

# Give 'em a break

*A growing chorus questions Louisiana's tax breaks and calls for a moratorium on new ones, at least until current exemptions are analyzed for effectiveness.*

**BY DAVID JACOBS**

Legislative Fiscal Office Chief Economist Greg Albrecht created a minor furor last month, when he said that an obscure tax break for horizontal drilling could be costing the state millions of dollars in mineral revenue.

The item ran in *Daily Report* on a Friday, and it was splashed across the front page of *The Advocate* the following day. By Monday, Don Briggs, president of the Louisiana Oil & Gas Association, had issued a response, saying Albrecht's conclusion "could not be further from the truth."

Briggs says factors such as the low price of natural gas are causing the revenue decline. Albrecht says he takes those other factors into account, but they still don't explain why he lowered his mineral revenue forecast by nearly \$40 million for this fiscal year and over \$80 million next year, despite rising oil prices and booming gas production in north Louisiana's Haynesville Shale formation.

"I don't know how else to say it: The money's not here," Albrecht says. "I don't have another explanation. If someone else does, please educate me."

The horizontal drilling exemption is only one of hundreds of tax breaks and incentives that could face scrutiny this year, as legislators grapple with an expected \$1.6 billion budget deficit.

Eddie Ashworth, director of the Louisiana Budget Project, is among the growing chorus arguing that repealing, or at least pausing, some of those tax breaks might make more sense than slashing education or health care. He says exemptions cost the state some \$7.1 billion last year, nearly as much as the \$7.7 billion or so in state revenue expected this year.

"We're long since past the skin and the muscle," he says. "We're sawing on bone now." Ashworth isn't saying lawmakers shouldn't cut spending; he just thinks they could use a "more balanced approach." The Budget Project is part of the Better Choices for a

**CHORUS MEMBER:** Eddie Ashworth, director of the Louisiana Budget Project, is among those people arguing that repealing, or at least pausing, some tax breaks might make more sense than cutting funds from education or health care.

Better Louisiana coalition, which has been questioning the tax breaks and calling for a moratorium on new ones, at least until the ones the state has are analyzed for effectiveness.

Defenders of a particular tax break or incentive typically say the economic-development impact justifies the lost revenue. But while some measures carry built-in sunset provisions, there's no thorough, systemic review process. If the cost soars, it's possible hardly anyone even notices. Last year, the Legislature passed two measures calling for more scrutiny, Ashworth says, but nothing has been implemented.

"Show me the data," he says. "If I sound cynical about this, that's because I am."

He says the annual report from the Department of Revenue typically states each tax break is serving its purpose "in a fiscally effective manner," often without providing analysis to support the assertion.

Gov. Bobby Jindal is calling for the extension of the Quality Jobs Program, the Research and Development Tax Credit, the Technology Commercialization program, and, with enhancements, the Digital Interactive Media Production Tax Credit. He says the incentives help create good-paying jobs and keep Louisiana competitive with other states with similar programs.

A spokesman says the administration is reviewing other programs that are set to expire, but supports continuing every one that isn't. To the administration, eliminating a tax break is the same thing as a tax hike, and tax hikes are unacceptable.

"Likewise, that is our position," says John LeBlanc, who works on tax policy for the Louisiana Association of Business & Industry. "Our platform for the year is to defend against any business tax increase or fee increase. ... In the past, when [the Legislature] has looked for more money, it's been directed towards business interests."

A conservative could argue that incentives skew the free market. For example, why should government give preferential treatment to a certain type of drilling? Why not tax everyone the same, and let companies decide when,

where and how to drill? Much like the federal tax code, the state tax system goes beyond its revenue-raising mission and seeks to encourage or discourage certain activities.

"Historically, when people talk of tax reform, it usually entails tax increases," LeBlanc says. "We're not looking to do any tax reform this session."

It's often hard to say definitively if a specific investment would or wouldn't have happened without a certain tax break or if a state with a more generous program would have snagged the project. Economist Loren Scott, who defends the horizontal drilling tax break on economic development grounds, nevertheless says legislators likely will be scouring the books for incentives the state can do without.

"You've got to look at the tax exemptions," he says. "Some of these exemptions I'm sure could go away, and there'd be very little impact on the state."

Eliminating a tax break takes the support of two-thirds of each house of the Legislature, just like any other tax increase. Legislators, however, can suspend a law without the governor's signature for no more than 60 days past the end of the subsequent regular session, by the same vote margin that was required when the law was passed.

So the state constitution seems to say a tax break that passed with a simple majority can be suspended by a simple majority, although there is some disagreement on this point. Albrecht says two-thirds votes were obtained for sales tax suspensions in past years.

Ashworth knows Jindal and the business lobby are on the other side of this issue, but says he's encouraged that House Speaker Jim Tucker and Senate President Joel Chaisson have made noises about considering at least suspending some of the tax exemptions.

"That's a long way," Ashworth says, "from where these guys were a year ago."

**DAVID JACOBS** covers economic development, health care, higher education and industry. E-mail him at [djacobs@businessreport.com](mailto:djacobs@businessreport.com).

Business Report, March 8, 2011 | 29

## A CLOSER LOOK

### *Four state tax breaks that could face scrutiny during the next legislative session:*

**Horizontal drilling:** Companies receive a 100% severance tax deduction for the first two years of production or until the well cost is paid off, whichever comes first. The Louisiana Department of Revenue has estimated the five-year cost of the tax break at \$167.5 million, but economist Loren Scott says the break makes the Haynesville Shale play attractive to companies that wouldn't be in Louisiana otherwise, boosting state income taxes and north Louisiana's economy.

**Film tax credits:** The Center on Budget and Policy Priorities says film subsidies only pay off between 7 cents and 28 cents on the dollar. State officials say more money is being spent in Louisiana as the homegrown industry infrastructure matures; a new report on the effectiveness of state film incentives is due soon.

**Sales taxes:** Companies get to keep 1% of the state sales taxes they collect as a reward for filing their return on time, Eddie Ashworth, director of the Louisiana Budget Project, says. The cost to the state is in the neighborhood of \$34 million, he says.

**Coin bullion:** Purchases of more than \$1,000 worth of gold or silver coins are exempt from sales taxes. "I have no clue as to why," Ashworth says. "And who cares?"