

SENATE BILL NO. 189

BY SENATORS WHITE AND CLOUD

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AN ACT

To enact Subpart M of Part II-A of Chapter 1 of Subtitle 1 of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:100.41 through 100.47 and R.S. 47:1508(B)(43), relative to special funds; to create special funds for the deposit of certain federal monies; to create the Coronavirus Local Recovery Allocation Fund, the Louisiana Main Street Recovery Fund, and the State Coronavirus Relief Fund; to create and to provide relative to the Coronavirus Local Recovery Allocation Program and the Louisiana Main Street Recovery Programs relative to the use of monies in the funds; to provide relative to the allocation, use, and disbursement of the monies in the funds; to provide relative to the powers and duties of the commissioner of administration, the Governor's Office of Homeland Security and Emergency Preparedness, the treasurer, and the legislative auditor with respect to such monies; to provide for legislative intent; to provide for the dedication of certain revenues and for the deposit of and use of monies in the fund; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart M of Part II-A of Chapter 1 of Subtitle 1 of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.41 through 100.47, are hereby enacted to read as follows:

SUBPART M. COVID -19 DISASTER FUNDS

§100.41. Legislative Intent

It is the intent of the Legislature to provide economic support to Louisiana political subdivisions and businesses for costs incurred for and continued response to the Coronavirus disease (COVID-19) pandemic from federal funds provided pursuant to Section 5001 of the CARES Act, which

1 created the Coronavirus Relief Fund from which the State received over one
2 billion eight hundred million dollars (CARES Act), of which the State's portion
3 is over nine hundred ninety-one million dollars. The State desires to use a
4 portion of the remaining portion of the CARES Fund monies in the amount of
5 five hundred eleven million one hundred seventy-eight thousand seven hundred
6 four dollars for economic support through the Coronavirus Local Recovery
7 Program for local government units to be administered by the division of
8 administration and the Governor's Office of Homeland Security and
9 Emergency Preparedness. The State further desires to use a portion of the
10 CARES Fund monies in the amount of three hundred million dollars for the
11 Louisiana Main Street Recovery Program for economic support for eligible
12 businesses to be administered by the State Treasurer, all as established in this
13 Subpart.

14 §100.42. Definitions

15 For the purposes of this Subpart, the following terms shall have the
16 following meanings:

17 (1) "Allocation Fund" shall mean the Coronavirus Local Recovery
18 Allocation Fund.

19 (2) "Allocation Program" shall mean the Local Recovery Allocation
20 Program administered by the commissioner of administration and GOHSEP.

21 (3) "CARES Act" shall mean the Coronavirus Aid, Relief, and Economic
22 Security Act, Public Law 116-136 and any guidance or regulations issued by the
23 United State Treasury as of the date of this Act or thereafter relative to the
24 CARES Act.

25 (4) "CARES Fund" for the purposes of this Subpart, shall mean the
26 monies received by the state from the federal government pursuant to the
27 CARES Act for in the amount of one billion eight hundred two million six
28 hundred nineteen thousand three hundred forty-two dollars.

29 (5) "Commissioner" shall mean the Commission of the division of
30 administration of the State.

1 (6) "COVID-19" means the Coronavirus disease 2019.

2 (7) "Eligible business" means a for profit corporation, a limited liability
3 company, a partnership, or a sole proprietorship that meets all of the following
4 criteria:

5 (a) Was domiciled in Louisiana as of March 1, 2020.

6 (b) Is in good standing with the Secretary of State, if applicable.

7 (c) Suffered an interruption of business caused by forced or voluntary
8 closures or restricted operations due to social distancing measures, decreased
9 customer demand, cleaning or disinfection expenses, and providing personal
10 protective equipment.

11 (d) Has at least fifty percent owned by one or more Louisiana residents,
12 whether individual resident citizens or Louisiana domestic business entities.

13 (e) Filed Louisiana taxes for tax year 2018 or 2019, or, if an eligible
14 business formed on or after January 1, 2020, intends to file Louisiana taxes for
15 tax year 2020.

16 (f) Has customers or employees coming to its physical premises.

17 (g) Had no more than fifty full-time equivalent employees as of March
18 1, 2020.

19 (h) Is not a subsidiary of a business with more than fifty full-time
20 equivalent employees, is not part of a larger business enterprise with more than
21 fifty full-time equivalent employees, and is not owned by a business with more
22 than fifty full-time equivalent employees.

23 (i) Does not exist for the purpose of advancing partisan political activity.
24 Does not directly lobby federal or state officials.

25 (j) Does not derive income from passive investments without active
26 participation in business operations.

27 (8) "Grant" means an award by the Treasurer to an eligible business.

28 (9) "GOHSEP" shall mean the Governor's Office of Homeland Security
29 and Emergency Preparedness.

30 (10) "Interruption of business" means business interruption caused by

1 forced or voluntary closures or restricted operations, including but not limited
2 to social distancing measures, decreased customer demand, cleaning or
3 disinfection expenses, and providing personal protective equipment, related to
4 COVID -19.

5 (11) "Louisiana taxes" means all taxes administered by the secretary of
6 the Department of Revenue pursuant to Title 47 of the Louisiana Revised
7 Statutes of 1950, as amended.

8 (12) "Local government unit" means a parish, municipality, town,
9 township, village or other unit of general government below the State level with
10 parishwide jurisdiction including, but not limited to, sheriffs, coroners, and
11 district attorneys. Entities which do not fit within the definition of political
12 subdivision as used in this Subpart, shall have the parish with which they are
13 affiliated submit the application.

14 (13) "Minority business enterprise" means a small business organized
15 for profit performing a commercially useful function which is at least fifty
16 percent owed by one or more minority individuals, women, or veterans, who
17 also control and operate the business. In addition to the requirements of this
18 Subparagraph, if more than one person owns the enterprise, at least fifty
19 percent of the owners must be resident citizens of the State. For the purposes
20 of this Subparagraph, "control" means exercising the power to make policy
21 decisions and "operate" means being actively involved in the day-to-day
22 management of the business.

23 (14) "Recovery Program" means the Louisiana Main Street Recovery
24 Program.

25 (15) "State" means the state of Louisiana.

26 (16) "Treasurer" means the state treasurer of Louisiana.

27 §100.43. Coronavirus Local Recovery Allocation Program

28 A. There is hereby created the Coronavirus Local Recovery Allocation
29 Program to be administered by the commissioner of the division of
30 administration, in consultation with the Governor's Office of Homeland

1 Security and Emergency Preparedness, in accordance with the provisions of this
2 Subpart.

3 B. There is hereby created and established in the state treasury, as a
4 special fund, the Coronavirus Local Recovery Allocation Fund, hereinafter
5 referred to as the "Allocation Fund" for the purpose of providing monies to
6 local governments for the expenditures incurred and in response to the COVID-
7 19 pandemic.

8 C. Pursuant to legislative appropriation, the treasurer is hereby
9 authorized and directed to deposit in and credit to the Allocation Fund five
10 hundred eleven million one hundred seventy-eight thousand seven hundred four
11 dollars pursuant to Section 5001 of the CARES Act. The monies in the
12 Allocation Fund shall be invested in the same manner as monies in the state
13 general fund. Interest earned on the investment of monies in the Recovery Fund
14 shall be deposited in and credited to the Allocation Fund. Except as provided
15 in this Section and if applicable under federal guidelines, unexpended and
16 unencumbered monies in the Allocation Fund shall remain the Allocation Fund.
17 Monies in the Allocation Fund shall be appropriated and used solely as
18 provided in this Section.

19 D. From the initial amount deposited into and credited to the Allocation
20 Fund, one-half of one percent shall be available for appropriation to GOHSEP
21 to be used for administering the program. GOHSEP is hereby authorized to use
22 staff as necessary from the office of Community Development for administrative
23 and technical support. One-half of one percent shall be available to be
24 appropriated to the legislative auditor for the costs of reviewing the program.
25 The remaining monies in the Allocation Fund shall be available to GOHSEP to
26 provide funds to political subdivisions in Fiscal Years 2020 and 2021 pursuant
27 to the Allocation Program as established in this Section.

28 E. The commissioner of administration, in consultation with GOHSEP
29 and the Office of Community Development in the division of administration,
30 shall develop procedures to govern the administration of the program, and

1 determine the maximum allocation of monies in the Allocation Fund available
2 for each parish to submit eligible applications for funds. The commissioner may
3 promulgate emergency rules, as necessary for the administration of this
4 program. The commissioner shall institute the program no later than June 5,
5 2020. The commissioner shall cause information regarding the program to be
6 published on the websites of the State, the division of administration, and
7 GOHSEP. The commissioner shall notify each parish of the provisions herein.

8 F. The commissioner of administration shall develop a method to
9 determine the maximum allocation for each parish based on total population of
10 the parish and the number of confirmed cases of COVID-19 within the parish.
11 The commissioner shall notify each applicant that there is no guarantee that the
12 amount of funds received by the local government units of a parish shall equal
13 the maximum amount allocated to the parish. If on November 1, 2020, any
14 parish has an unobligated portion of their allocation, the unobligated portion
15 may be moved by the commissioner of administration to other parishes which
16 have used all of their allocation and have remaining submissions, subject to
17 approval of the Joint Legislative Committee on the Budget.

18 G. The monies allocated to local government units in each parish shall
19 only be for eligible expenses as provided in the CARES Act.

20 H. Within fifteen calendar days after receiving a submission for
21 reimbursement pursuant to this Section, GOHSEP and the division of
22 administration shall review and, if eligible, approve the submission, and
23 forward the approved eligible expenditures to GOHSEP for disbursement.
24 Funds for verified claims shall be disbursed by GOHSEP within five business
25 days of receipt by GOSHEP.

26 I. Any claims for expenses incurred after December 30, 2020, or
27 submitted to the division of administration after January 31, 2021, shall be
28 ineligible for payment pursuant to the provisions of the CARES Act.

29 J. No later than the fifteenth day of each month, the director of GOHSEP
30 and the commissioner of administration jointly shall submit a report to the

1 Joint Legislative Committee on the Budget detailing by parish the amounts
2 requested for reimbursement pursuant to this Section, the amounts actually
3 reimbursed, and the average time for disbursing funds to each parish.

4 K. Each local governmental unit shall provide a certification, on a form
5 developed by the commissioner of administration and GOHSEP, signed by the
6 authorized chief executive of the local government that the proposed uses of the
7 funds are consistent with the CARES Act. The certification shall also provide
8 that the local government unit shall hold the State harmless and indemnify the
9 State in the event that payments were misappropriated, converted, and/or spent
10 for any purpose other than those authorized by and in accordance with the
11 CARES Act as determined by any executive, administrative, or judicial body of
12 competent jurisdiction.

13 L. Any unobligated balance in the fund on December 1, 2020, shall be
14 transferred to the State Coronavirus Relief Fund.

15 **§100.44. Louisiana Main Street Recovery Program**

16 A. There is hereby created the Louisiana Main Street Recovery Program
17 to be administered by the state treasurer in accordance with the provisions of
18 this Subpart.

19 B. There is hereby created in the state treasury, as a special fund, the
20 Louisiana Main Street Recovery Fund, hereinafter referred to as the "Recovery
21 Fund", to provide economic support to eligible Louisiana businesses for costs
22 incurred in connection with COVID-19, including business interruptions caused
23 by forced closures or restricted operations resulting from voluntary closures
24 instituted to promote social distancing, and resulting decreased customer
25 demand, cleaning or disinfection, and providing personal protective equipment.
26 Expenses reimbursed by business interruption insurance or disallowed by the
27 CARES Act or any guidance or regulation issued by the United States
28 Department of the Treasury shall not be an eligible expense.

29 C. Pursuant to legislative appropriation, the treasurer is hereby
30 authorized and directed to deposit in and credit to the Recovery Fund three

1 hundred million dollars of the federal monies allocated to Louisiana pursuant
2 to Section 5001 of the CARES Act. The monies in the Recovery Fund shall be
3 invested in the same manner as monies in the state general fund. Interest earned
4 on the investment of monies in the Recovery Fund shall be deposited in and
5 credited to the Recovery Fund. Except as provided in this Section and
6 applicable under federal guidelines, unexpended and unencumbered monies in
7 the Recovery Fund shall remain in the Recovery Fund. Monies in the Recovery
8 Fund shall be appropriated and used solely as provided in this Section.

9 D. Up to five percent of the monies initially deposited in the Recovery
10 Fund shall be appropriated to the treasurer for use in Fiscal Years 2020 and
11 2021 to develop procedures for the administration of and for the costs of
12 administering the Louisiana Main Street Recovery Program. Such expenses
13 may include costs for the treasurer and the legislative auditor for work
14 performed in execution of the program. Notwithstanding any provision of law
15 to the contrary, the treasurer may enter into a consulting services contract as
16 an emergency procurement, to expedite the distribution of the funds
17 appropriated for the Recovery Program. The cost of such contract shall be an
18 administrative expense of the Recovery Program.

19 E. All remaining monies in the Recovery Fund, after providing for
20 administrative expenses, shall be appropriated for grants to eligible businesses
21 that submit applications pursuant to this Section provided that any grant
22 programs have been approved by the Joint Legislative Committee on the
23 Budget.

24 F.(1) No later than June 20, 2020, the treasurer shall submit a proposal
25 for distribution of grants available through the Louisiana Main Street Recovery
26 Program to the Joint Legislative Committee on the Budget for approval prior
27 to any disbursement. The proposal shall contain recommendations from the
28 treasurer and shall reflect the work product of any contract consultants and the
29 legislative auditor. The proposal shall include details of the program, including
30 the amount of each grant, the purpose of the grant, the category of recipients

1 of each grant, the number of eligible recipients, documentation required for
2 receipt of a grant and the planned method of distribution. Any proposal
3 submitted to the Joint Legislative Committee on the Budget shall contain
4 recommended proposals to address, within the first twenty-one days, the needs
5 of eligible businesses that meet all of the following criteria:

6 (a) The eligible business did not receive a United States Small Business
7 Administration-Guaranty Paycheck Protection Program loan or a United States
8 Small Business Administration Economic Injury Disaster Loan Emergency
9 Advance.

10 (b) The eligible business did not receive and has not been awarded
11 reimbursement under any other federal program for the expenses that will be
12 reimbursed by a grant under this Section.

13 (c) The eligible business did not received compensation from an
14 insurance company for the interruption of business.

15 (2) The proposal shall next address the needs of eligible businesses after
16 the initial twenty-one day period.

17 G. The treasurer shall develop application forms to be used in operation
18 of the Recovery Program.

19 H. In no event shall any grant exceed fifteen thousand dollars.

20 I. The treasurer shall work with the Department of Revenue to verify
21 applicant tax information and with the Department of Education to promote
22 applications by childcare organizations.

23 J. Notwithstanding any provision of this Section to the contrary, the
24 treasurer shall ensure that within the first sixty days of the Recovery Program
25 no less than forty million dollars in grants, exclusive of administrative expenses,
26 shall be awarded to minority business enterprises.

27 K. Each recipient of a grant shall provide a certification, on a form
28 developed by the treasurer, signed by the authorized chief executive of the
29 eligible business, as defined in the program approved by the Joint Legislative
30 Committee on the Budget, that the proposed use of the funds are consistent with

1 the CARES Act. The certification shall also provide that the business shall hold
2 the State harmless and indemnify the State in the event that payments were
3 misappropriated, converted, and/or spent for any purpose other than those
4 authorized by and in accordance with th CARES Act as determined by any
5 executive, administrative, or judicial body of competent jurisdiction.

6 L. Within fifteen calendar days after receiving a submission pursuant to
7 this Section, the treasurer shall review and, if the grant is eligible under the
8 provisions of this Section and the procedures developed by the treasurer and
9 approved by the Joint Legislative Committee on the Budget, the treasurer may
10 approve the grant, funds appropriated for verified claims shall be disbursed by
11 the treasurer within five business days of the approval.

12 M. Any claims for expenses incurred after December 30, 2020, or
13 submitted to the treasurer after January 31, 2021, shall be ineligible for
14 payment pursuant to the provisions of the CARES Act.

15 N. No later than the fifteenth day of each month, the treasurer shall
16 submit a report to the Joint Legislative Committee on the Budget detailing the
17 number of grant submissions, the number of grants awarded, the amount of
18 each grant awarded, the purpose of the grant, the recipient of each grant, the
19 number of eligible recipients who have requested a grant and have not received
20 an award, and the obligated and unobligated balances in the Recovery Fund,
21 and the average time for disbursing funds to each recipient of a grant.

22 O. No later than July 1, 2020, the treasurer shall announce the date the
23 program shall begin.

24 P. Notice of the Recovery Program, and the availability of awards from
25 the Recovery Fund shall be provided to the commissioner to be published on the
26 web pages of each department in the executive branch, the main pages for the
27 legislative website, and in statewide news outlets at least ten days to the
28 beginning of the program.

29 Q. Any unobligated balance in the fund on December 1, 2020, shall be
30 transferred to the State Coronavirus Relief Fund.

1 **§100.45. State Coronavirus Relief Fund**

2 **A. There is hereby created and established in the state treasury, as a**
3 **special fund, the State Coronavirus Relief Fund, hereinafter the "Relief Fund".**
4 **The treasurer is authorized and directed to deposit monies appropriated by the**
5 **legislature from the CARES Fund to the Relief Fund. On December 1, 2020, the**
6 **treasurer is authorized and directed to transfer any unobligated monies in the**
7 **Coronavirus Local Recovery Allocation Fund and the Louisiana Main Street**
8 **Recovery Fund to the Relief Fund. Monies in the Relief Fund may be used by**
9 **the State, subject to appropriation, for the purposes of providing monies to local**
10 **government units, eligible businesses, or the state in accordance with the**
11 **provisions of this Subpart and the CARES Act.**

12 **B. The monies in the Relief Fund shall be invested in the same manner**
13 **as monies in the state general fund. Interest earned on the investment of monies**
14 **in the Relief Fund shall be deposited in and credited to the Relief Fund. If**
15 **applicable under federal guidelines, unexpended and unencumbered monies in**
16 **the Relief Fund shall remain in the Relief Fund.**

17 **§100.46. Changes in federal legislation**

18 **If federal legislation introduced and enacted which authorizes federal**
19 **disaster funds to be used for revenue loss, the Joint Legislative Committee on**
20 **the Budget is authorized to transfer any remaining funds to the Coronavirus**
21 **Local Recovery Allocation Fund for disbursement.**

22 **§100.47. Duties of the legislative auditor**

23 **For purposes of this Subpart, the legislative auditor is hereby authorized**
24 **to review all applications for compliance with the provisions of the programs**
25 **established in this Subpart. The treasurer's office and the Governor's Office of**
26 **Homeland Security and Emergency Preparedness shall be responsible for**
27 **providing the legislative auditor all claims and necessary documentation to**
28 **carry out his reviews. The legislative auditor shall report any findings to the**
29 **Legislative Audit Advisory Council and the Joint Legislative Committee on the**
30 **Budget.**

1 Section 2. R.S. 47:1508(B)(43) is hereby enacted to read as follows:

2 §1508. Confidentiality of tax records

3 * * *

4 B. Nothing herein contained shall be construed to prevent:

5 * * *

6 **(43) The sharing or furnishing, in the discretion of the secretary, of**
7 **information to the Department of the Treasury to be used solely for the**
8 **purposes of administering the Louisiana Main Street Recovery Program and**
9 **Fund as provided in R.S. 39:100.44. The secretary shall not disclose any data**
10 **from returns or reports provided by the Internal Revenue Service. Any**
11 **information shared or furnished shall be considered and held confidential and**
12 **privileged by the Department of the Treasury to the same extent provided for**
13 **in Subsection A of this Section.**

14 * * *

15 Section 3. This Act shall become effective upon signature of the governor or, if not
16 signed by the governor, upon expiration of the time for bills to become law without signature
17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
19 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____