

THE COST OF THE NEW TAX BURDENS ON EMPLOYERS JULY 2015

The Louisiana Association of Business & Industry



This summer, the Louisiana Legislature voted to raise taxes on employers and individuals by more than \$600 million annually in 13 bills that the governor subsequently signed into law. This was the highest tax increase in Louisiana in decades.

\$676 million annual tax increase on employers

\$9 billion increase in total state spending since 2005

Legislators ignored other options on the table.

Throughout the regular legislative session, lawmakers repeatedly insisted that their only choice to invest in priorities such as higher education and health care was to raise taxes. The reality is there were many more options that could have been placed on the table.

The Louisiana Legislature not only failed to structure the tax increases to minimize harm to jobs and the economy, but also refused to make reductions to control government growth, make reductions in less critical services, or even debate structural reforms to the state budget that would allow lawmakers to prioritize the needs across state government each and every year.

Instead, the Legislature focused on one solution and one solution only: to require the private sector to pay additional taxes to maintain the operations of state government at current levels. While legislative leaders may have publicly advocated for a universal "haircut" in their rhetoric throughout the session, the private sector alone was handed the bill and required to pay it.

Without question, a traditional Louisiana populist agenda won this session. The budget passed by the 2015 Legislature and signed into law by the governor:

- Spent more than \$600 million in new taxes on critical components of a healthy economy, such as inventory, electricity and research;
- Made no attempt to address the structural problems in the state budget that have plagued the state for years and is derided by policymakers and experts alike;
- Maintained the overall size, scope and structure of state government, which is almost \$9 billion larger in 2015 than a decade ago;
- Failed to reform or restructure nationally high levels of state support for local government, making no reduction whatsoever to these annual subsidies;
- Utilized no viable analysis of tax credits to focus on those least harmful to the economy and actually ignored existing facts, research and data;

- Spent millions more on K12 public schools to pay for increasing costs primarily due to entitlements without making any reforms or demands that dollars be prioritized in the classroom;
- Provided a COLA for state pension recipients (that was eventually vetoed) which raised immediate concerns by national rating agencies and directly circumvented pension reforms that were passed just one year earlier; and
- Made no reductions whatsoever to certain areas of state government, including the legislative budget that received zero cuts and the judicial budget, which actually grew this year to account for salary increases for judges.

The fact is that – even before these sizeable tax increases go into effect – tax collections in Louisiana were already projected to increase over the next five years. Undoubtedly, government will grow with tax collections if this same approach is adopted year after year by state officials.

All businesses in Louisiana will be affected.

Throughout the session, legislative leaders regularly opined that "big business" could afford to pay more taxes, frequently using the term "corporate welfare" to define credits and incentives that exist solely to help offset a tax code that is deemed broken and uncompetitive by national and Louisiana experts alike. However, the reality is that ALL businesses in Louisiana will be affected by the taxes enacted in 2015: multinational corporations, homegrown Louisiana companies, start-ups and entrepreneurs, and small businesses on every corner in the state.

The impact of additional taxes will be felt by employers in every industry sector – petrochemical, technology and digital media, telecommunications, oil and gas, retail and restaurants, and maritime and ports, among others.

Rather than follow the recommendations of outside economists and take a targeted approach to reduce tax credits deemed ineffective or not to have a return on investment, instead the Legislature took an across-the-board approach – reducing credits and incentives recognized by experts as vital to economic competitiveness that helped attract major investment to Louisiana in recent years.

The 2015 Louisiana Legislature reduced the following credits and incentives:

- The inventory tax credit was permanently reduced established in 1991 to mitigate the impact of the tax itself and widely seen as a tax on economic growth that very few states collect. By definition, inventory is mobile and companies will undoubtedly react and choose to create jobs in states that do not penalize investment and growth.
- A one percent sales tax will now be imposed on the utility expenses of all commercial customers for a year, hitting every business in the state

 no matter how small or how profitable.
- The job-creation incentives that have landed major multibillion announcements in recent years will be reduced by 20 percent, making future prospects less likely and jeopardizing potential jobs for Louisianans.

Overwhelming support did not exist in the Legislature for a number of the tax increases.

Of particular note, the Louisiana House of Representatives passed several bills to reduce tax credits and exemptions by a majority vote only, although the Louisiana Constitution explicitly requires a two-thirds vote to raise taxes and to repeal tax exemptions. A 1993 Attorney General's opinion reiterates this fact and authorizes a majority vote only in the case of resolutions to suspend laws; only one vote in the House was by resolution. ALL businesses in Louisiana will be affected by the taxes enacted in 2015: multinational corporations, homegrown companies, start-ups and entrepreneurs, and small businesses in every corner of the state.

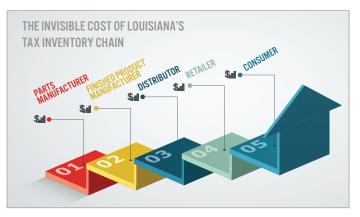
Major Tax Legislation Passed by the 2015 Louisiana Legislature

BILL NO.	AUTHOR	DESCRIPTION	FY16 FISCAL NOTES	FIVE-YEAR IMPACT
HB 805	ADAMS	Provides for carry forward rather than refunds of 25% of tax credits for inventory and natural gas storage paid as ad valorem taxes to local governments (does not apply to companies with inventory tax liabilities of \$10,000 annually or less). Removes refundability of various R&D tax credits.	\$129,000,000	\$735,000,000
HB 624	JACKSON	Reduces certain corporate income tax exclusions and deductions by 28% from July 1, 2015, to June 30, 2018 (does not affect the S-Corporations exclusion).	\$122,000,000	\$255,000,000
HCR 8	MONTOUCET	Suspends exemptions on business utilities for 1% of state sales and use tax from July 1, 2015, to 60 days after final adjournment of the 2016 regular legislative session.	\$107,200,000	\$107,200,000
HB 119	RITCHIE	Increases the taxes on cigarettes.	\$106,400,000	\$536,000,000
HB 829	ROBIDEAUX	Caps certified motion picture investor tax credits from July 1, 2015, to June 30, 2018.	\$77,000,000	\$217,000,000
HB 402	STOKES	Limits availability of tax credit for taxes paid in other states from July 1, 2015, to June 30, 2018.	\$34,000,000	\$95,800,000
HB 629	JACKSON	Reduces certain income and corporate franchise tax credits and incentives by 28% from July 1, 2015, to June 30, 2018 (does not reduce inventory tax credit).	\$31,500,000	\$86,100,000
HB 218	BROADWATER	Eliminates the three-year carry-back option for net operating loss deductions for corporate income tax and increases the carry-over period from 15 years to 20 years.	\$29,000,000	\$145,000,000
HB 779	PONTI	Reduces the maximum value of the solar energy systems tax credit and provides for changes regarding eligibility and requirements to claim the credit.	\$19,000,000	\$55,000,000
SB 271	WHITE	Reduces the discounts for timely filing and remittance of motor fuels tax for suppliers from 1.5% to 0.5%, for fuel delivered to a purchaser with a valid distributor or importer license from 1% to 0.33%. Dedicates revenues to Transportation Trust Fund.	\$6,000,000	\$330,000,000
HB 635	JACKSON	Reduces certain tax rebates by 20% from July 1, 2015, to June 30, 2018; permanently excludes retail and food service from the Enterprise Zone program, superseding the provisions of HB 466 by Rep. Barras.	\$5,000,000	\$55,100,000
SB 93	ADLEY	Disallows the \$25 tax credit for educational expenses for K12 students if the taxpayer deducted the payment of tuition and fees for nonpublic school tuition.	\$2,300,000	\$11,500,000
HB 549	THIBAUT	Limits amount of severance tax exemption for oil and gas produced by horizontally drilled wells.	\$0	\$0
TOTAL			\$675,600,000	\$2,348,100,000

LABI focused our advocacy efforts to fight against seven of the most problematic tax increases.

While LABI was unsuccessful in stopping the administration and Legislature from increasing taxes, our intensive advocacy led to several improvements in the bills throughout the process such as:

- Providing a sunset date of June 30, 2018, on many of the tax increases, including the across-the-board credit and incentive reductions of 28 percent and 20 percent;
- Mitigating the reduction in the inventory tax credit from 100 percent as originally proposed by the administration and the Legislature to 25 percent only on refundable credits with the ability to carry the credits forward for five years;
- Eliminating the impact to all small businesses of the reduction in the inventory tax credit, exempting those with inventory tax liabilities under \$10,000 annually altogether from the legislation;
- Removing many of the reductions to the same tax credit that were in placed in multiple bills including the credit for the inventory tax and for taxes paid in other states;
- Removing the unintended impact of double taxation on S-Corporations by amending it out of relevant bills; and
- Eliminating the impact to the credit for ad valorem taxes paid on vessels used on the Outer Continental Shelf, exempting those credits altogether from the legislation.



The new administration and Legislature must focus on three things:

- 1. Budget reform, including real changes to the structure of the budget including dedications and real reductions to the size of state government;
- 2. Entitlement reform, starting with pensions that cost taxpayers more every year; and
- 3. Tax reform that leads to a simple, efficient, competitive tax code.

The new administration and Legislature in 2016 cannot return to the private sector piggybank as the answer again.

Summary of New Louisiana Laws **Opposed by LABI in the 2015 Legislative Session**

This new law provides for carry forwards rather than refunds of 25 percent of credits for ad valorem taxes paid to local governments on inventory and natural gas used in storage facilities. Act 133 does not apply to businesses with inventory tax liabilities that receive less than \$10,000 annually, ensuring small companies still receive 100 percent of the credits. The law also converts the Research and Development (R&D) tax credit from refundable to nonrefundable, allowing a five-year carry forward on certain R&D credits in excess of tax liability. The cost to the private sector is estimated by legislative staff at \$129 million this fiscal year and \$735 million over five years. Act 133 is a permanent change in Louisiana law that is applicable to all claims for tax credits filed on or after July 1, 2015. The House passed the bill on a vote of 58-42-5, and the Senate passed it 30-9

This new law reduces certain corporate income tax exclusions and deductions by 28 percent from July 1, 2015, to June 30, 2018. Act 123 does not affect the S-Corporation exclusion. The new reductions apply to the following exclusions and deductions: public transportation companies, oil and gas well allowance for depletion, net operating losses, corporate income tax refunds, dividends from banking corporations, certain expenses disallowed for federal taxation, dividend income, and hurricane recovery benefits. The cost to the private sector is estimated by legislative staff at \$122 million this fiscal year and \$255 million over five years. Exclusions or deductions denied in fiscal year 2016 can be included instead on returns filed for calendar years 2017, 2018, and 2019 (one-third of the credit in each year). The House passed the bill on a vote of 64-36-5, and the Senate it 29-10.

Act 103......\$145 million Filed as House Bill 218 by Rep. Chris Broadwater | Signed into law by the governor on June 19, 2015

This new law eliminates the three-year carry-back option for net operating loss deductions for corporate income tax and increases the carry-forward period from 15 years to 20 years. The cost to the private sector is estimated by legislative staff at \$29 million this fiscal year and \$145 million over five years. Act 103 is a permanent change in Louisiana law that is applicable to claims on tax returns filed on or after July 1, 2015. The House passed the bill on a vote of 93-11-1, and the Senate passed it 38-1.

This legislative resolution suspends the exemption for business utilities from one percent of the state sales and use tax from July 1, 2015, until 60 days after final adjournment of the 2016 regular legislative session (one year). The cost to the private sector is estimated by legislative staff at \$107.2 million this fiscal year. Business utilities include the sale of steam, water, electric power or energy, and natural gas for nearly all commercial customers. The House passed the bill on a vote of 63-41-1, and the Senate passed it 28-7-4.

Act 109...

.\$95.8 million

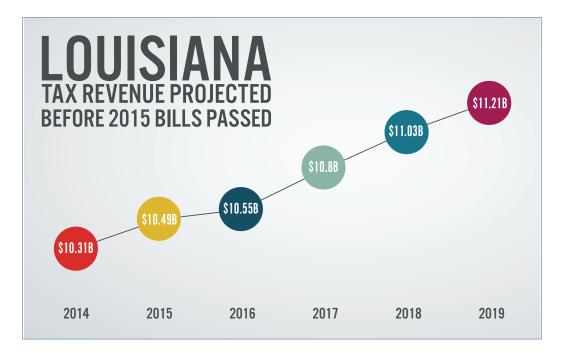
Filed as House Bill 402 by Rep. Julie Stokes | Signed into law by the governor on June 19, 2015

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This new law limits the availability of income tax credits for taxes paid in other states from July 1, 2015, to June 30, 2018. The amount of credit allowed against Louisiana tax liability is limited to the amount of tax that would have been imposed had the income in question been earned in Louisiana. The cost to the private sector is estimated by legislative staff at \$34 million in this fiscal year and \$95.8 million over five years. Credits denied in fiscal year 2016 can be included instead on returns filed for calendar years 2017, 2018, and 2019 (one-third of the credit in each year). The House passed the bill on a vote of 96-7-2, and the Senate passed it 37-2. Act 109 includes a provision that LABI argues is unconstitutional given a recent United States Supreme Court decision on the issue of double taxation

This new law reduces certain income and corporate franchise tax credits and incentives by 28 percent from July 1, 2015, to June 30, 2018. Act 125 does not affect the inventory tax credit. The new reductions apply to the following major categories of incentives and credits: ports, import/export cargo, green jobs, digital media, angel investor, live music and theater productions, sound recording, brownfields, technology commercialization, insurance premiums, citizens assessment, education, new jobs, recycling, and milk producers among others. The cost to the private sector is estimated by legislative staff at \$31.5 million this fiscal year and \$86.1 million over five years. Benefits denied in fiscal year 2016 can be included instead on returns filed for calendar years 2017, 2018, and 2019 (one-third of the credit in each year). The House passed the bill on a vote of 66-36-3, and the Senate passed it 27-12.

This new law reduces certain tax rebates by 20 percent from July 1, 2015, to June 30, 2018. The new reductions apply to the following programs: Mega-Project Energy Assistance, Quality Jobs, Headquarters Relocation, Competitive Projects Payroll, and Enterprise Zone. In addition, Act 126 permanently excludes retail trade and food service and drinking establishments from eligibility for the Enterprise Zone program. The cost to the private sector is estimated by legislative staff at \$5 million this fiscal year and \$55.1 million over five years. The House passed the bill on a vote of 65-38-2, and the Senate passed it 32-6-1.





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