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# Commentary

The Public Affairs Research Council of Louisiana

## 2015 Legislative Session Wrap-up

### The Governor and Legislature Raised Taxes and Reduced Credits and Exemptions to Fill the State Budget

Now that the governor has signed bills for state appropriations and tax increases and has vetoed a few key bills, the final picture of the 2015 legislative session can be seen in focus. The Legislature and the governor produced a state budget during the recent session that boosted government spending with higher taxes, lower tax credits and various forms of temporary patchwork financing. Colleges and K-12 schools, health care services and local governments will receive as much or more money in the next fiscal year as they will this year. Higher education, the medical schools and the New Orleans University Medical Center in particular escaped the most serious jeopardy. Small program cuts and streamlining measures will affect nearly all state agencies and a few departments will experience a minor net decline in personnel and operating expenditures. But the overall picture is that state and local governments were the winners of this session and most state agencies will manage sustained or larger budgets based mainly on tax and revenue increases.

Among the session highlights:

- Significant changes are in store for state financing of transportation projects.
- Many tax credits and exemptions were reduced in value and a few of those programs were substantially revised, particularly the film, solar and Enterprise Zone incentives. (*See table, page 7.*)
- Past progress toward performance-based funding of higher education has been largely aborted and accountability for public schools has slipped.
- The Legislature reneged on last year's commitment to follow a fair and financially disciplined process for granting cost-of-living increases to retired state employees but the governor put the state back on the right track with a veto.
- New legislation could create greater public access to governor's office records.

Perhaps the best summation of the session was captured by House Speaker Chuck Kleckley in his farewell address, when he cited a quotation, only half-jokingly, that "facts are interesting, but they are irrelevant." The fact is, the state forged the budget by raising taxes and revenue. When the Revenue Estimating Conference meets later this month to review the changes, it will verify that fact.

The Legislature's focus this session was on finding money to pay the bills for fiscal 2016, which begins July 1. Spending cuts and long-term solutions were not a priority. The state's most persistent problems were passed to the next governor and members of the Legislature who will be elected this fall and then must get straight to work in January 2016 to deal with the next crisis.

## More state revenue and spending

The Legislature faced a \$1.6 billion budget gap. That figure was based on the estimate of state general fund resources needed to continue operating state government at the same level and to sustain spending programs that benefit local governments. To bridge this gap, the Legislature cut some spending but mostly raised revenue. A package of tax-related measures will increase state spending capacity by an estimated \$747 million in fiscal year 2016. (See table, page 7.) No tax decreases or “offsets” were passed to neutralize the impact of the tax revenue increases. A number of businesses receiving fewer credits and exemptions will be able to recover some or all of their reduced benefit over time. No taxpayer will see reduced taxes as a result of changes during the session.

Much of the spending cuts came in the form of canceling state employee raises and denying other inflationary costs expected in the next fiscal year. Cuts were made in anticipation of various streamlining measures and other methods of creating greater efficiencies in government operations; although these cuts are in the budget, the actual efficiency savings remain to be seen. Of the total effort to reconcile the state’s budget shortfall, spending restraints amounted to about 20% to 25% of the solution, and much of that was in the form of curtailing anticipated growth.

The Legislature passed a number of cost-saving measures that PAR had recommended. Among those were a partial reduction in the state reimbursement for the Louisiana Citizens Property Insurance Corp. assessment, a limitation of the \$25 credit for students in private schools, the scaling back of the Enterprise Zone program and the reduction in compensation to certain retailers for timely filing of sales and excise taxes. State officials also resisted a new tobacco settlement securitization that would have generated short-term revenue at a long-term cost to the state.

State general fund spending – which relies on state taxpayers – will increase by about \$65 million to \$8.36 billion in fiscal 2016, according to the House Fiscal Division. The total budget, including federal money, dedications, legal settlements and other revenue sources, will decrease \$606 million to \$24.47 billion. That decline is partly due to the fact that this year’s budget was inflated with some BP oil spill payments. These estimates are shaky because even the Legislative Fiscal Office lacks confidence in some of its measures. Also, mid-year budget adjustments have been common in the Jindal years and may be needed again. The state’s major underlying expenses continue to lay an escalating floor of high priority costs. Annual payments for the state pensions, including the unfunded accrued liabilities, is on a rising schedule. The overall costs to maintain the state employee group benefits plans will increase 8% to \$1.46 billion this coming year.

Many high-priority programs are protected in the new budget. Local governments’ piece of the pie was uncut, including spending for parish roads, pork projects through special state aid programs and supplemental pay for law enforcement officers and firefighters. State subsidies to private schools were not cut. Local public school districts got a raise. The Department of Health and Hospitals’ budget increased substantially. The Legislature gave itself a standstill budget and increased Judiciary branch spending. The departments of education and insurance took minor hits to their budgets and personnel ranks but no major state agency received deep cuts.

## Short-term fixes

For several years, Louisiana’s state budget has been financed with the use of borrowed and temporarily available resources rather than a regular revenue-spending mix that is balanced and sustainable for the long

run. The problem grew so large this year that the governor and the Legislature resorted to tax increases and the reduction of tax credits and exemptions to make ends meet. Some of these increases are intended for maximum impact in fiscal 2016 and then less so afterward. For example:

- A suspension of a 1% business utility tax exemption will increase general fund revenue by \$103 million next year but will disappear the following year without a renewal.
- A bill reducing business income tax exemptions will result in an estimated \$122 million in greater state revenue next year but will reduce state revenue by \$37 million in fiscal 2019 and afterward because the law phases out and allows businesses to recoup their money.
- A cap on the film tax credit is temporary.
- In its eagerness to gain revenue almost immediately, the Legislature made many new rules effective July 1, creating double standards for tax filers mid-year and raising potential legal and administrative problems.

These and other short-term revenue fixes will address the near-term budget crisis but not the long-term budget sustainability challenge. In addition to these patchwork tax measures, the fiscal 2016 budget uses a variety of fund sweeps and resources that could be unavailable for next spring's budget crisis. The next governor and Legislature will face another large funding gap when they seek to balance the fiscal 2017 budget. The economy is improving and therefore state receipts for income and sales taxes are expected to increase and help alleviate the pressure, but only marginally.

## The SAVE option

The governor and higher education leaders supported passage of a Senate bill for the SAVE initiative, or Student Assessment for a Valuable Education.<sup>1</sup> SAVE created an obligation for state spending on colleges based on enrollment. Although it includes a student enrollment assessment and tax credit, the program will not cost anyone any new fees or tuition and will not give anyone a genuine tax break. SAVE does not provide any real reduction in taxes or fees and will not affect how much money the state has available to spend. Its only impact will be to guarantee a certain level of state funding to colleges on a per-student basis. It will reduce discretionary spending from the state general fund and obligate that spending to colleges. SAVE was basically a vehicle to allow separate state tax and revenue increases with the governor's permission. Although the tax credit is phantom, the governor claims it offsets the new tax increases, and therefore he says he has not raised taxes. The end result was that the governor, by his standards, pretended to keep his tax pledge while the Legislature got to spend the money.

Another impact of SAVE is that it takes the state a step backward toward enrollment-based funding for higher education. One of the better reforms made in Gov. Jindal's first term was to move the state's budgetary practice away from an enrollment-based approach and more toward performance-based funding. A growing consensus in Louisiana and nationwide was that enrollment-based funding drives quantity over quality. During the Jindal years, direct state funding of higher education diminished while colleges raised tuition substantially. Performance-based funding became less relevant than the reformers intended.

This state financing trend, when combined with the purely enrollment-based funding formula of SAVE, will mean that higher education in Louisiana has firmly re-established student enrollment as its primary economic driver. Last week the Board of Regents further advanced that trend by allowing colleges to reduce admissions requirements. A major positive reform in higher education has been derailed.

## Transportation money rerouted

The Legislature made several very significant changes to the way transportation needs will be funded in Louisiana.<sup>2</sup> Polls have shown widespread support among the public for more transportation projects, which have suffered from stagnant or decreased funding while inflation has increased the cost of construction projects. Cars and trucks have become more fuel efficient, reducing the effectiveness of the state's per-gallon gasoline tax. These issues exist in Louisiana and nationwide.

Under current law, sales taxes on motor vehicles flow into the general fund but are scheduled to pour into the Transportation Trust Fund (TTF) once certain state revenue triggers are hit in approximately 2020. The motor vehicle sales tax generates about \$400 million per year, so there has been concern about diverting such a large amount of money away from the state general fund, which is already under strain.

To address this and other issues, Sen. Robert Adley passed a suite of transportation bills (Senate Bills 122, 202, 221 and 259). Adley's plan removes the future TTF dedication of the vehicle sales tax so that those revenues will continue to go into the general fund. To make up part of the revenue loss to the transportation fund, the Adley plan attempts to steer mineral revenue to transportation projects. His intention is to divert about \$100 million in mineral revenue to transportation projects by reducing the amount of mineral taxes that would normally flow into the Budget Stabilization Fund, otherwise known as the Rainy Day Fund.

So, in theory, transportation projects would get \$100 million sooner but lose \$400 million later. However, a review of the legislative fiscal notes indicates that the mineral revenue diversion is more likely to be around \$10 million, and even that gain will be a few years down the road. For mineral revenue to reach the level that would cause a \$100 million diversion for transportation, oil prices would have to rise to the range of \$100 per barrel.

Another part of Adley's plan is a proposed constitutional amendment that would create a separate transportation fund within the Budget Stabilization Fund. Each of the funds could hold up to \$500 million and the transportation portion could be spent on various road and infrastructure projects. The proposed amendment will go before voters statewide this fall.

In summary, a large future revenue source for roads and infrastructure has been eliminated and in its place are more speculative sources for transportation funding. This scenario is likely to renew and strengthen the debate about whether the state should increase fuel taxes.

Rep. Karen St. Germain passed HB 767 to create a state infrastructure bank. This plan would create a revolving loan program and allow local governments to finance road, bridge, port and other transportation projects with lower finance costs. Related is her HB 618, which is a proposed constitutional amendment that allows the state treasurer to invest in the infrastructure bank. PAR will have additional detail on this proposal in its forthcoming guide to the constitutional amendments.

## A right way to reform credits

Most of the bills this session reducing tax credits and exemptions did so in a near-sighted way, with a focus on extracting quick revenue cash from the programs rather than trying to make them better incentives with a stronger return on investment for the state. The Legislature addressed the Enterprise Zone program in a more constructive and reform-minded way. Under the program, qualifying companies can receive a \$2,500 tax credit for each new job created if certain standards are met for hiring people with low incomes or who

reside in low-income areas. For years the Louisiana Department of Economic Development criticized the program, particularly for the state's poor return on investment in the retail sector. For example, major retailers or fast food restaurants have gotten the subsidy even when opening in prosperous suburban corridors. This kind of subsidy offers a competitive advantage to the new stores even though they are mainly just shifting consumer spending from one place to another rather than developing new real wealth or economic diversity.

House Bill 466 by Rep. Taylor Barras would have removed retailers, restaurants and hotels from the list of businesses that qualify for the Enterprise Zone credits. It protected those businesses that already have made financial decisions based on the state's past pledges. On the last day of session, the Barras bill was superseded by amendments to Rep. Katrina Jackson's House Bill 635, which removes retailers and restaurants but keeps hotels in the program. Though not as strong as the Barras bill, this reform is a good one for the state, taxpayers and the free market. The fiscal impact was adjusted to favor revenue collections for fiscal 2016 and create a cost for fiscal 2017, but the long-term effect of this bill will be beneficial.

## **Lack of discipline for retirement costs**

During the session, the Legislature backed off a significant and positive pension reform from last year and failed to reduce the factors that push state expenditures higher, the largest of which are costs related to retirement. Last year the Legislature passed Act 399 in an effort to attenuate the frequency and expense of state retirement cost-of-living adjustments (COLAs). The bill provided for increasing COLAs as the retirement systems become less debt-ridden. For example, until the retirement systems become at least 80% funded, COLAs can be granted no more often than once every other year. The reform was estimated to provide a \$30 billion cost reduction over the next 30 years.

However, the Legislature this session passed House Bill 42 to provide COLAs to retirees ahead of schedule. The Senate amended the bill to activate the COLA a year later and include actuarial changes that would have improved the overall stability of the state retirement systems. This compromise may have avoided the governor's veto pen but the bill's chief advocates in the House changed it in the final minutes of the session to call for an immediate COLA. The governor then vetoed House Bill 42 citing the potential harm to the state's credit rating, which is a real concern. While it is a worthy goal to provide additional benefits to retirees to help them deal with rising costs of health care and other expenses, the Legislature should show discipline and stick to the plan laid out in Act 399. These types of decisions seeking short-term gratification have helped put the retirement systems \$20 billion in the hole. As for the positive actuarial reforms in House Bill 42, the Legislature should adopt those next year.

## **State employee healthcare**

PAR has recommended greater transparency and objectivity in the way the state sets premiums and determines the fund balance for the state employee Office of Group Benefits. This session the Legislature sent two bills to the governor addressing that concern. Senate Bill 260 by Senators Sharon Broome and Dan Claitor creates a Group Benefits Estimating Conference that will "develop or gather official information relating to group health." The bill will require a separate existing Office of Group Benefits (OGB) Policy and Planning Board to develop a recommendation. Following more closely the recommendation by PAR, House Bill 370 by Representatives Chris Broadwater, John Bel Edwards and Rob Shadoin would have created a Group Benefits Actuarial Committee that would both review and approve premium rates for benefit

programs offered through the Office of Group Benefits. The administration has taken difficult but necessary steps to bring OGB health insurance plans more in line with what is offered in the private sector and more work will be needed by future governors. Those efforts will be more successful if done under a framework that provides for greater transparency and independent review. Unfortunately, the governor vetoed House Bill 370, which was the simpler and stronger bill. However, he signed Senate Bill 260, which takes some steps in the right direction.

## Common Core compromise

Under a compromise between proponents and opponents of Common Core, the Legislature approved a package of bills that create an arduous oversight process for adopting educational standards. The review process includes the Board of Elementary and Secondary Education and its multi-stage procedures, the Department of Education, special advisory panels populated by 101 members, the Administrative Procedures Act and more legislative oversight. PAR supports transparency and public vetting, but this red-tape solution could prove frustrating and counterproductive for everyone. Lost in the shuffle is the state's focus on accountability, which is declining. The state and the school districts have started to follow a trend of more student testing and less real accountability, and those directions should be reversed.

## The next governor's records

Sen. Dan Claitor's Senate Bill 190, which was signed by Jindal, will change the law on public access to the governor's office records, beginning with the next governor's term. It will require more open records on the governor's travel and remove an exemption that has kept certain budget documents secret for six months. Although it will remove the deliberative process privilege from the statutory law as an authorized exemption only for the governor, an executive privilege could later be recognized by the courts as a privilege authorized by the Louisiana Constitution. If this bill is signed or allowed to become law by the governor, its eventual impact remains to be seen. State and local government agencies that have claimed a deliberative process privilege have merely cited unauthoritative language in court cases – and not the governor's records statute – to justify their refusal to turn over records. Senate Bill 190 does not address this unfortunate practice.

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### Endnotes

1. *How will the Southern Regional Education Board calculate the impact of SAVE? The association tracks data on college admissions and establishes rankings and indices based on a variety of performance and cost measures. Depending on SREB's view, SAVE could affect Louisiana's standings.*
2. *In recent years, the state has siphoned money from the Transportation Trust Fund to support State Police. This year looked to be no different since at the start of the legislative session, \$65 million was to be moved from the TTF to State Police. Several bills were adopted that dealt with this situation. HB 208 by Rep. Landry put a cap of \$45 million on this shift for next fiscal year and eventually will shrink to a cap of \$10 million in fiscal year 2018. Making up for the loss of these funds in next year's budget is Rep. Pugh's HB 448. This bill would raise the cost of obtaining official driving records from \$6 to \$16, resulting in an additional \$21.8 million for State Police. HB 445 by Rep. Mack would increase the certificate of title fee and salvage title fee from \$18.50 to \$68.50, and the permit to sell motor vehicles from \$15 to \$65. This increase would raise almost \$60 million on an annual basis. While that money would not directly benefit transportation projects, eventually it would alleviate the need for State Police to dip into the Transportation Trust Fund. However, the funds raised by HB 445 are not being used for transportation projects or State Police next year. Rather, they are part of the revenue raised to solve the general budget problem. In this respect, the revenue from HB 445 should be considered a tax rather than a fee.*

## 2015 Legislative Session Revenue Raising Measures

FY2016			
Bill	Impact	Description	Long-Term Impact
HB549 Thibaut	\$0	Modifies severance tax exemption	Recurring-but will not have a revenue impact until energy prices rise
HB218 Broadwater	\$29m	Eliminates Net Operating Loss carry back	Recurring
HCR8 Montoucet	\$103m	Suspends \$.01 business utility sales tax exemption	1-Year suspension
HB402 Stokes	\$34m	Reduces credits for taxes paid in other states	Ends in three years
HB779 Ponti	\$19m	Accelerates solar tax credit phase out	Recurring, but was phasing out anyway
HB629 K.Jackson	\$31.5m	Reduces certain tax credits	Reduction ends in three years; lost credits can be carried forward
HB624 K.Jackson	\$122m	Reduces certain tax exclusions and exemptions	Reduction ends in three years; lost exemptions can be carried forward
HB805 Adams	\$130m	Reduces inventory tax credit to 75%; Changes R&D tax credit from refundable to non-refundable	Recurring but allows for unused credit to be carried forward for 5 years
HB829 Robideaux	\$77m	Caps redemption of movie tax credits at \$180m annually. Unused credits roll forward	Cap ends in three years
HB119 Ritchie	\$106.4m	Increases cigarette tax by \$.50 per pack	Recurring
HB635 K.Jackson	\$5m	Reduces certain rebates and changes eligibility in Enterprise Zone program; Supersedes HB 466 by Rep. Barras	Most reductions end in three years; the EZ changes are recurring
HB445 Mack	\$59.8m	Increases vehicle title fees by \$50	Recurring
HB448 Pugh	\$21.8m	Increases cost of obtaining official driving record by \$10	Recurring- used to free up money for transportation projects
SB93 Adley	\$2.3m	Restricts the \$25 credit for educational expenses for each child attending private school (also establishes SAVE)	Recurring
SB271 White	\$6m	Reduces discount for timely filing of motor fuels tax and other fuel tax discounts	Recurring- will be deposited in TTF
<b>Total</b>	<b>\$746.8 million</b>		

*Note: Revenue figures are estimates that might prove to be inaccurate. Based on information from the Legislative Fiscal Office, the House Fiscal Division and the bills. Not all legislative fiscal notes are complete as of June 19, 2015.*

For more information contact: Robert Travis Scott, President, 225-926-8414 ext. 221  
[robertscott@parlouisiana.org](mailto:robertscott@parlouisiana.org) • P. O. Box 14776 Baton Rouge, LA 70898-4776  
 Phone: (225) 926-8414 Fax: (225) 926-8417 • Web Site: [www.parlouisiana.org](http://www.parlouisiana.org)