

2020 Regular Session

HOUSE BILL NO. 861

BY REPRESENTATIVE KERNER

APPROPRIATIONS: Appropriates money to the Governor's Office of Homeland Security and Emergency Preparedness

1 AN ACT

2 Making annual appropriations for Fiscal Year 2020-2021 for the ordinary expenses of the
3 executive branch of state government, pensions, public schools, public roads, public
4 charities, and state institutions and providing with respect to the expenditure of said
5 appropriations.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. The appropriations in this Act from state revenue shall be payable out of
8 the sources specified and shall be limited by the provisions of Article VII, Section 10(D) of
9 the Louisiana Constitution.

10 Section 2. All money from federal, interagency, statutory dedications, or self-
11 generated revenues shall be available for expenditure in the amounts herein appropriated.
12 Any increase in such revenues shall be available for allotment and expenditure by an agency
13 on approval of an increase in the appropriation by the commissioner of administration and
14 the Joint Legislative Committee on the Budget. Any increase in such revenues for an agency
15 without an appropriation from the respective revenue source shall be incorporated into the
16 agency's appropriation on approval of the commissioner of administration and the Joint
17 Legislative Committee on the Budget. In the event that these revenues should be less than
18 the amount appropriated, the appropriation shall be reduced accordingly. To the extent that
19 such funds were included in the budget on a matching basis with state funds, a corresponding
20 decrease in the state matching funds may be made. Any federal funds which are classified

1 as disaster or emergency may be expended prior to approval of a BA-7 by the Joint
2 Legislative Committee on the Budget upon the secretary's certifying to the governor that any
3 delay would be detrimental to the state. The Joint Legislative Committee on the Budget
4 shall be notified in writing of such declaration and shall meet to consider such action, but
5 if it is found by the committee that such funds were not needed for an emergency
6 expenditure, such approval may be withdrawn and any balance remaining shall not be
7 expended.

8 Section 3.A. Notwithstanding any other law to the contrary, the functions of any
9 department, agency, program, or budget unit of the executive branch, except functions in
10 departments, agencies, programs, or budget units of other statewide elected officials, may
11 be transferred to a different department, agency, program, or budget unit for the purpose of
12 economizing the operations of state government by executive order of the governor.
13 Provided, however, that each such transfer must, prior to implementation, be approved by
14 the commissioner of administration and Joint Legislative Committee on the Budget. Further,
15 provided that no transfers pursuant to this Section shall violate the provisions of Title 36,
16 Organization of the Executive Branch of State Government.

17 B. In the event that any agency, budget unit, program, or function of a department
18 is transferred to any other department, agency, program, or budget unit by other Act or Acts
19 of the legislature, the commissioner of administration shall make the necessary adjustments
20 to appropriations through the notification of appropriation process, or through approval of
21 mid-year adjustments. All such adjustments shall be in strict conformity with the provisions
22 of the Act or Acts which provide for the transfers.

23 C. Notwithstanding any other law to the contrary and before the commissioner of
24 administration shall authorize the purchase of any luxury or full-size motor vehicle for
25 personal assignment by a statewide elected official other than the governor and lieutenant
26 governor, such official shall first submit the request to the Joint Legislative Committee on
27 the Budget for approval. "Luxury or full-sized motor vehicle" shall mean or refer to such
28 vehicles as defined or used in rules or guidelines promulgated and implemented by the
29 Division of Administration.

1 D. Notwithstanding any provision of law to the contrary, each agency which has
2 contracted with outside legal counsel for representation in an action against another agency,
3 shall submit a detailed report of all litigation costs incurred and payable to the outside
4 counsel to the commissioner of administration, the legislative committee charged with
5 oversight of that agency, and the Joint Legislative Committee on the Budget. The report
6 shall be submitted on a quarterly basis, each January, April, July, and October, and shall
7 include all litigation costs paid and payable during the prior quarter. For purposes of this
8 Subsection, the term "litigation expenses" shall mean court costs and attorney fees of the
9 agency and of the other party if the agency was required to pay such costs and fees. The
10 commissioner of administration shall not authorize any payments for any such contract until
11 such report for the prior quarter has been submitted.

12 E. Notwithstanding any provision of law to the contrary, each agency may use a
13 portion of its appropriations contained in this Act for the expenditure of funds for salaries
14 and related benefits for smoking cessation wellness programs, including pharmacotherapy
15 and behavioral counseling for state employees of the agency.

16 Section 4. Each schedule as designated by a five-digit number code for which an
17 appropriation is made in this Act is hereby declared to be a budget unit of the state.

18 Section 5.A. The program descriptions, account descriptions, general performance
19 information, and the role, scope, and mission statements of postsecondary education
20 institutions contained in this Act are not part of the law and are not enacted into law by
21 virtue of their inclusion in this Act.

22 B. All key and supporting performance objectives and indicators for the
23 departments, agencies, programs, and budget units contained in the Governor's Proposed
24 Budget Supporting Document shall be adjusted by the commissioner of administration to
25 reflect the funds appropriated therein. The commissioner of administration shall report on
26 these adjustments to the Joint Legislative Committee on the Budget by August 15 of the
27 current fiscal year.

28 C. The discretionary and nondiscretionary allocations if contained in this Act are
29 provided in accordance with R.S. 39:51(A)(3) and are to provide information to assist in

1 legislative decision making and shall not be construed to limit the expenditures or means of
2 financing of an agency, budget unit, or department to the discretionary or nondiscretionary
3 amounts contained in this Act.

4 D. The expenditure category allocations contained in this Act are provided for
5 informational purposes only from the Governor's Proposed Budget supporting documents
6 in accordance with R.S. 39:51(C) and are to provide information to assist in legislative
7 decision making and shall not be construed to limit the expenditures or means of financing
8 of an agency, budget unit, or department to the expenditure category amounts contained in
9 this Act.

10 E. The incentive programs, expenditures, and benefits contained in this Act are
11 provided in accordance with R.S. 39:51(A)(2) and are not included as, nor counted towards,
12 the operating expenses of the department, agency, or authority.

13 F. The prior year budget and positions contained in this Act are provided in
14 accordance with R.S. 39:51 and are to provide information to assist in legislative decision
15 making and shall not be construed as additional expenditures, means of financing, or
16 positions of an agency, budget unit, or department.

17 Section 6.A. Unless expressly provided in this Act, funds cannot be transferred
18 between departments or schedules receiving appropriations. However, any unencumbered
19 funds which accrue to an appropriation within a department or schedule of this Act due to
20 policy, programmatic, or cost-saving/avoidance measures may, upon approval by the
21 commissioner of administration and the Joint Legislative Committee on the Budget, be
22 transferred to any other appropriation within that same department or schedule. Each request
23 for the transfer of funds pursuant to this Section shall include full written justification. The
24 commissioner of administration, upon approval by the Joint Legislative Committee on the
25 Budget, shall have the authority to transfer between departments funds associated with lease
26 agreements between the state and the Office Facilities Corporation. The commissioner of
27 administration shall, in accordance with R.S. 15:827.3, transfer between departments or
28 schedules of this Act any unencumbered funds which accrue to an appropriation due to the

1 prior year savings achieved as a result of legislation relative to the criminal justice system
2 enacted in the 2017 Regular Session of the Legislature.

3 B. In conjunction with the continuing assessment of the existing staff, assets,
4 contracts, and facilities of each department, agency, program or budget unit's information
5 technology resources and procurement resources, upon completion of this assessment and
6 to the extent optimization of these resources will result in the projected cost savings through
7 staff reductions, realization of operational efficiencies, cost avoidance, and elimination of
8 asset duplication, the commissioner of administration is authorized to transfer the functions,
9 positions, assets, and funds from any other department, agency, program, or budget units
10 related to these optimizations to a different department. The provisions of this Subsection
11 shall not apply to the Department of Culture, Recreation and Tourism, or any agency
12 contained in Schedule 04, Elected Officials, of this Act.

13 C. The commissioner of administration shall review all existing leases for office and
14 warehouse space and compare the rent per square foot of such space to the market rent of
15 similar space in the same market. The commissioner of administration is authorized and
16 directed to renegotiate all leases that are in excess of the market rent to bring the rent in line
17 with the market rent. The commissioner of administration, upon approval of the Joint
18 Legislative Committee on the Budget, shall have the authority to transfer between
19 departments funds from any savings from renegotiated leases.

20 Section 7. The state treasurer is hereby authorized and directed to use any available
21 funds on deposit in the state treasury to complete the payment of General Fund
22 appropriations for the current fiscal year. In order to conform to the provisions of P.L. 101-
23 453, the Cash Management Improvement Act of 1990, and in accordance with the agreement
24 executed between the state and Financial Management Services, a division of the U.S.
25 Treasury, the state treasurer is hereby authorized to release checks drawn on federally funded
26 appropriations prior to the receipt of funds from the U.S. Treasury.

27 Section 8.A.(1) The figures in parentheses following the designation of a program
28 are the total authorized positions and authorized other charges positions for that program.

1 If there are no figures following a department, agency, or program, the commissioner of
2 administration shall have the authority to set the number of positions.

3 (2) The commissioner of administration, upon approval of the Joint Legislative
4 Committee on the Budget, shall have the authority to transfer positions between departments,
5 agencies, or programs or to increase or decrease positions and associated funding necessary
6 to effectuate such transfers.

7 (3) The number of authorized positions and authorized other charges positions
8 approved for each department, agency, or program as a result of the passage of this Act may
9 be increased by the commissioner of administration in conjunction with the transfer of
10 functions or funds to that department, agency, or program when sufficient documentation
11 is presented and the request deemed valid.

12 (4) The number of authorized positions and authorized other charges positions
13 approved in this Act for each department, agency, or program may also be increased by the
14 commissioner of administration when sufficient documentation of other necessary
15 adjustments is presented and the request is deemed valid. The total number of such positions
16 so approved by the commissioner of administration may not be increased in excess of three
17 hundred fifty. However, any request which reflects an annual aggregate increase in excess
18 of twenty-five positions for any department, agency, or program must also be approved by
19 the Joint Legislative Committee on the Budget.

20 B. Orders from the Civil Service Commission or its designated referee which direct
21 an agency to pay attorney fees for a successful appeal by an employee may be paid out of
22 an agency's appropriation from the expenditure category professional services; provided,
23 however, that an individual expenditure pursuant to this Subsection may not exceed \$1,500
24 in accordance with Civil Service Rule 13.35(a).

25 C. The budget request of any agency with an appropriation level of thirty million
26 dollars or more shall include, within its existing table of organization, positions which
27 perform the function of internal auditing, including the position of a chief audit executive.
28 The chief audit executive shall be responsible for ensuring that the internal audit function
29 adheres to the Institute of Internal Auditors, International Standards for the Professional

1 Practice of Internal Auditing. The chief audit executive shall maintain organizational
2 independence in accordance with these standards and shall have direct and unrestricted
3 access to the commission, board, secretary, or equivalent head of the agency. The chief
4 audit executive shall certify to the commission, board, secretary, or equivalent head of the
5 agency that the internal audit function conforms to the Institute of Internal Auditors,
6 International Standards for the Professional Practice of Internal Auditing.

7 D. In the event that any cost assessment allocation proposed by the Office of Group
8 Benefits becomes effective during the current fiscal year, each budget unit contained in this
9 Act shall pay out of its appropriation an amount no less than 75% of total premiums for all
10 active employees and those retirees with Medicare in accordance with R.S. 42:851(D)(1) for
11 the state basic health insurance indemnity program.

12 E. In the event that any cost allocation or increase recommended by the Public
13 Retirement Systems' Actuarial Committee through adoption of a valuation submitted to the
14 Joint Legislative Committee on the Budget and the House and Senate committees on
15 retirement becomes effective before or during the current fiscal year, each budget unit shall
16 pay out of its appropriation funds necessary to satisfy the requirements of such increase.

17 Section 9. In the event the governor shall veto any line item expenditure and such
18 veto shall be upheld by the legislature, the commissioner of administration shall withhold
19 from the department's, agency's, or program's funds an amount equal to the veto. The
20 commissioner of administration shall determine how much of such withholdings shall be
21 from the state General Fund.

22 Section 10.A. Pursuant to Article IV, Section 5(G)(2) and Article VII, Section 10(F)
23 of the Louisiana constitution, if at any time during the current fiscal year the official budget
24 status report indicates that appropriations will exceed the official revenue forecast, the
25 governor shall have full power to reduce appropriations in accordance with R.S. 39:75. The
26 governor shall have the authority to make adjustments to other means of financing and
27 positions necessary to balance the budget as authorized by R.S. 39:75(C).

28 B. The governor shall have the authority within any month of the fiscal year to direct
29 the commissioner of administration to disapprove warrants drawn upon the state treasury for

1 appropriations contained in this Act which are in excess of amounts approved by the
2 governor in accordance with R.S. 39:74.

3 C. The governor may also, and in addition to the other powers set forth herein, issue
4 executive orders in a combination of any of the foregoing means for the purpose of
5 preventing the occurrence of a deficit.

6 Section 11. Notwithstanding the provisions of Section 2 of this Act, the
7 commissioner of administration shall make such technical adjustments as are necessary in
8 the interagency transfers means of financing and expenditure categories of the appropriations
9 in this Act to result in a balance between each transfer of funds from one budget unit to
10 another budget unit in this Act. Such adjustments shall be strictly limited to those necessary
11 to achieve this balance and shall in no way have the effect of changing the intended level of
12 funding for a program or budget unit of this Act.

13 Section 12.A. For the purpose of paying appropriations made herein, all revenues
14 due the state in the current fiscal year shall be credited by the collecting agency to the
15 current fiscal year provided such revenues are received in time to liquidate obligations
16 incurred during the current fiscal year.

17 B. A state board or commission shall have the authority to expend only those funds
18 that are appropriated in this Act, except those boards or commissions which are solely
19 supported from private donations or which function as port commissions, levee boards or
20 professional and trade organizations.

21 Section 13.A. Notwithstanding any other law to the contrary, including any
22 provision of any appropriation act or any capital outlay act, no constitutional requirement
23 or special appropriation enacted at any session of the legislature, except the specific
24 appropriations acts for the payment of judgments against the state, of legal expenses, and of
25 back supplemental pay, the appropriation act for the expenses of the judiciary, and the
26 appropriation act for expenses of the legislature, its committees, and any other items listed
27 therein, shall have preference and priority over any of the items in the General Appropriation
28 Act or the Capital Outlay Act for any fiscal year.

1 B. In the event that more than one appropriation is made in this Act which is payable
2 from any specific statutory dedication, such appropriations shall be allocated and distributed
3 by the state treasurer in accordance with the order of priority specified or provided in the law
4 establishing such statutory dedication and if there is no such order of priority such
5 appropriations shall be allocated and distributed as otherwise provided by any provision of
6 law including this or any other act of the legislature appropriating funds from the state
7 treasury.

8 C. In accordance with R.S. 49:314(B)(1) and (2) appropriations from the
9 Transportation Trust Fund in the General Appropriation Act and the Capital Outlay Act shall
10 have equal priority. In the event revenues being received in the state treasury and being
11 credited to the fund which is the source of payment of any appropriation in such acts are
12 insufficient to fully fund the appropriations made from such fund source, the treasurer shall
13 allocate money for the payment of warrants drawn on such appropriations against such fund
14 source during the fiscal year on the basis of the ratio which the amount of such appropriation
15 bears to the total amount of appropriations from such fund source contained in both acts.

16 Section 14. Pay raises or supplements provided for by this Act shall in no way
17 supplant any local or parish salaries or salary supplements to which the personnel affected
18 would be ordinarily entitled.

19 Section 15. Any unexpended or unencumbered reward monies received by any state
20 agency during prior fiscal years pursuant to the Exceptional Performance and Efficiency
21 Incentive Program may be carried forward for expenditure from the prior fiscal year to the
22 current fiscal year, in accordance with the respective resolution granting the reward. The
23 commissioner of administration shall implement any internal budgetary adjustments
24 necessary to effectuate incorporation of these monies into the respective agencies' budgets
25 for the current fiscal year, and shall provide a summary list of all such adjustments to the
26 Joint Legislative Committee on the Budget by August 31 of the current fiscal year.

27 Section 16. Should any section, subsection, clause, sentence, phrase, or part of the
28 Act for any reason be held, deemed or construed to be unconstitutional or invalid, such
29 decisions shall not affect the remaining provisions of the Act, and the legislature hereby

1 declares that it would have passed the Act, and each section, subsection, clause, sentence,
2 phrase, or part thereof, irrespective of the fact that one or more of the sections, subsections,
3 clauses, sentences, phrases, or parts thereof, is declared unconstitutional or invalid. To this
4 end, the provisions of this Act are hereby declared severable.

5 Section 17.A. All BA-7 budget transactions, including relevant changes to
6 performance information, submitted in accordance with this Act or any other provisions of
7 law which require approval by the Joint Legislative Committee on the Budget or joint
8 approval by the commissioner of administration and the Joint Legislative Committee on the
9 Budget shall be submitted to the commissioner of administration, Joint Legislative
10 Committee on the Budget, and Legislative Fiscal Office a minimum of sixteen working days
11 prior to consideration by the Joint Legislative Committee on the Budget. Each submission
12 must include full justification of the transaction requested, but submission in accordance
13 with this deadline shall not be the sole determinant of whether the item is actually placed on
14 the agenda for a hearing by the Joint Legislative Committee on the Budget. Transactions not
15 submitted in accordance with the provisions of this Section shall be considered by the
16 commissioner of administration and Joint Legislative Committee on the Budget only when
17 extreme circumstances requiring immediate action exist.

18 B. Notwithstanding any contrary provision of this Act or any contrary provision of
19 law, no funds appropriated by this Act shall be released or provided to any recipient of an
20 appropriation made in this Act if, when, and for as long as, the recipient fails or refuses to
21 comply with the provisions of R.S. 24:513. No recipient shall be considered to fail or refuse
22 to comply with the provisions of R.S. 24:513 pursuant to this Section during any extension
23 of time granted by the legislative auditor or the Legislative Audit Advisory Council. The
24 legislative auditor may grant a recipient, for good cause shown, an extension of time to
25 comply with the provisions of R.S. 24:513. The Legislative Audit Advisory Council may
26 grant additional extensions of time to comply with the provisions of R.S. 24:513 for recipient
27 entities of an appropriation contained in this Act with recommendation by the legislative
28 auditor pursuant to R.S. 39:72.1.

1 Section 18.A. Except for the conditions set forth in Subsection B of this Section, the
2 following sums or so much thereof as may be necessary are hereby appropriated out of any
3 monies in the state treasury from the sources specified; from federal funds payable to the
4 state by the United States Treasury; or from funds belonging to the State of Louisiana and/or
5 collected by boards, commissions, departments, and agencies thereof, for purposes specified
6 herein for the current fiscal year. Funds appropriated to auxiliary accounts herein shall be
7 from prior and current year collections, with the exception of state General Fund (Direct).
8 The commissioner of administration is hereby authorized and directed to correct the means
9 of financing and expenditures for any appropriation contained in Schedule 20-901 Sales Tax
10 Dedications to reflect current law enacted in any session of the Legislature which affects any
11 such means of financing or expenditure. Further provided with regard to auxiliary funds,
12 that excess cash funds, excluding cash funds arising from working capital advances, shall
13 be invested by the state treasurer with the interest proceeds therefrom credited to each
14 account and not transferred to the state General Fund. This Act shall be subject to all
15 conditions set forth in Title 39 of the Louisiana Revised Statutes of 1950 as amended.

16 B.(1) No funds appropriated in this Act shall be transferred to a public or quasi-
17 public agency or entity which is not a budget unit of the state unless the intended recipient
18 of those funds submits, for approval, a comprehensive budget to the legislative auditor and
19 the transferring agency showing all anticipated uses of the appropriation, an estimate of the
20 duration of the project, and a plan showing specific goals and objectives for the use of such
21 funds, including measures of performance. In addition, and prior to making such
22 expenditure, the transferring agency shall require each recipient to agree in writing to
23 provide written reports to the transferring agency at least every six months concerning the
24 use of the funds and the specific goals and objectives for the use of the funds. In the event
25 the transferring agency determines that the recipient failed to use the funds set forth in its
26 budget within the estimated duration of the project or failed to reasonably achieve its
27 specific goals and objectives for the use of the funds, the transferring agency shall demand
28 that any unexpended funds be returned to the state treasury unless approval to retain the
29 funds is obtained from the division of administration and the Joint Legislative Committee

1 on the Budget. Each recipient shall be audited in accordance with R.S. 24:513. If the
2 amount of the public funds received by the provider is below the amount for which an audit
3 is required under R.S. 24:513, the transferring agency shall monitor and evaluate the use of
4 the funds to ensure effective achievement of the goals and objectives. The transferring
5 agency shall forward to the legislative auditor, the division of administration, and the Joint
6 Legislative Committee on the Budget a report showing specific data regarding compliance
7 with this Section and collection of any unexpended funds. This report shall be submitted no
8 later than May 1 of the current fiscal year.

9 (2) Transfers to public or quasi-public agencies or entities that have submitted a
10 budget request to the division of administration in accordance with Part II of Chapter 1 of
11 Subtitle 1 of Title 39 of the Louisiana Revised Statutes of 1950 and transfers authorized by
12 specific provisions of the Louisiana Revised Statutes of 1950 and the Constitution of the
13 State of Louisiana to local governing authorities shall be exempt from the provisions of this
14 Subsection.

15 (3) Notwithstanding any other provision of law or this Act to the contrary, if the
16 name of an entity subject to this Subsection is misspelled or misstated in this Act or any
17 other Act, the state treasurer may pay the funds appropriated to the entity without obtaining
18 the approval of the Joint Legislative Committee on the Budget, but only after the entity has
19 provided proof of its correct legal name to the state treasurer and transmitted a copy to the
20 staffs of the House Committee on Appropriations and the Senate Committee on Finance.

21 C. The Louisiana Department of Health shall continue to provide for immunizations
22 in those parish health units which receive any funding from local governmental sources.

23 D. All departments containing appropriations out of means of financing designated
24 as coming from prior and current year collections shall report all prior year balances to the
25 Joint Legislative Committee on the Budget at its first meeting held after October 15 of the
26 current fiscal year.

27 Section 19. All departments receiving appropriations in this Act shall spend all other
28 means of finance prior to spending any State General Fund (Direct), whenever possible, and

shall reverse warrant any State General Fund (Direct) if any other means of finance becomes available prior to the end of the fiscal year to the greatest extent permissible by law.

SCHEDULE 01

EXECUTIVE DEPARTMENT

01-111 GOVERNOR'S OFFICE OF HOMELAND SECURITY AND EMERGENCY PREPAREDNESS

EXPENDITURES:	<u>FY 20 EOB</u>	<u>FY 21 REC</u>
Administrative -		
Authorized Positions	(56)	(56)
Authorized Other Charges Positions	(267)	(232)
Expenditures	\$ <u>705,434,606</u>	\$ <u>701,067,418</u>

Program Description: Responsibilities include assisting state and local governments to prepare for, respond to, and recover from natural and manmade disasters by coordinating activities between local governments, state and federal entities; serving as the state's emergency operations center during emergencies; and provide resources and training relating to homeland security and emergency preparedness. Serves as the grant administrator for all FEMA and homeland security funds disbursed within of the state.

TOTAL EXPENDITURES	\$ <u>705,434,606</u>	\$ <u>701,067,418</u>
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MEANS OF FINANCE:		
State General Fund (Direct)	\$ 3,347,607	\$ 2,503,128
State General Fund by:		
Interagency Transfers	\$ 775,827	\$ 777,349
Fees & Self-generated Revenues	\$ 245,944	\$ 250,085
Statutory Dedications:		
State Emergency Response Fund	\$ 1,242,910	\$ 1,000,000
Federal Funds	\$ <u>699,822,318</u>	\$ <u>696,536,856</u>

TOTAL MEANS OF FINANCING	\$ <u>705,434,606</u>	\$ <u>701,067,418</u>
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BY EXPENDITURE CATEGORY:

Personal Services	\$ 6,019,953	\$ 6,140,332
Operating Expenses	\$ 204,430	\$ 204,430
Professional Services	\$ 0	\$ 0
Other Charges	\$ 699,210,223	\$ 694,722,656
Acquisitions/Major Repairs	\$ <u>0</u>	\$ <u>0</u>

TOTAL BY EXPENDITURE CATEGORY	\$ <u>705,434,606</u>	\$ <u>701,067,418</u>
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Section 20. This Act shall become effective on July 1, 2020.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 861 Original	2020 Regular Session	Kerner
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Provides for the ordinary operating expenses of state government.

Effective July 1, 2020.