

Reforming
LOCAL
GOVERNMENT
in Louisiana



Chris Jacobs, Senior Fellow
Pelican Institute for Public Policy

Many lawmakers have spent the past several years trying to convince the citizens of Louisiana that their state government has a revenue problem. It does not. Rather, the state has a spending problem—one caused in large part by a governance problem.

Even prior to this summer's tax increase, Louisiana's revenue base would more than fund all of state government's needs.¹ However, current law and constitutional mandates require the Legislature not just to fund state government operations, but also many expenses and functions undertaken by parishes and municipalities.²

“
...the state has a spending problem—one caused in large part by a governance problem.

To put it bluntly, local and state government in Louisiana have a dysfunctional relationship, one in which each infringes on the autonomy of the other. Local governments spend much time and energy collecting revenues for the state—a task more efficiently accomplished at the state level—even as they lack the full power to manage the revenue they collect, due to state-imposed restrictions.

The dysfunction between state and local government also extends to their respective budgets. Parishes rely on state government for much of their revenue—effectively asking the Legislature to keep state tax levels high, to finance services that parishes cannot, or will not, fund themselves. In exchange, the state Legislature imposes fiscal restrictions on parishes that reduce their ability to manage their own affairs. Meanwhile, the business community remains caught in the middle, trying to navigate needlessly complex tax regimes that increase their administrative costs and discourage economic growth.

A Task Force convened by the Legislature, which reported on the state's fiscal situation in early 2017, summed up the situation correctly when it said that “the locals' reliance on the state [for funding] is enormous and is valued at many billions of dollars.”³ These dollars paid by the state to local governments have contributed to the state's budgetary crunch, and recurring fiscal crises over many years.

Instead of raising taxes yet again, Louisiana lawmakers should reform the relationship between the state and municipal governments. They should start by eliminating the sources of funding that encourage questionable or wasteful spending by parishes. They should give municipalities greater control over their own budgets and revenue streams. And they should reform and centralize tax administration, creating a more efficient environment for retailers and businesses, while broadening the sales tax base in ways that should allow for lower overall rates.

Enacting this system of changes would foster jobs and economic growth, while creating a more efficient governmental structure at both the state and parish levels. At the state level, lawmakers could use the savings from lowered spending on local subsidies to reduce taxes across-the-board. Parishes could use their newfound powers to raise revenue on their own—provided their constituents agree—and set their own priorities with that revenue, focusing local government's energies on local constituents' needs, not what the Legislature in Baton Rouge cares to fund.

1 Act 1 of the Third Extraordinary Session of 2018.

2 In conjunction with the reforms proposed in this series of policy papers, the Pelican Institute has called for a constitutional convention focused on fiscal responsibility, to consider budget-related changes to the state's foundational document. For more information, see <https://pelicaninstitute.org/constitutional-reform/>.

3 Louisiana Task Force on Structural Changes in Budget and Tax Policy, “Louisiana's Opportunity: Comprehensive Solutions for a Sustainable Tax and Spending Structure,” January 27, 2017, <http://revenue.louisiana.gov/Miscellaneous/FINAL%20REPORT%20-%20Task%20Force%20on%20Structural%20Changes%20in%20Budget%20and%20Tax%20Policy%20FINAL%20WEB%20VERSION.pdf>, Appendix D, p. 71.

More importantly, this reformed system would enhance government's accountability to voters. Just as states function as "laboratories of democracy," so too would parishes—and the local voters that elect parish officials—have the freedom and flexibility to choose the level of taxes and services they wish to see in their area. Rather than competing to command the most funding from the state, parishes could instead compete to offer the most pro-growth environment for business—one way to bring jobs, and residents, back to Louisiana.

STATE AND LOCAL GOVERNMENT IN CONTEXT

A review of tax and economic data demonstrates the ways in which policies regarding local government have influenced Louisiana's tax structure. As of January 2018, Louisiana held the dubious distinction of the highest combined sales tax rate (state and local) in the country. The state-level tax rate of 5%, when combined with a 5.02% average rate at the local level, gave Louisiana an average sales tax of 10.02%.⁴

Notably, while Louisiana's state sales tax rate ranks in the middle of the pack nationally, the locally-imposed sales tax elevates the state's combined sales tax ranking. While most states have a small local sales tax only averaging 1-2%, Louisiana's 5.02% average ranks second nationally, just behind Alabama (5.1%).⁵

While Louisiana relies heavily upon sales taxes to support both state and local governments, local property tax levels remain comparatively small. As of Fiscal Year 2015, the most recent year with data from all 50 states, Louisiana ranked 41st nationwide in the percentage of state and local taxes derived from property.⁶ While property taxes comprised 22% of combined state and local revenue collections in Louisiana, Texas relied upon property taxes for almost twice as much of its revenue base (42%).⁷



The heavy reliance on the sales tax—Louisiana sales tax revenue comprised 38.5% of total state and local revenue, ranking it sixth nationwide—compared to the property tax (22%) creates several policy problems.⁸ First, the highest average sales tax rate in the nation can serve as a detriment to commerce, particularly tourism.⁹ Second, because sales tax collections generally vary more than the property tax base, a heavier

4 Jared Walczak and Scott Drenkard, "State and Local Sales Tax Rates 2018," Tax Foundation Fiscal Fact No. 572, February 13, 2018, <https://taxfoundation.org/state-and-local-sales-tax-rates-2018/>. As of July 1, 2018, the state-imposed sales tax rate stands at 4.45%.

5 Ibid.

6 Ben Strachman and Katherine Loughead, "To What Extent Does Your State Rely on Property Taxes?" Tax Foundation, June 20, 2018, <https://taxfoundation.org/property-tax-reliance-2018/>.

7 Ibid.

8 David Raymond and Katherine Loughead, "To What Extent Does Your State Rely on Sales Taxes?" Tax Foundation, June 27, 2018, <https://taxfoundation.org/sales-tax-reliance-2018/>; Strachman and Loughead, "Property Taxes."

9 For instance, Florida, which has no state income tax, has a combined state and local sales tax rate averaging 6.8% as of January 1, 2018—approximately 47% lower than Louisiana's average combined state and local sales tax rate on that date. See Walczak and Drenkard, "State and Local Tax Rates 2018."

reliance upon sales tax revenue can lead to “boom-and-bust” cycles for Louisiana and its parishes, particularly those most harmed by job losses and major fluctuations in oil prices over the past decade.

While some parishes may wish, if given the option, to re-align their tax bases away from the volatile sales tax and towards the more stable property tax, the state Constitution provides major impediments to these types of changes. Appropriate structural reforms would rationalize the current sales tax system, and move accountability for local government decisions closer to the taxpayers that fund them. These reforms would give parishes greater tools to manage their own budgets—particularly with respect to the balance between sales and property taxes—and wean them from the sizable direct and indirect subsidies that state government provides to local authorities.

FISCAL REFORM OF LOCAL GOVERNMENT

As noted above, parishes and municipalities benefit from myriad direct and indirect subsidies provided by the state.¹⁰ The 2017 Task Force “count[ed] more than \$525 million in annual subsidies and revenue sharing arrangements.”¹¹ Adding the inventory tax credit—provided directly to businesses to offset the cost of an inventory tax imposed upon them by parishes—to these other subsidies brings that total close to \$1 billion. By comparison, this fiscal year the state general fund will receive only about \$9.4 billion in revenue.¹²



With subsidies to local government totaling approximately 10% of the state’s general fund revenue, eliminating this spending would provide the state with the resources to lower taxes while rationalizing both its tax and spending systems. Coupling these savings with new autonomy for municipalities would give parishes the freedom to spend, and to tax, as they and their constituents see fit, rather than relying upon largesse from the Legislature to balance their budgets.

Eliminate Constitutional Provisions on Supplemental Pay

A provision originally added to the Louisiana Constitution in 2001 requires the Legislature to “provide by law for the payment by the state of supplements to the salaries of full-time local law enforcement and fire protection officers of the state.”¹³ The Con-

¹⁰ The largest source of state support to municipalities comes from the Minimum Foundation Program (MFP), established by Article VIII, Section 13(B) of the Constitution to fund primary and secondary education. A forthcoming paper by the Pelican Institute will examine the MFP funding mechanism in the context of reforms to K-12 education.

¹¹ Task Force on Structural Changes, “Louisiana’s Opportunity,” Appendix D, p. 71.

¹² Louisiana Legislative Fiscal Office, “Revenue Estimating Conference Fiscal Year 2019 Forecast,” June 26, 2018, <http://lfo.louisiana.gov/files/revenue/REC%2006-26-18%20AMENDED%20APPROVED%20DOCUMENTS.pdf>, p. 1.

¹³ Article VII, Part I, Section 10(D)(3)(a) of the Louisiana Constitution of 1974, as amended by Act 1234 of the Regular Session of 2001 and Act 483 of the Regular Session of 2007.

stitution further requires “full funding” of this supplemental pay, unless the Governor proposes, and two-thirds majorities of each house of the Legislature, agree to reduce the appropriation.¹⁴

This constitutional provision not only transfers funds from the state to local governments, it creates perverse incentives while doing so. While parishes themselves pay for law enforcement officers’ full-time salaries, the state funds their overtime through pay supplements. These pay supplements therefore encourage parishes to shift costs to the state by maximizing overtime, instead of hiring additional full-time officers at the parishes’ own expense. These skewed incentives not only shift costs on to the state—they also create a less efficient law enforcement system, by encouraging parishes to rely heavily on overtime for fire and police services rather than “right-sizing” their forces.

Moreover, even as the state continues to fund the supplemental pay of police and fire officers, its largest municipality has very explicit authority to fund those same services on its own. A provision added to the Constitution in 1990, and revised in 2014, permits Orleans Parish to assess “an additional ad valorem [i.e., property] tax for fire protection not to exceed ten mills...and an additional ad valorem tax for police protection not to exceed ten mills on the dollar of assessed valuation.”¹⁵ It makes little sense for the state to supplement the pay of law enforcement and fire officers in New Orleans, since it has already granted the city the authority to raise property taxes so that the parish can pay for those services itself.

The cost of the supplemental pay provision, the skewed incentives it creates, and the “double-dipping” allowed for Orleans Parish all suggest that the Legislature should eliminate this provision. If parishes wish to increase fire and police salaries and services, they should have the freedom to do so—but should also pay for those services themselves.

Eliminate Revenue Sharing Fund

Article VII of the Louisiana Constitution provides for the appropriation of at least \$90 million every year in revenue sharing funds to parishes.¹⁶ The Constitution further states that the fund should “offset current losses because of homestead exemptions” provided from property taxes, as outlined elsewhere in Article VII.¹⁷

As with the inventory tax credit, the revenue sharing fund exists to offset the effects of another provision of Louisiana tax law. And as with the inventory tax credit, the Legislature should eliminate the indirect subsidy by repealing the revenue sharing fund. Rather than providing indirect subsidies, the Legislature should instead reform the homestead exemption, as outlined in greater detail below, and allow parishes to determine for themselves whether to have such an exemption, and how to construct their tax systems.

Eliminate Inventory Taxes—And the Inventory Tax Credit

The state has since 1992 provided a refundable tax credit to businesses to offset

¹⁴ Ibid., Section 10(D)(3)(c) and (d).

¹⁵ Article VI, Part II, Section 26E of the Louisiana Constitution of 1974, as amended by Act 1103 of the Regular Session of 1990 and Act 870 of the Regular Session of 2014.

¹⁶ Article VII, Part III, Section 26(B) of the Louisiana Constitution of 1974.

¹⁷ Ibid., Section 26(C).

the cost of inventory taxes assessed by parishes.¹⁸ While the Legislature has taken steps to reduce the cost of these refundable credits in recent years, the inventory tax credit remains a significant drag on state coffers.¹⁹ In the current fiscal year, the inventory tax credit will cost the state an estimated \$325.3 million—equal to the net estimated revenue generated by the corporate income tax and corporate franchise tax combined.²⁰

Since its introduction, the inventory tax credit has made parishes more rather than less dependent on the inventory tax as a revenue source. From 2005 through 2015, the assessed value of inventories more than doubled, from \$2 billion to \$4.4 billion, while assessments of real estate, personal property, and public service property grew at significantly slower rates. The 2017 Task Force used these data to conclude that “inventory assessments in Louisiana have grown at a much higher rate than inventory assessments in other states that allow that form of property tax but do not have a similar credit.”²¹ In short, because state government effectively pays inventory taxes for businesses through the credit, parishes have a perverse incentive to increase inventory assessments, thereby maximizing the amount of subsidies (i.e., inventory tax credits) they can obtain from the state.

Assessed value of inventories



Due to the flaws inherent in its structure, the Legislature should repeal the inventory tax credit, which provides an indirect—and inefficient—subsidy to local government. In concert with that proposal, the Legislature should also repeal the constitutional provision that allows parishes to assess inventory taxes in the first place.²² While repealing the authority to assess inventory taxes would contravene the concept of more fiscal flexibility for parishes discussed below, there are sound policy arguments for Louisiana to join most states outside the South and eliminate this tax that hinders economic development.²³

Ideally, if both the inventory tax and inventory tax credit disappear, parishes would utilize the fiscal flexibility provisions discussed further below to rebalance their revenue streams towards more stable, and efficient, sources than the inventory tax. Additionally, a one-time re-assessment of property by local assessors (excluding inventories) could minimize the fiscal impact of eliminating the inventory tax at the local level. At a minimum, however, state lawmakers should eliminate an indirect form of subsidy that has encouraged parishes to raise tax assessments on businesses.

Eliminate Other Subsidy Pools

Over and above the constitutional revenue-sharing provisions discussed above, and the inventory tax credit, the 2017 Task Force identified numerous similar pots of funding that state government provides to municipalities, including:

¹⁸ Act 153 of the Regular Session of 1991.

¹⁹ Louisiana Department of Revenue, “State of Louisiana Tax Exemption Budget 2017-2018,” March 12, 2018, [http://revenue.louisiana.gov/Publications/TEB\(2017\).pdf](http://revenue.louisiana.gov/Publications/TEB(2017).pdf), pp. 98-99; Act 4 of the Second Extraordinary Session of 2016.

²⁰ Inventory tax credit total includes \$304.9 million in corporate income tax expenditures and \$20.4 million in individual income tax expenditures. Department of Revenue, “Tax Exemption Budget,” pp. 18-24. Corporate income and franchise tax estimates from Louisiana Legislative Fiscal Office, “State Revenue Outlook for Revenue Estimating Conference,” April 12, 2018, http://lfo.louisiana.gov/files/revenue/RevOutlook_Apr_2018_REC.pdf, p. 4.

²¹ Task Force on Structural Changes, “Louisiana’s Opportunity,” pp. 15-16.

²² *Ibid.*, p. 58.

²³ Task Force on Structural Changes, “Louisiana’s Opportunity,” p. 38.

- “\$60 million for the Parish Transportation Fund and the Highway Fund No. 2;
- “About \$100 million spent on average each year for local capital outlay projects;
- “\$131 million in video poker revenue sharing, severance and royalty taxes, and state hotel sales taxes; and
- “\$23 million for senior centers related funding.”²⁴

As part of the broader rationalization of the state budget, lawmakers should examine these and other similar sources of funding, with an eye towards phasing out or eliminating as many of these types of indirect subsidies as possible.

INCREASED LOCAL AUTONOMY

In conjunction with removal of the various indirect subsidies provided to local governments discussed above, lawmakers should remove the procedural and constitutional impediments that prevent parishes and municipalities from raising and spending their own revenues with the consent of their constituents. These twin reforms would amount to a new level of autonomy for municipal governments, allowing them to spend the money they raise with more independence, but also more accountability.

Homestead Exemption

The Louisiana Constitution provides a homestead exemption on property taxes to all homeowners—an exemption which since 1982 has stood at \$7,500.²⁵ While that exemption sounds comparatively small, the state Constitution also taxes land at a rate equal to 10% of its assessed value.²⁶ Therefore, the homestead exemption effectively exempts households with assessed property of under \$75,000 from property taxes.

Over time, inflation has eroded some of the value of the constitutionally-established homestead exemption. Whereas in 1990 a total of five in six (83%) households paid no property taxes at all due to the homestead exemption, a quarter-century later that number had declined to just over one in three (35%) as of 2017.²⁷

Nevertheless, the homestead exemption severely limits the amount of revenue that property taxes can raise. By one assessment, the median home price in the state currently stands at \$145,300.²⁸ With the first \$75,000 of residents’ home value exempted from property taxation via the homestead exemption, the median household would pay property taxes on an assessed value of only \$70,300. In other words, more than half of Louisiana households pay property taxes on less than half of the value of their homes.

Data from the Louisiana Tax Commission demonstrate that in many areas fewer than half of all property owners pay property taxes. In 32 of Louisiana’s 64 parishes, at least half of residents paid no property taxes at all in 2017, because of the generous

²⁴ Ibid., Appendix D, p. 71.

²⁵ Article VII, Part II, Section 20(A)(1) of the Louisiana Constitution of 1974; Task Force on Structural Changes, “Louisiana’s Opportunity,” p. 57.

²⁶ Article VII, Part II, Section 18(B) of the Louisiana Constitution of 1974.

²⁷ Task Force on Structural Changes, “Louisiana’s Opportunity,” p. 57; Louisiana Tax Commission, 2017 Annual Report, http://www.latax.state.la.us/Menu_AnnualReports/UploadedFiles/2017%20Louisiana%20Tax%20Commission%20Annual%20Report.pdf, Table 44, Number of Taxpayers and Homestead Exemption, p. 41.

²⁸ Zillow, “Louisiana Home Prices and Values,” Zillow Home Value Index as of August 31, 2018, <https://www.zillow.com/la/home-values/>.

homestead exemption.²⁹ In 15 of those parishes, at least 66% of households paid no property taxes due to the homestead exemption—meaning that in nearly one-quarter of parishes, less than one-third of residents paid property taxes in 2017.³⁰

While repealing the homestead exemption could lead to increases in property taxes for some homeowners, other provisions in the Constitution cushion the effects of property tax rates on senior citizens and other vulnerable populations. Specifically, the Special Assessment Level program freezes the assessed value of the home for households with 1) individuals over age 65 (and their surviving spouses, if over age 55); 2) individuals with a service-connected disability rated at more than 50% by the Department of Veterans Affairs; 3) members of the armed services killed or missing in action (including their families); and 4) individuals ruled permanently and totally disabled by federal or state authorities.³¹ Households can retain this property tax freeze in perpetuity provided their adjusted gross income falls below statutory levels (which currently exceed \$70,000) at least once—participants' income levels are not re-tested annually—and their property does not increase in value by more than 25% due to construction.³²

Tax Commission data show widespread usage of the Special Assessment Level program. In 2017, a total of 176,257 Louisiana households participated in the program to freeze their property assessments.³³ In many cases, the program mitigates the effects of higher property values in the New Orleans metropolitan area. For instance, of 102,347 taxpayers receiving the homestead exemption in Jefferson Parish last year, only 14,187 (14%) paid no property tax at all—much lower than the 35% level statewide—because most homes in that parish exceed the \$75,000 value of the exemption.³⁴ However, 33,027 Jefferson Parish homes participated in the Special Assessment Level program freezing their assessments—amounting to 32% of all homeowners in the parish, and more than twice as many homeowners as those who paid no property taxes in 2017 due to the homestead exemption.³⁵

Most states (44) and the District of Columbia have some form of property tax cap, whether a cap on tax rates, overall tax revenues, or annual increases in assessments.³⁶ However, Louisiana provides a particularly generous system of property tax caps and exemptions:

- The state Constitution subjects property tax rates to an overall cap of five and three-quarter mills (0.575%).³⁷
- The Constitution also caps overall property tax revenues, as discussed in greater detail in the millage section below.³⁸

29 Louisiana Tax Commission, 2017 Annual Report, Table 44, p. 41.

30 Ibid.

31 Article VII, Part II, Section 18(G) of the Louisiana Constitution of 1974.

32 Ibid. In 2016, the Special Assessment Level applied to households with adjusted gross income of under \$71,491; see Louisiana Tax Commission, "Frequently Asked Questions," http://www.latax.state.la.us/Menu_FAQ/FAQ.aspx. The Constitution increases the threshold level annually according to the increase in the federal Consumer Price Index; see Article VII, Part II, Section 18(G)(i)(a)(ii).

33 Louisiana Tax Commission, 2017 Annual Report, Table 45, Special Assessment Levels by Parish, p. 42.

34 Ibid., Table 44, p. 41.

35 Ibid., Table 45, p. 42.

36 Iris Lav and Michael Leachman, "State Limits on Property Taxes Hamstring Local Services and Should Be Relaxed or Repealed," Center on Budget and Policy Priorities, July 18, 2018, <https://www.cbpp.org/sites/default/files/atoms/files/7-18-18sfp.pdf>, pp. 22-23.

37 Article VII, Part II, Section 19 of the Louisiana Constitution of 1974.

38 Article VII, Part II, Section 23 of the Louisiana Constitution of 1974.

- The Constitution provides further property tax relief through the homestead exemption, one which ranks as particularly large when compared to other states.³⁹ For instance, California, a state with a median home value nearly four times the median Louisiana home, provides a homestead exemption of only \$7,000, less than one-tenth the exemption included in the Louisiana Constitution.⁴⁰
- The Constitution provides a final layer of property tax relief, freezing assessments for seniors, as outlined above.⁴¹ Only ten states have a system to freeze assessments for seniors, and of the nine that limit those freezes based upon income, Louisiana has the highest income threshold, allowing the most seniors to qualify for an assessment freeze.⁴²

On top of these provisions, two amendments to the state Constitution adopted by voters in the 2018 general election will further expand the system of property tax exemptions. Amendment 5 will extend eligibility for the Special Assessment Program to properties held in trust, so long as they meet the other existing conditions of the program.⁴³ And Amendment 6 will provide that, when property tax assessments increase by more than 50%, the increased assessment will phase in over a four-year period, so long as the original homeowner does not sell the property.⁴⁴

“
By repealing the homestead exemption, but retaining the other property tax relief programs, lawmakers could expand and modernize the property tax base.”

To give parishes more fiscal autonomy, and in exchange for repealing the revenue sharing fund, lawmakers should also re-examine the existing homestead exemption included in the state Constitution. By repealing the homestead exemption, but retaining the other property tax relief programs—including the overall cap on rates, the overall cap on revenues, and the Special Assessment Level program—lawmakers could expand and modernize the property tax base, while retaining important protections for seniors and vulnerable low-income populations.

If parishes wish to maintain the existing homestead exemption for all property owners, they would have the ability to do so, by reinstating the current statewide provisions on the local level. However, parishes should also have the power to rebalance their tax base away from sales taxes and toward property taxes, should they so choose.

Reform Property Tax Millage Procedures

In addition to the generous homestead exemption outlined above, the state Constitution includes another provision related to the property tax base. When discussing property re-assessments that occur every four years, the Constitution specifies that “the total amount of ad valorem taxes collected by any taxing authority...shall not be increased or decreased because of a reappraisal or valuation.”⁴⁵ Instead, parishes must adjust their millages to reflect changes in assessment values, or adjustments to the homestead exemption.

39 Article VII, Part II, Section 20 of the Louisiana Constitution of 1974.

40 Zillow, “Louisiana Home Prices and Values;” Zillow, “California Home Prices and Values,” Zillow Home Value Index as of August 31, 2018, <https://www.zillow.com/ca/home-values/>; California State Board of Equalization, “Homeowners’ Exemption,” http://www.boe.ca.gov/proptaxes/homeowners_exemption.htm.

41 Article VII, Part II, Section 18(G) of the Louisiana Constitution of 1974.

42 National Conference of State Legislatures, “State Property Tax Freeze and Assessment Freeze Programs,” December 2012, <http://www.ncsl.org/research/fiscal-policy/state-property-tax-freezes-and-assessment-freezes.aspx>.

43 Louisiana House Legislative Services, “2018 Proposed Constitutional Amendments,” August 31, 2018, http://house.louisiana.gov/Agendas_2018/2018%20Constitutional%20Amendments.pdf; Act 721 of the Regular Session of 2018.

44 House Legislative Services, “2018 Proposed Amendments;” Act 718 of the Regular Session of 2018.

45 Article VII, Part II, Section 23(B) of the Louisiana Constitution of 1974.

The Constitution does permit local authorities to “roll up” property tax millages back to their higher (i.e., pre-assessment) level without a public vote, provided the authority in question holds a public hearing and agrees to the change by a two-thirds majority.⁴⁶ However, these supermajority and transparency requirements have little substantive impact when the “governing body” in question consists of an unelected body, such as a library board, or a single individual—such as a sheriff or tax assessor—who by definition has the authority to raise tax rates unilaterally.

In rural areas with relatively little new development, the provisions allowing local authorities to “roll up” millages help to prevent their property tax collections from eroding over time. Without authority to “roll up” millages, the overall property tax base could remain stagnant in absolute dollar terms, and decline in real terms after taking inflation into account. However, in faster developing areas, the property tax base already grows quite rapidly—revenue collections can climb by double-digit levels annually, even as millage rates remain the same, when new homes and businesses get added to the property tax rolls. These areas with rapidly rising tax collections should have little reason to “roll up” their millages—but may do so anyway, primarily because if they do not during the four year re-assessment cycle, the millage would “re-set” at the new, lower level, and generally could not be raised again in the future absent a public referendum.

When addressing the homestead exemption included in the Constitution, lawmakers should reform the millage adjustment provisions. Specifically, lawmakers should allow local authorities to “roll up” their millages—but only to the extent that authorities’ income will not exceed an annual inflation measure. If authorities want to “roll up” their millages for an above-inflation increase, they should be required to obtain the approval of voters to do so. Finally, lawmakers should eliminate the “roll up” authority for unelected and single-individual “governing bodies” entirely, and require those bodies to obtain the consent of the voters for any increase in millage.

End Legislative Approval of Local Sales Tax Rates

In general, the state Constitution adheres to the commendable democratic principle that members of the public must approve of local tax increases before they take effect. However, the Constitution includes an additional requirement with respect to sales taxes imposed by local authorities. For any local authority wishing to raise its sales tax rate above 3%, the Legislature, “by general or by local or special law,” must first approve the tax increase for it to go before the local voters for their ultimate approval.⁴⁷

Consistent with the principles of this plan—which envisions state government removing the myriad subsidies it provides to parishes, in exchange for additional fiscal autonomy—the Legislature should repeal this constitutional requirement. If the voters of a particular authority wish to approve a sales tax increase, state lawmakers who reside in other parishes should have little reason to object, or intervene.

While this overall plan assumes that parishes may wish to re-align their revenue bases from sales to property taxes to fund their operations, it does not require them to do so—the parishes themselves should make those choices. Indeed, if some parish governments wish to raise their sales tax levels even further, and their constituents agree, they should have that right. More than any one specific proposal, that philosophy—to grant parishes enhanced autonomy—underlies this plan.

⁴⁶ Ibid., Section 23(C).

⁴⁷ Article VI, Part I, Section 28(B) of the Louisiana Constitution of 1974.

“
*Louisiana’s
sales tax
structure
functions
inefficiently
and imposes
unnecessary
costs on
businesses.*

Industrial Tax Exemption Program (ITEP)

Article VII of the Louisiana Constitution gives the Governor, through the state Board of Commerce and Industry, the power to “enter into contracts for the exemption from ad valorem taxes of a new manufacturing establishment or an addition to an existing manufacturing establishment.”⁴⁸ The Constitution further provides that the Board and Governor can apply “such terms and conditions” as they “deem in the best interest of the state.”⁴⁹

As currently constructed, this provision presents two interrelated problems. First, as with the homestead exemption, ITEP gives state government the power to erode parishes’ tax base, allowing the Governor to exempt facilities from local property tax rolls without the consent of local authorities.⁵⁰ A Louisiana Economic Development analysis found that the industrial tax exemption program disproportionately affects certain parishes, most notably Cameron and Calcasieu Parishes.⁵¹

Second, the vague terms in the Constitution, which empower the Governor to apply “such terms and conditions” as in “the best interest of the state,” allow the executive to change the program on a whim, and with little oversight. Most notably, the Board, at Governor John Bel Edwards’ request, this June reduced the value of the industrial tax exemption from 100% of property tax rates to 80%, without so much as a vote of the Legislature—or of the local officials affected.⁵²

These concerns suggest that, at the same time they re-evaluate the homestead exemption, the Legislature should re-examine the industrial tax exemption program. As with the homestead exemption, if parishes wish to offer companies property tax incentives—whether those currently provided by the Constitution, or any other type of incentives—they should have the right to do so. But state government eroding parishes’ tax base unilaterally raises larger issues that the Legislature should consider carefully when determining the relationship between municipalities and state government.

REFORM OF SALES TAX AND TAX ADMINISTRATION

Most experts agree that Louisiana’s sales tax structure functions inefficiently and imposes unnecessary costs on businesses. Myriad tax exemptions have helped to create the highest combined state and local sales tax rates in the country. Parishes collect sales taxes at varying rates—and on different tax bases—than the state. With 493 separate local taxing jurisdictions within the state, each with their own rates, this system adds layer upon layer of complexity to firms wishing to conduct business in Louisiana.⁵³

48 Article VII, Part II, Section 21(F) of the Louisiana Constitution of 1974.

49 Ibid.

50 While Sections 6 and 7 of an Executive Order issued by Gov. John Bel Edwards on June 24, 2016, Executive Order JBE 2016-26, require approvals of the relevant local authorities before the Governor himself will approve the industrial tax exemption project, Edwards—or any future Governor—could revoke this order at any time.

51 Louisiana Economic Development, “Overview of the Industrial Tax Exemption Program,” Presentation to the Task Force on Structural Changes in Budget and Tax Policy, July 2016, [http://revenue.louisiana.gov/Miscellaneous/LED%20Industrial%20Tax%20Exemption%20Program%20\(ITEP\)%20Overview.pdf](http://revenue.louisiana.gov/Miscellaneous/LED%20Industrial%20Tax%20Exemption%20Program%20(ITEP)%20Overview.pdf).

52 Louisiana Board of Commerce and Industry, Notice of Intent Regarding Changes to the Industrial Tax Exemption Program, June 2018, <https://www.opportunitylouisiana.com/docs/default-source/boards-reports/MeetingCategory/louisiana-board-of-commerce-and-industry/itep-noi---redline---led-may-20-2018.pdf?sfvrsn=0>.

53 Louisiana Department of Revenue and Louisiana Economic Development, “Primer on State Tax Structure in Louisiana,” October 8, 2012, http://house.louisiana.gov/rc/pdf/Primer_on_State_Tax_Structure_in_Louisiana_10.4.12.pdf, p. 3.

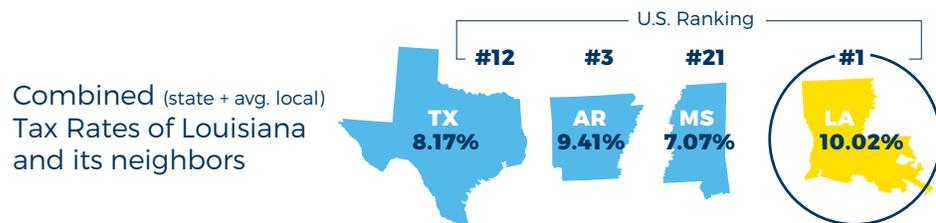
Over the past few years, the Legislature has moved to broaden the sales tax base somewhat at the state level. With a few exceptions, most notably a 2% rate related to natural gas usage in some manufacturing operations, the state collects sales tax at the current rate of 4.45% or not at all.⁵⁴

However, the state rationalized the sales tax base as a means of raising taxes overall.⁵⁵ Rather than raising taxes yet again, the Legislature should instead reduce sales tax rates, as part of a broader campaign to reduce revenue. In conjunction with the fiscal reforms outlined above, the Legislature should use some of the proceeds of those reforms to lower rates, and eliminate exemptions to lower them still further. The Legislature should also centralize the means of tax collection, to ease administrative costs, and allow parishes to focus more of their energies on managing the revenue they receive, rather than collecting revenue for the state in an inefficient manner.

Eliminate Exemptions and Lower Rates

While the Legislature has recently eliminated most “special” sales tax rates, it has not reduced the number of exemptions overall. The Department of Revenue lists 169 separate sales tax exemptions in its current list of sales tax breaks, most of which exempt specific entities or transactions from sales taxes entirely through at least 2025.⁵⁶

The largest six exemptions—for gasoline; water, electricity, and gas sold directly to consumers; prescription drugs; and food for home preparation—come from amendments added to the state Constitution.⁵⁷ As of 2017, these exemptions lowered sales tax collections by \$1.49 billion.⁵⁸ All other sales exemptions reduced sales taxes by an additional \$946.2 million—nearly \$2.44 billion in total.⁵⁹ In all, tax exemptions represented nearly 40% of the overall sales tax base in 2017, meaning that lawmakers could have reduced the sales tax rate—then at an even 5%—down to approximately 3% by eliminating all exemptions.⁶⁰



These tax exemptions do reduce revenue to state government—they represent tax cuts, not government spending. However, they also lead to sub-optimal policy, for

54 Louisiana Department of Revenue, “Taxable Rate of Transactions for Exemptions and Exclusions,” Publication R-1002, July 2018, [http://revenue.louisiana.gov/Publications/R-1002\(07-18\).pdf](http://revenue.louisiana.gov/Publications/R-1002(07-18).pdf).

55 See for instance Acts 25 and 26 of the First Extraordinary Session of 2016, and Act 1 of the Third Extraordinary Session of 2018.

56 Department of Revenue, “Taxable Rate of Transactions.”

57 Article VII, Part IV, Section 27(A) of the Louisiana Constitution of 1974, as amended by Act 847 of the Regular Session of 1989; Article VII, Part I, Section 2.2 of the Louisiana Constitution of 1974, as amended by Act 88 of the Regular Session of 2002. While the Constitution exempts gasoline from sales tax, the state does impose a separate 20 cent per gallon motor fuel tax.

58 Department of Revenue, “Tax Exemption Budget,” Top Sales Tax Exemptions 2016-17, p. 11.

59 Ibid.

60 Ibid., Analysis of Tax Collections vs. Exemptions, p. 9.

two reasons. First, the exemptions lead to a higher overall sales tax rate; and second, the application of exemptions to certain products or activities creates distortionary effects in the marketplace—government picking winners and losers. Most economists generally prefer a tax code with a lower tax rate applied on a broader revenue base.

As part of its reform of the sales tax, the Legislature should reduce overall rates by at least one percentage point, to 3.45%, and ideally as low as 3%. It can do so by eliminating some or all of the tax exemptions highlighted above. It could also broaden the sales tax base, by applying the sales tax to professional services or other items, as a way to lower rates overall. The Legislature could also use some of the proceeds of the fiscal reforms regarding state and local government to repeal the harmful tax increases enacted in the past several years.

Uniform Collection and Administration

Currently, Louisiana struggles with two interrelated problems. First, the state and parishes do not apply sales taxes to the same revenue base; in some cases, different parishes tax items at different rates, adding costs and complexity for business. Second, a decentralized and non-uniform collection system makes reform difficult, particularly for out-of-state online retailers, from whom the state and parishes wish to collect sales taxes.⁶¹

To solve the first problem, the Legislature should apply its expansion of the state sales tax base to parishes as well, creating a uniform tax base throughout Louisiana. This change would raise additional revenue for parishes, offsetting the loss of state subsidies to municipalities. Parishes may then wish to utilize the fiscal flexibility this plan provides to lower their sales tax rates, and/or re-balance their tax base from sales taxes towards property taxes.

In conjunction, the Legislature should amend the Constitution to allow for a single system of state and local sales tax collection and auditing.⁶² While officials in some parishes may view this step as an infringement on their sovereignty, the added revenue resulting from an expanded sales tax base means this change would not represent an unfunded mandate on any locality. Moreover, the other reforms outlined throughout this paper would give municipalities much more freedom to manage their own budgets overall, making this change more palatable than when taken in isolation.

Online Sales

In June 2018, the United States Supreme Court in *South Dakota v. Wayfair* established a precedent that allowing states to require retailers based out-of-state to collect and remit sales taxes on online sales.⁶³ The Court overturned a prior ruling that permitted states to require remittance of sales taxes only if the business maintained a physical presence in the state.⁶⁴

In response to the ruling, the Louisiana Department of Revenue issued a bulletin making the case to require the collection of online sales taxes from out-of-state retailers.⁶⁵ While stating that the Louisiana Tax Commission would not seek to enforce

61 Task Force on Structural Changes, "Louisiana's Opportunity," p. 33.

62 Ibid., p. 45.

63 585 U.S. ___ (2018).

64 Quill Corp. v. North Dakota, 504 U.S. 298 (1992).

65 Louisiana Department of Revenue, "Impact of Wayfair Decision on Remote Sellers Selling to Louisiana Purchasers," Remote Sellers Information Bulletin No. 18-001, August 10, 2018, <http://revenue.louisiana.gov/LawsPolicies/RSIB%2018-001%20-%20Remote%20Sellers%20Impact%20of%20Wayfair.pdf>

tax collection obligations before January 2019, it laid the groundwork for the Commission to do so in the future. The bulletin noted that Louisiana has adopted a safe harbor for retailers conducting *de minimis* transactions within the state—an effort cited by the Court in *Wayfair* as a means for states to minimize the impact of sales tax remittance laws on interstate commerce. While the bulletin noted that Louisiana has not adopted the Streamlined Sales and Use Tax Agreement also cited by the Court in *Wayfair*, it claimed this step unnecessary, because the Court did not explicitly require it.

At present, it appears that the Department of Revenue will use the newly created Louisiana Sales and Use Tax Commission for Remote Sellers as a vehicle to justify collection of sales taxes from out-of-state merchants. The commission, which met for the first time earlier this year, was authorized by the Legislature to function as a single entity for purposes of collecting taxes from remote sellers.⁶⁶ “Ironically, in the name of streamlining, Louisiana has created a whole new parallel layer of government with new commissions and separate rules.”⁶⁷ Moreover, the existing, balkanized system—with its myriad taxing authorities and exemptions—will continue to apply to businesses (including online businesses) with a physical presence in Louisiana, while out-of-state merchants will benefit from utilizing the more efficient, streamlined system.⁶⁸

If Louisiana wishes to require out-of-state retailers to collect and remit sales taxes to the state and/or parishes, it should not do so unless and until it has streamlined its own tax system for all businesses—both those with brick-and-mortar operations within the state and those based outside it. Maintaining a two-tier system would disadvantage Louisiana-based merchants, and discourage online retailers from establishing a physical presence in Louisiana, which would then subject them to the more complex system for in-state merchants—exactly the wrong message to send, given the state economy’s failure to create jobs.⁶⁹

Moreover, Louisiana should only apply any online sales tax collection if it does so in a revenue-neutral manner. As part of their broader reform to the sales tax system, lawmakers should consider any new revenue from online sales taxes as another example of “base-broadening,” and use that new revenue to help lower rates overall—not increase revenue collections to support more government spending.

CONCLUSION

Contrary to conventional wisdom, the constant budget crises of the past several years came not because lawmakers cut taxes to improperly low levels. Rather, many of Louisiana’s fiscal problems arose because policy-makers failed to restructure or eliminate the system of cross-subsidies that sees state government indirectly funding many local government functions.

Eliminating those subsidies, while empowering local authorities with greater power and autonomy to manage their affairs, would bring the state significant fiscal benefits.

66 Act 274 of the Regular Session of 2017, as amended by Act 5 of the Second Extraordinary Session of 2018.

67 Public Affairs Research Council of Louisiana, “Having it Both Ways on Sales Taxes,” June 27, 2018, <http://parlouisiana.org/wp-content/uploads/2018/06/Having-it-Both-Ways-on-Sales-Taxes.pdf>.

68 Ibid.

69 Pelican Institute, “Louisiana’s Not Working,” May 2018, https://pelicaninstitute.org/wp-content/uploads/2018/05/PEL_Economic1Pager_WEB-1.pdf.

“

*...eliminating
hidden
subsidies
will make
government
more
efficient...
Moreover,
expanding
autonomy
will improve
transparency
at all levels of
government*

When coupled with tax reform at the state level, these changes could result in an elimination of several destructive corporate taxes, along with a move to a flatter, more pro-growth income tax structure for Louisiana.

Just as important, however, greater fiscal autonomy will empower local and parish leaders with greater authority to make fiscal decisions on behalf of their constituents. Of course, with that authority will come greater responsibility, as parish leaders will have to decide whether and how to fund some of the services they heretofore had received “free” via transfer payments from the state.

But eliminating hidden subsidies will make government more efficient, encouraging local authorities to do “more with less,” rather than hoping that state officials will provide de facto bailouts subsidizing local activities. Moreover, expanding autonomy will improve transparency at all levels of government—state and local. If executed properly, these twin benefits—a rational, pro-growth government that devolves power and increases accountability—will revitalize both Louisiana’s economy and its democracy for years and decades to come.



Pelican Institute for Public Policy
400 Poydras Street • Suite 900 • New Orleans, LA 70130

504-500-0506
info@pelicaninstitute.org
pelicaninstitute.org