility.

**Kyoto Protocol:** Oppose Senate ratification and presidential approval of the Kyoto global warming treaty, or any legislative proposal with similar provisions, unless developing countries are included in its requirements, which must be based on valid, peer-reviewed science, and the U.S. is not disproportionately affected by the mandated greenhouse gas emissions reductions.

**EPA Overfiling:** Oppose EPA’s filing separate enforcement actions after an agreement has been reached between the state and a regulated entity under a federally delegated program. The regulated community should be able to achieve finality when it resolves an environmental dispute with DEQ (or any other state agency) in a program that has been “delegated” to the state of Louisiana by the EPA. LABI will work to eliminate EPA “overfiling,” as this practice places the regulated community in a double-jeopardy type situation.

**Environmental Justice:** Oppose the use of “environmental justice” as a means of stopping economic development. Assure the rights of minorities are protected under the Civil Rights Act.

**Rule Flexibility:** Support legislation and regulations that provide for regulatory flexibility in return for improved environmental performance.

**Clean Air Regulations:** Support Clean Air Act implementing regulations that are reasonable, cost-effective and workable. Support efforts to prevent tightening of National Ambient Air Quality Standards (NAAQS).

**Superfund:** Support comprehensive reforms to the existing Superfund program by prioritizing and speeding up cleanup, repealing retroactive liability, setting reasonable cleanup standards based on sound science, and opposing the imposition of new taxes.

**Landowner Rights:** Oppose the regulation of any use or condemnation of private property unless based on adequately demonstrated public need. Support legislation to require the governing body to deal openly with the landowner and to adequately compensate property owners for loss of use or devaluation of their property caused by environmental regulations, laws or policy.

**Wetlands:** Support clear, consistent Corps of Engineers implementation of wetlands regulations. Encourage the development of regulations and policies that exempt nonviable wetlands from regulation. Support the development of mitigation banking policies and regulations that maintain economic competitiveness in an impacted watershed.

**Environmental Audits/EPA:** Encourage the EPA to amend its Policy on Self-Policing to make the “protections” legally binding; eliminate or reduce the number of conditions a company must meet to obtain these protections; and make the Policy clear, meaningful and useful to businesses conducting environmental self-audits.

**General Environmental Legislation:** Support federal environmental legislation that balances environmental concerns with economic realities and is workable, practical, equitable and consistent.

**Ozone Transport and Attainment:** Oppose interstate ozone transport strategies that may worsen Louisiana air quality or that cannot be supported by a scientifically valid cause-and-effect relationship. Encourage the EPA to

complete redesignation of all the parishes that are meeting and will continue to meet the air quality standard for ozone.

**Cost-Benefit Analysis:** Support legislation that will require cost-benefit assessments to be included in the process by which rules are promulgated.

**Waste Bans:** Support resolution at the federal level of interstate waste shipment and disposal issues.

**Oilfield Wastes:** Oppose legislation that would unilaterally reclassify oilfield wastes as hazardous or any other inappropriate classification. LABI supports the EPA’s current definition of hazardous wastes related to oil and gas exploration and production activities.

**Solid Waste Regulations:** Support fair implementation of the Resource Conservation and Recovery Act (RCRA) Subtitle D regulations for private and public solid waste facilities.

**Gulf of Mexico Program/Barataria-Terrebonne National Estuary Program:** Support programs that are based on scientific information and that balance environmental concerns with economic development; encourage DEQ and LABI members to participate to the greatest extent possible and to communicate the programs’ progress with other members and the public.

## HEALTH CARE

**Association Health Plans:** Support legislation to allow small business owners to band together across state lines to buy insurance in large pools, thus increasing the economies of scale, lowering administrative costs, and giving them more flexibility in the health benefits they wish to include or exclude from coverage than state benefit mandates allow.

**Professional Liability:** Support the creation of a legislative study commission to research the need, feasibility, methodology and financing to create an insurance entity for health care liability coverage, provided that federal law does not pre-empt stricter state law.

**Mandated Benefits:** Oppose new or expanded governmentally mandated benefits under employer health plans, except those benefits that are effective in controlling health care costs. Oppose new or expanded governmentally mandated payments by health plans for the benefit of a limited population or specific providers, except when there is a documented, actuarially positive cost/benefit for such mandates.

**Patients’ Bill of Rights:** Support a patients’ bill of rights that provides legitimate consumer protection without creating new liability for employers or their health plans or creating costly new mandates. Support consumers’ right to an appeals and external review process as an alternative to expanded liability, similar to the provisions found in Louisiana’s Medical Necessity Review Organization (MNRO) statute.

**National Health Care Plan:** Support legislative and other efforts fostering market-driven, community-based health care reform. Those efforts should emphasize expanded, secure access to cost-effective, quality care. Oppose federal employer mandates that burden businesses. Oppose a federal monopolistic health care/single payor system.

**Civil Liability:** Oppose legislation that would inappropriately create civil liability for employers and their health plans.

**ERISA:** Support continued federal pre-emption of state insurance laws and regulations as provided through the Employee Retirement Income Security Act of 1974 (ERISA) and support the extension of similar “protections” to non-ERISA plans.

**Restraint of Trade:** Strengthen and support current law that prohibits health care providers from colluding or fixing rates in violation of anti-trust laws.

**Rights of Choice:** Support legislation that will maintain the right of the employer and the employee to choose their own health care carriers.

**Free Market Competition:** Support legislation that will provide quality care and promote cost effective delivery through a competitive health care market. Oppose any efforts to weaken current statutes that prohibit inappropriate referral practices.

**Managed Care:** Oppose restrictions in managed care that would reduce its effectiveness and increase employers’ costs.

**Business Coalitions:** Support efforts by business groups, organizations and health care coalitions to aid businesses in their quality improvement and cost containment efforts.

## LIABILITY

**Tort Offense:** Support appropriate tort legislation that would protect individuals, professionals and businesses from unreasonable or excessive judicial awards.

**Disaster Insurance:** Support the Policyholders Disaster Protection Act, which would allow insurance companies to set aside pre-tax dollars in a disaster reserve account.

**Government-sponsored Lawsuits:** Support efforts to stem the tide of government-sponsored litigation.

**U.S. Constitution:** Oppose attempts by Congress to erode the supremacy clause of the U.S. Constitution.

**Class Action Lawsuits:** Support federal class action reform.

**Substance Exposure Liability:** Support appropriate legislation that would establish medical criteria that separates the sick from those who are not and compensates only those who are sick. This legislation would guarantee those who are healthy their day in court if, and when, they become ill. Support appropriate legislation that ensures that liability based on exposure to allegedly injurious or

hazardous substances is supported by reliable scientific evidence and that monetary awards for exposure compensate only to the extent of injuries actually sustained.

## SMALL BUSINESS

**Unemployment Compensation:** Support legislation to allow small business owners to forgo paying UC taxes on only themselves by choosing not to be eligible for unemployment benefits.

**OSHA:** Support efforts to reform the Occupational Safety and Health Administration (OSHA) provisions that have an adverse impact on small business.

**Estate Tax:** Support the continuation of the phase-out of the estate tax and expedite the phase-out.

**Retirement Systems:** Support consolidation of all federal retirement systems and eliminate all special retirement systems.

**Social Security:** Support legislation that would require all employees, including federal, state, and local employees, to pay into the Social Security System.

**The Americans With Disabilities Act:** Oppose liberalization of the Americans With Disabilities Act. Support revisions to the ADA that would help curb the excess litigation that negatively impacts businesses and the economy.

**Government Contracts:** Support an appeals process for small businesses that are discriminated against in federal, state and local government contract bids.

**Government Competition:** Restrict efforts by government to provide goods and services in competition with private businesses.

**Regulatory Burden:** Support the reduction of the regulatory burden on all businesses, especially small businesses.

**Unfunded Federal Mandates:** Oppose unfunded federal mandates on state and local governments or businesses.

## TAXATION & FINANCE

**Business Tax Burden:** Oppose any increase in the federal tax burden on business.

**Economic Stimulation:** Support legislation that would stimulate the economy by allowing taxpayers to keep more of their own money for investment in the private sector.

**Spending Reduction:** Since the financing of large government deficits each year consumes much of the capital that would otherwise be available for business investment needed to improve productivity and create jobs, support programmatic review and serious consideration of reasonable, specific spending cuts. LABI supports program-specific reductions as a preferred alternative to an across-the-board spending freeze.

**Taxation of Employee Benefits:** Oppose the elimination of tax exclusions and deferrals on health, pension and disability benefits. LABI recognizes that such elimination could help close the budget deficit in the short term; however, the long-term effects on Social Security, Medicare and other government social programs may be greater than those systems can sustain.

**Sales Taxes on Interstate Sales Transactions:** Support efforts to authorize state and local governments to require the collection of sales taxes on interstate, catalog, mail order or Internet-type sales transactions.

**Constitutional Spending Restraint:** As a further safeguard that interest payments on deficit spending will not drain capital from investment purposes, support efforts to enact a constitutional amendment to require a balanced budget. Total expenditures should not exceed actual (versus anticipated) revenues.

**Federal Budget:** LABI supports restraints on federal off-budget spending.

**IRS Abuses:** Support legislation furthering the rights of taxpayers in dealing with the Internal Revenue Service (IRS), limiting the regulatory authority of the Treasury Department and the IRS, and increasing their accountability for unreasonable and arbitrary conduct in the issuance of regulations or the collection of taxes.

**Taxes/Fees on Virgin Materials:** Oppose legislation to impose a tax or fee on the use of virgin materials.

## TRADE, TOURISM AND TRANSPORTATION

**Free Trade:** Support measures that will promote free trade and enhance the international trade sector of Louisiana's economy.

**International Trade:** Support the continuation of the Federal Export Tax Incentive.

**Free Trade:** Support Trade Promotion Authority, which grants the President, with Congressional approval, the ability to negotiate trade agreements that will open markets for U.S. businesses on the world stage.

**Expanded Research:** Support increased efforts to provide international trade and tourism research in the U.S. Department of Commerce.

**Federal Trade and Tourism:** Support federal international trade and tourism promotion activities.

**Contact: Jonica Coates (225/928-5388 ext. 255)** As Director of the Liability Task Force, Jonica handles civil justice reform issues. She is the editor of *Court Watch*, LABI's periodic newsletter covering court decisions that impact business. Also under her purview: federal issues.



**Jonica Coates**

Federal Issues  
Director, Liability Task Force  
Editor, *Court Watch*  
LABI