Louisiana Budget Project

Back from the Brink: The 2018 Louisiana Legislative Sessions

Louisiana's 2018 legislative year began with one overriding objective: to solve a looming"fiscal cliff" caused by $1.4 billion in temporary tax revenue that was expiring on July 1. Raising enough revenue to avoid massive cuts to health care, education and public safety programs required three special sessions that culminated with the Legislature reaching a compromise that renewed 0.45 percent of the expiring 1-cent sales tax.

While the sales tax compromise failed to fix Louisiana's structural tax problems, it will provide much-needed stability for the state's revenue picture through 2025, and hopefully end the cycle of self-inflicted budget crises that that have threatened the state's ability to provide basic services such as food assistance, nursing home care and medical education.

The budget deal was the cornerstone of a busy legislative year that included several other highlights:

- Louisiana's Earned Income Tax Credit (EITC) was increased from 3.5 percent to 5 percent of the federal EITC, starting with the 2019 tax year. This will result in $21 million per year in extra tax refunds for low-income working families with children.
- Efforts to roll back Medicaid coverage and eligibility for federal Supplemental Nutrition Assistance Program (SNAP) benefits through punitive work requirements failed to pass.
- An attempt to expand predatory payday lending in Louisiana by creating a new "installment loan" product narrowly passed the Senate but was defeated in the House.
- Efforts to bar local school districts from denying meals to students who cannot pay or have accumulated lunch debt stalled in the Senate.
- A bill to prioritize low-income students in years when the TOPS scholarship program faces a shortfall failed to gain traction.

Lawmakers also made historic gains in criminal justice, approving a ballot initiative that would ban Louisiana's use of non-unanimous juries in felony cases, and passed legislation that restores the voting rights of formerly incarcerated citizens.

Fixing the Fiscal Cliff

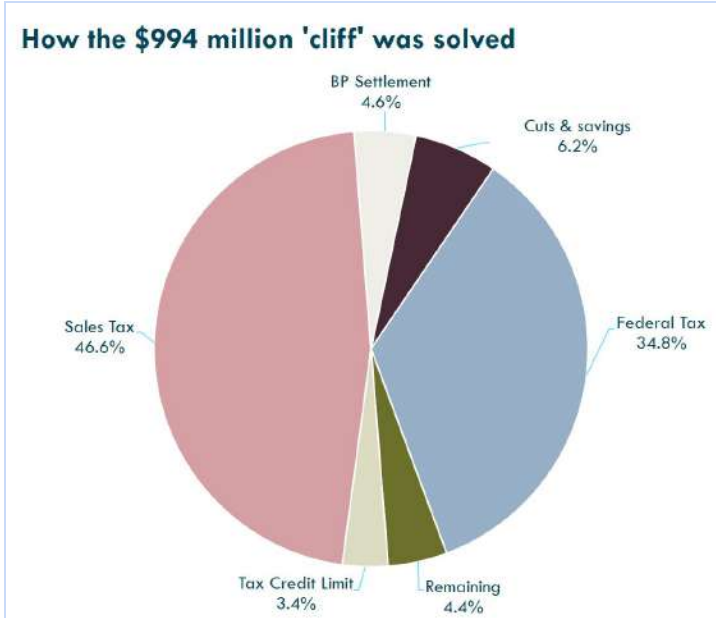
When the budget cycle began in January, the state faced a budget shortfall of $1.6 billion for the 2018-19 fiscal year. That was the difference between the amount of tax revenue the state was projecting to collect, and the cost of maintaining all state government services after accounting for things like inflation and unavoidable cost increases. The biggest component of the shortfall was the expiration of a "clean penny" of sales tax that the Legislature approved in 2016. It was intended as a "bridge" to tax reforms that have repeatedly failed to gain any traction among lawmakers.

Instead of using the shortfall figure, Gov. John Bel Edwards chose another number to describe the "fiscal cliff" - $994 million, which was the difference between the revenue forecast for fiscal years 2018 and 2019 as of mid-December. That meant state agencies had to account for cost-of-living adjustments and other cost increases and make do with a "standstill" budget even if the Legislature agreed to raise the full amount that the governor was seeking.

The 2018-19 revenue forecast improved - and the fiscal cliff was reduced - by $346 million in mid-April due largely to the federal tax cut law that passed in December. The federal law cut income taxes for middle and upper-income households, which in turn increased their state income tax liability since Louisiana allows federal income taxes to be deducted on state returns.

That left a gap of $648 million for policymakers to solve with a mix of tax renewals, budget cuts and the redirection of annual payments the state receives from economic damages resulting from the 2010 Deepwater Horizon oil disaster.

Because Louisiana's constitution only allows revenue-raising measures to be debated during "fiscal" sessions in odd-numbered years, Edwards was forced to call the Legislature into a special session to raise the needed revenue. Ultimately it took three special sessions for lawmakers to agree on the revenue compromise.



Lacking sufficient revenue to fund basic priorities, the House and Senate each produced several versions of the budget, with predictable results: Every version of the budget included some combination of cuts to health care (mainly Medicaid services), higher education, public safety or social services.

The House version concentrated its proposed cuts in the Medicaid budget, particularly safety-net hospitals and long-term care programs. The budget, if approved, would have upended the public-private partnership hospitals that care for the uninsured and train future doctors and nurses. The Senate opted to fully fund health care programs, but the result was a 24.2 percent cut to discretionary spending across state government, which would have eviscerated college campuses and made Louisiana the only state in the country without a food assistance program.

The budget was eventually vetoed by the governor, but the exercise proved that it was impossible to craft a balanced budget that protects critical programs without raising additional revenue. That revenue solution came together in the second and third special sessions:

- Renewing 0.045 of the expiring penny of sales tax: **$463 million**
- Redirecting BP settlement dollars to general fund: **$46.2 million**
- Limit on credit for income taxes paid to other states: **$33.6 million**
- Budget cuts and efficiencies: **$62 million (est)**

That left $43.3 million in the 2019 budget that legislators have identified as a priority, but which is not yet funded because the revenue has not materialized. The unfunded items include money for local sheriffs to house state inmates, juvenile justice services and some expenses in the governor's office.

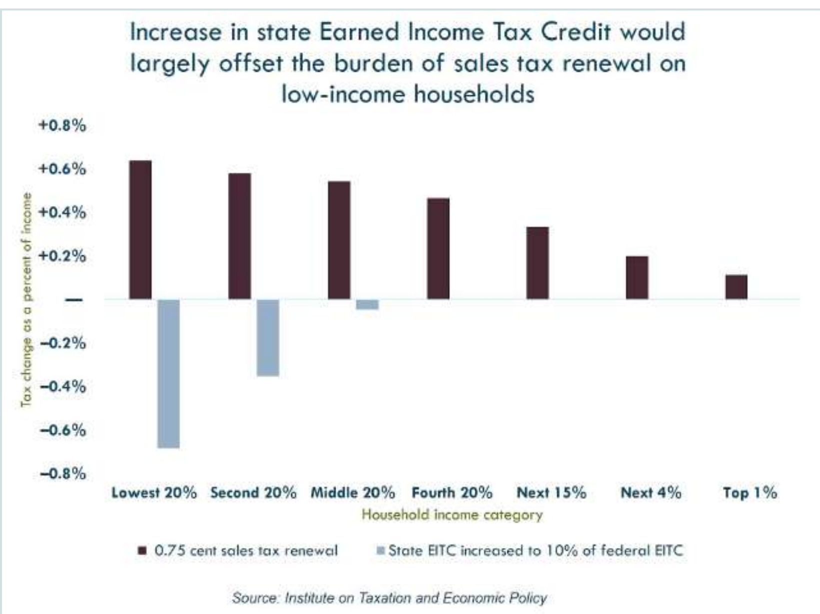
While the revenue agreement came as a huge relief, it is no substitute for the long-term structural tax reforms that are still needed to put Louisiana on a path of economic growth and prosperity for all of its residents.

Boosting the EITC

The Earned Income Tax Credit (EITC) is a proven anti-poverty program with a long track record of success at the federal and state level. The credit is targeted at low-income working families with children, and is designed to reward and incentivize people who work hard at low-paying jobs. Louisiana was the first Southern state to pass a state-level EITC in 2007. But at 3.5 percent of the federal credit, Louisiana's was one of the lowest in the country among the more than two dozen states with an EITC.

As legislators were being asked to renew a sales tax, an expansion of the EITC became the best way to offset the impact of that tax on low- and moderate-income families. House Bill 6 by Rep. Walt Leger and House Bill 24 by Rep. Ted James would have expanded the EITC to 7 percent and 10 percent of the federal credit, respectively. Both bills failed to gain approval from the House Ways and Means Committee during the second special session.

A third bill, Senate Bill 10 by Sen. J.P. Morrell, proposed an expansion of the credit from 3.5 percent to 5 percent of the federal EITC. It was approved without objection in the Senate Revenue and Fiscal Affairs Committee and passed with overwhelming bipartisan support in the full Senate by a vote of 30 to 5. The bill then met the same fate as HB 6 and HB 24 in the House Ways and Means Committee.



Despite the failure of the three EITC bills in the House committee, many legislators, particularly those in the Legislative Black Caucus, remained committed to ensuring that the EITC increase remained a part of the final deal to fix the state's budget shortfall. On the Senate floor, Morrell amended an unrelated income tax bill, House Bill 18 by Rep. Katrina Jackson, to include the language from his SB 10 to increase the state EITC to 5 percent of the federal credit. When the amended HB 18 returned to the House, the lower chamber refused to concur with the Senate amendments by a vote of 49-53, sending the bill to conference committee. The six conferees negotiated a compromise in which the EITC increase would not take effect until the 2019 tax year. This compromise resulted in a 54-49 majority vote, effectively raising Louisiana's EITC to 5 percent beginning January 1, 2019.

Because the EITC increase was intended to offset the impact of the proposed sales tax renewal, and the sales tax proposal expires in 2025, the EITC increase legislation includes a sunset date of December 31, 2025. LBP will work to ensure that the EITC increase is made permanent in future legislative sessions.

Protecting Medicaid

Several bills were filed in the 2018 legislative sessions that proposed problematic changes to the state's Medicaid program. All of the bills would have increased the number of uninsured and created barriers to accessing health care for vulnerable Lousianans. For that reason, LBP joined with partner organizations advocating against the passage of the harmful Medicaid changes by delivering information and analysis that helped legislators understand the potential unintended consequences of the legislation.

Legislative proposals included (filed in regular session unless otherwise noted):

- Implementing a punitive work requirement as a condition of eligibility for Medicaid (HB 3 in 1st E.S. and, HB 46 and SB 77);
- Requiring Medicaid recipients to pay premiums and copayments (HB 4, HB 6 and HB 11 in 1st E.S.);
- Authorizing the Legislative Auditor to review and compare income tax returns of Medicaid recipients with their Medicaid application data (HB 2 in 1st E.S. and HB 480)
- Establishing of a new "crime of government benefits fraud" that, based on testimony by the Attorney General's staff, specifically targets Medicaid recipients (HB 88); and
- Creating a costly Medicaid Recipient Fraud Unit in the Office of the Attorney General that could have targeted Medicaid recipients who made a mistake on their application or had a change in income (HB 163).

LBP's Jeanie Donovan testifies about House Bill 88 in Senate Finance Committee

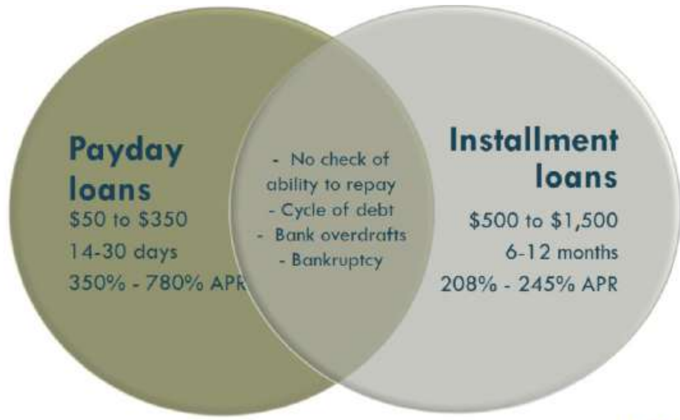
Advocacy efforts by health care stakeholders and individual citizens were successful in stopping these proposals. There was one exception: House Bill 88, creating the crime of government benefits fraud. The bill is largely redundant, as theft and falsifying information on government documents are already illegal. The new law simply increases penalties and makes it "easier" for law enforcement to make a case against someone who applies for a safety net program.

Lawmakers also approved two bills aimed at *helping* struggling Louisiana families. House Bill 735 by Rep. Katrina Jackson establishes a voluntary workforce training pilot initiative, which aims to help people in parts of Northeast Louisiana who rely on safety net programs to become economically self-reliant through new workforce development and training initiatives.

Senate Bill 461 by Sen. Regina Barrow establishes the Empowering Families to Live Well Louisiana Council, a 33-member group that includes several legislators, state agency executives, nonprofit leaders (including the executive director of LBP), faith groups, higher education officials and economic development experts. The council is tasked with developing a strategic plan with policy recommendations for empowering low-income Louisiana families.

Expansion of predatory lending

Facing a new federal rule aimed at curtailing abusive lending practices, the predatory payday lending industry sponsored legislation designed to evade the new regulations by authorizing a new “installment loan” product. Senate Bill 365 would have expanded predatory lending in Louisiana by authorizing loans of up to $875 for up to 12 months at triple-digit annual interest rates. The legislation was pushed by the payday lending industry as a way to circumvent new federal consumer protection rules from the Consumer Financial Protection Bureau.



The Louisiana Budget Project led a coalition of advocates, including Together Louisiana, the Louisiana Conference of Catholic Bishops, the Louisiana NAACP and others to educate policymakers about the bill. Analyses by the Center for Responsible Lending was used to inform legislators of the problems with the bill. The legislation passed the Senate with just one vote to spare, after heavy lobbying by national payday loan interests. But it died on a 9-7 vote in the House Commerce Committee.

Prohibiting school meal denials & lunch shaming

House Bill 284 by Rep. Patricia Smith would have prevented public schools from denying meals to students who are unable to pay or have a prior unpaid lunch debt. It also would have prohibited “shaming” practices used in some schools when children have an unpaid meal debt, such as denying children the ability to participate in school functions such as dances and field trips. The legislation was supported by a broad coalition of stakeholders and advocates led by LBP including, the Partnership for Children and Families, the Louisiana Food Bank Association, Second Harvest Food Bank, Louisiana Association of Educations, Louisiana Federation of Teacher, Council for a Better Louisiana, Jesuit Social Research Institute, Southern Poverty Law Center and Louisiana Appleseed. Opposition from the Louisiana School Board Association, Louisiana Association of Superintendents and Louisiana Association of School Boards was related to the potential costs of the policy, and eventually led to the bill being deferred in the Senate Education Committee.

LBP’s Davante Lewis testifies in support of HB 284 in House Education Committee, alongside Susan Nelson of the Louisiana Partnership for Children and Families.

After the bill failed, Senate Resolution 157 was passed to create a study commission and make recommendations to the Legislature in advance of the 2019 legislative session.

Proposed TOPS changes don't get far

Drawing on the discussions of the TOPS Task Force established in the 2017 legislative session, legislators filed a number of bills aimed at reshaping and redefining the popular college scholarship program. There were bills to raise eligibility standards, cap the total amount of scholarship dollars available, expand eligibility to new groups and establish a dedicated funding source for the program. Most of the TOPS-related bills failed to gain approval from a House or Senate committee, and only a handful were debated on the floor of either chamber.

Of particular interest to LBP was House Bill 399 by Rep. Gary Carter. The bill would have established guidelines for distributing TOPS awards in the event of funding shortfall. In any year in which the Legislature did not appropriate the full amount needed for TOPS scholarships, full scholarships would first be given to high achieving students who qualify for a TOPS Honors Award or TOPS Performance Award. The second priority group for full TOPS scholarships would be those students who qualify for a TOPS Opportunity Award and are eligible for a Pell Grant. Students not fitting into those categories would be subject to pro rata cuts in years that TOPS was not fully funded. While the bill gained the support of the House Education Committee, it was voted down on the House floor.

Sen. Wesley Bishop and Sen. Bodi White both filed bills to expand TOPS eligibility to students who aren't initially eligible after high school, but perform well in their first two years of college. Their bills, Senate Bill 380 and Senate Bill 394, respectively, both were passed by the Senate, but died in the House Appropriations Committee due to concerns about cost.

While most lawmakers agree that TOPS is not sustainable in its current form, their remains little political will for making substantial changes to the program.

House Committee rejects misguided SNAP proposal

The Supplemental Nutrition Assistance Program (SNAP) is a lifeline for more than 400,000 Louisiana families. House Bill 128 by Rep. Jay Morris would have created barriers to accessing critical food assistance. The bill would have created a new requirement that parents of young children participate in employment and training opportunities provided by the state. This would have required the state to create a new, large workforce development program and provide child care and transportation for parents to get to the programs.

The bill also would have removed authority from the executive branch to apply for a federal waiver to the three-month time limit for some people receiving SNAP benefits. If Louisiana did not apply for the federal waiver, able-bodied adults in the state would lose their food assistance after three months if they could not meet a 20-hour per week work requirement. LBP circulated a brief analysis of the proposal, highlighting the challenges it would create for low-income households and the state. Fortunately, the House Health and Welfare Committee voted to involuntarily defer the bill.

- **By Jeanie Donovan, Davante Lewis, Neva Butkus, Carmen Green and Jan Moller**