

June 9, 2023

2023 Legislative Session: Breaching the Cap

Budget deal struck to spend above state spending limit; Financial bills passed in tumultuous final minutes with little transparency

Louisiana lawmakers wrapped up their work in a contentious regular session with a chaotic, last-minute flurry of votes on a budget plan that charted spending for the next year, divvied up \$2.2 billion in short-term cash and completed the only must-do item for legislators.

Most of the major budget bills passed in the final half-hour of the two-month session, with many lawmakers uncertain what the spending plans contained even as they approved it and legislative leaders providing conflicting numbers in the House and Senate. The lawmakers presenting the budget struggled to clarify what they contained.

The House devolved into a turbulent scene with shouting and allegations that rules were discarded to get the bills to the governor before the session had to end.

The final budget agreement included many state priorities and positive developments, but those investments were overshadowed by the messy way lawmakers handled the spending of taxpayer dollars. The public was poorly served in the pandemonium that occurred in the waning minutes of the session, particularly in the House.

The financial deal came after a bruising battle over whether to exceed a constitutionally set cap aimed at limiting the annual growth in government spending. Lawmakers in both chambers agreed to temporarily reset the cap at a higher level after weeks of haggling behind the scenes, with 19 conservative House Republicans in opposition.

Teachers will get a temporary pay increase that lawmakers hope will become permanent in the following year. Colleges will see new investments. Hundreds of millions of dollars will flow to roads, bridges, coastal projects and other infrastructure upgrades. The statewide retirement systems will see their largest single influx of cash for future pension payments.

But lawmakers wasted tens of millions on favored projects for their districts that don't represent state priorities. They continued unnecessary giveaways through tax break programs with uncertainty about their long-term impact on the state treasury. And they stripped hundreds of

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GOOD

Short-term money spent on one-time expenses

Focus on retirement debt

Improvements to sunshine laws

COULD HAVE BEEN BETTER

Early childhood financing

Corporate franchise tax phase-down

No K-12 public school funding formula

UGLY

Chaotic end to session

Unexplained \$100M reduction to health department

Millions to pet projects

millions of dollars from the state health department with no idea what the impact might be on services to the poor, elderly and people with developmental disabilities.

The regular session was supposed to focus on finances, largely budget and tax topics. But public safety concerns, culture war clashes and other political issues ahead of the fall election cycle drew significant attention that often eclipsed fiscal matters until the final days.

BUDGET BOOM AND TAXES

The House and Senate backed an approximately \$44 billion operating budget for the 2023-24 year that starts July 1 that finances some new increases to ongoing programs and services. The total spending plan when including the full package of bills to finance state departments, legislative agencies and the judiciary reached around \$51 billion.

It's difficult to make comparisons to the current year's budget because a complete version of the documents with all the changes consolidated wasn't yet available. Beyond the stipend for teachers, the spending plan includes pay raises for state workers, college faculty and local police and firefighters.

Legislators invested most of [a hefty temporary budget largesse](#) in debt payments and one-time projects, an approach the Public Affairs Research Council of Louisiana recommended. While they didn't do much to lessen the impact of the fiscal cliff that hits when the state's temporary 0.45% sales tax expires in mid-2025, they also didn't plow the short-term windfall into ballooning ongoing programs and services to unsustainable levels.

Rather, they continued this term's trend of making significant investments in the state's multibillion-dollar backlog of infrastructure needs and used some recurring state dollars to pay for one-item items rather than simply growing the budget further.

They will send a significant sum to lessen the state's retirement debt, though the specifics were in dispute. Emblematic of the closing chaos, Senate Finance Chairman Bodi White said the debt payments will total \$450 million while House Appropriations Chairman Jerome "Zee" Zeringue pegged the figure at \$691 million. Without final consolidated versions of the budget bills, the true number remains unclear.

PAR applauds the focus on reducing the state's retirement debt, which isn't as flashy as building a new bridge or paving a road but pays tremendous dividends in future years. However, pension policy is complicated, and the last-minute decision-making draws concerns about how the dollars will be applied.

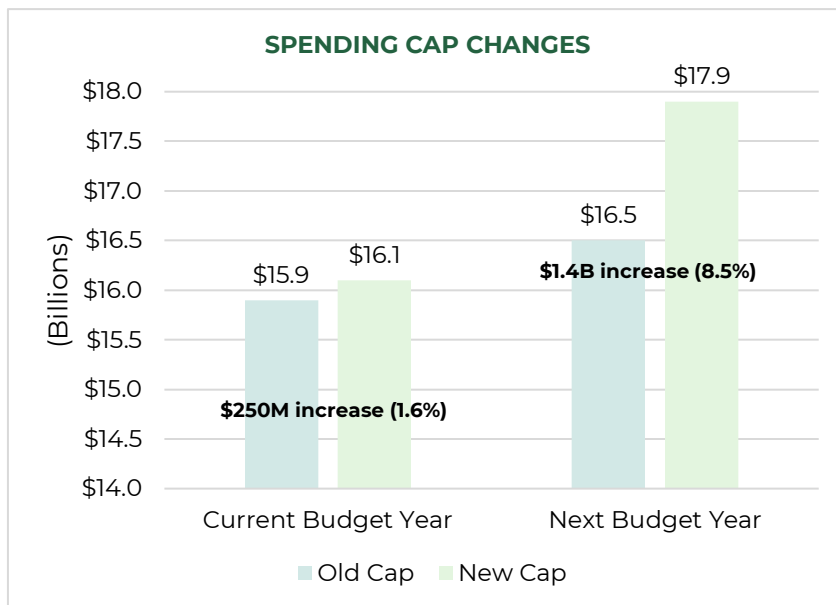
INVESTMENTS WITH SHORT-TERM CASH

Road and Bridge Work	\$450M
Rainy Day Fund	\$182M
Coastal Protection	\$147M
Water/Sewer System Upgrades	\$50M
Roof Fortification Program	\$30M
Property Insurers Incentives	\$10M

Next year's budget includes \$100 million less in state spending on the Louisiana Department of Health than Gov. John Bel Edwards sought. The decrease came at the urging of House members and will grow larger when hundreds of millions of federal matching dollars are also calculated.

The agency still will get some sort of increase though it's unclear if that will cover the costs of medical inflation or new mandates required by lawmakers, and House and Senate leaders couldn't explain what the budget change will mean to programs. The Democratic governor said the agency wasn't consulted about the adjustment. He pledged to use "every means at my disposal" to lessen or eliminate the reduction, which could involve his line-item veto authority.

Lawmakers added dollars to an incentive effort aimed at drawing more property insurance coverage to the state and funded a program that will provide grants to homeowners to strengthen their roofs against future storms in hopes of lessening skyrocketing insurance costs. They paid off a lengthy list of recovery debts tied to former floods and hurricanes and closed out the Road Home housing program created after Hurricanes Katrina and Rita.



For weeks, the budget debate centered on whether to spend money above the state's expenditure limit, as Edwards and the Senate wanted, or pay off a huge portion of retirement debt and send money to savings accounts for future use, [as the House proposed](#).

The stalemate ended with the Senate getting much of its way, though the House won a larger payment to the pension debt than senators would have preferred. The bargaining and negotiating to win over House members likely boosted the wasteful spending on pet projects.

PAR never objected to spending above the constitutional restraints for one-time investments, and that's what lawmakers appear to have done – using the extra space under the higher spending limit to steer money to short-term initiatives and projects. The Legislature should consider tweaking the law to more clearly spell out what counts toward the cap.

Tax decisions made by lawmakers were a mixed bag. Lawmakers took steps toward removing the corporate franchise tax, which most states don't have and which is widely recognized as inhibiting economic development. PAR supports removing the tax but would have preferred to

see the lost revenue offset by eliminating other unnecessary tax breaks, rather than putting the state treasury at risk of a worsened budget gap in the future.

The approach backed by the House and Senate would phase in 25% reductions to the franchise tax in years from 2025 through 2031 that corporate income and franchise tax collections top \$600 million, the point at which they don't flow into the state's general fund for spending on programs and services and instead are sent to a savings account called the Revenue Stabilization Trust Fund. In exchange, the state would lower the payroll and sales tax breaks provided to businesses through the state's Quality Jobs Program for a partial offset.

But just because the corporate tax collections are high in one year, doesn't mean they'll remain at those levels in the future when the state budget surge is expected to level off. Lawmakers can't guarantee that phasing out the franchise tax won't eventually hit the state's general fund that pays for ongoing programs and services.

Meanwhile, lawmakers approved new or boosted tax breaks for parents who adopt, educational expenses for home-schooled children, purchases of gun safety devices, restaurants that recycle oyster shells and rehabilitation of historic structures. They extended the state's film tax credit program and reenacted a three-day sales tax holiday for purchases of guns and other hunting supplies, though they scaled down what items would be exempt from sales taxes.

Lawmakers did approve a few rare tax hikes, including an increase to the tax on vape products, with the dollars slated to go to state trooper pay raises.

EDUCATION INVESTMENTS

The House and Senate poured new dollars into college faculty pay raises, additional need-based aid for students, maintenance for campus buildings and other higher education initiatives.

They spent \$198 million to boost pay for K-12 public school staff, with a \$2,000 increase for teachers and \$1,000 increase for support workers like teacher aides and cafeteria workers. But education leaders are concerned those pay hikes won't be permanent because lawmakers didn't pass a new public school funding formula that includes the money. To maintain the raises, a new governor and Legislature elected in the fall will have to again allocate the dollars next year. Money also was set aside to give targeted stipends to teachers in high-need areas.

EDUCATION INCREASES

Pay hikes for K-12 teachers, support staff	\$198M
Pay hikes for K-12 teachers in high-need areas	\$25M
College faculty and staff pay raises	\$37M
Go Grant need-based aid for college students	\$15M
State spending on early childhood education	\$44M

One of PAR's biggest disappointments involves [early childhood education](#).



COMMENTARY

Edwards proposed spending \$60 million in state cash to partially offset the loss of \$192 million in federal pandemic aid used to provide early care and education for more than 16,000 children. He also proposed adding \$26 million into the Early Childhood Education Fund, an incentive account that provides a dollar-for-dollar match for local spending on early learning programs. That still would have forced thousands out of their publicly funded care and education slots.

But lawmakers refused to even meet Edwards' goal. Instead, they allocated \$44 million to fill less than one-quarter of the gap created by the lost federal assistance, despite reams of research showing a significant return on such investments. They put no new money into the local incentive fund.

And while they claimed they couldn't find enough money to meet the governor's proposal, they managed to steer at least \$137 million to legislative earmarks for projects back home that received no public vetting or discussion.

Beyond the budget, Republican attempts to create new "education savings account" programs that use state dollars for K-12 students to pay for private school, home school programs or other educational expenses outside of the public school system fizzled in the Senate.

In their continuing effort to combat poor reading skills, lawmakers agreed to keep third-grade students in public schools from promotion to fourth grade if the students fail three literacy tests, with exceptions for students with disabilities, students learning English as their second language and some other circumstances. Schools would have to provide students who are held back with intensive reading instruction. The new law would begin with the 2024-25 school year.

SUNSHINE LAWS

The legislative session notched some victories for openness in government.

Building on an idea championed by PAR and other stakeholders, the House and Senate made adjustments to the state's open meetings law that would let many statewide public bodies [conduct more of their business through online hearings](#), while still protecting citizens' access and expanding participation for people with disabilities.

Lawmakers voted to enshrine in state law several requirements for public participation and transparency involving the once-a-decade redistricting cycle in which elected officials redraw the boundary lines for political districts.

In response to concerns about exorbitant and uneven charges for public records, legislators backed a bill requiring local agencies that charge fees for copies of records to establish a set fee schedule and post it for public viewing so people will know in advance what their records request might cost.

OTHER ISSUES

Beyond sending a sizable amount of money to Louisiana's retirement debt, lawmakers also made an important change to the way the statewide pension systems provide cost-of-living adjustments to their retirees to help cover inflation.

PAR had long criticized Louisiana's prior system for providing the adjustments, which was dependent on better-than-expected investment returns, as unreliable for retirees and a drain on state tax dollars. The new system would make the cost-of-living adjustments a component of the money that agencies and school systems pay yearly for retirement, providing a more certain stream of money for inflationary increases to pension payments.

Citing public safety concerns, lawmakers started backtracking on some criminal justice reforms enacted in 2017 that expanded probation and parole opportunities, reduced sentences mainly for nonviolent offenders and lessened Louisiana's prison population.

This legislative session saw bills passed to toughen sentences for certain burglaries, fentanyl distribution, drive-by shootings, carjackings, ATM thefts and repeat offenders of nonviolent felonies, among other crimes. A push to charge more 17-year-olds as adult offenders has reached the governor's desk. But the passage of many of the measures relied on anecdotal evidence, rather than research-based work that uses proven ideas from other states.

NEXT STEPS

Voters will decide more than a half-dozen constitutional amendments proposed by lawmakers for the October and November ballots.

They'll be asked to tweak property tax provisions, give stricter protections to churches and their worshippers and increase the amount of state surplus required to pay down retirement debt. They'll consider whether to change the rules for using the Revenue Stabilization Trust Fund and whether to ban donations from nongovernment organizations to conduct elections. Voters also will determine if they support removing unused state funds from the Louisiana Constitution, an amendment PAR recommended to clean up the cluttered document.

For most bills passed this session, lawmakers are awaiting decisions from Edwards. If he vetoes any measures or strikes individual items from the budget with his line-item veto, the House and Senate then will determine whether to hold the fourth veto session of this term in July.

The next regular session in 2024 will see new faces in the chambers and in leadership positions after the fall elections. The new governor and Legislature also could see the budget bonanza dry up by the middle of the term, with the expiration of the temporary sales tax, the reinstatement of tax breaks paused years ago as part of a budget-balancing deal and the expected slowdown of the post-pandemic economy.