

# SPECIAL

# WINDOM GALLIHER MONTGOMERY UPDATE

SEPTEMBER 17, 2015

## **\$1.75 billion GF budget: delivered, signed & sealed**

### **Third try at a budget is a charm; Special session comes to end**

Every good Southern cook knows this: you can't fry fish until the grease gets hot.

Through a regular session and special session, although some heat was applied, it was never hot enough to pass a General Fund budget that level funded Medicaid and provided extra dollars for Medicaid reform.

It wasn't until the heat was turned up under the iron skillet of Special Session II that the grease finally got hot enough to pass a General Fund budget that fully funded Medicaid and other "critical" agencies.

The underpinnings of the General Fund budget started to come together at the end of last week, and finally fell into place Tuesday evening after more than a few bumps in the road. On Wednesday, the Legislature formally ratified the deal passing a General Fund budget that level funds Medicaid, Corrections, Mental Health, Human Resources and the trial courts.

Even then, it wasn't easy. The Senate started to work on the budget bill, then slammed on the brakes when it was determined that the budget didn't comply with the mandate of one of the revenue bills passed the day prior. General Budget chairs Sen. Arthur Orr (R-Decatur) and Rep. Steve Clouse (R-Ozark) went behind closed doors one last time to make sure that Medicaid was indeed funded at \$685 million, which did not include the \$16 million in provider taxes on pharmacies and long-term care facilities which had passed the day before.

After a few amendments to juggle some



#### **SENATE PRESIDENT PRO TEM DEL MARSH SUCCESSFULLY OVERCOMES THE ODDS TO PASS AN INCREASE IN THE CIGARETTE TAX, WHICH WAS THE FOUNDATION OF THE \$172 MILLION IN REVENUE FOR THE 2016 BUDGET**

money, the Senate finally voted 23-9 to pass the budget and send it downstairs to the House. Shortly before 9:30 p.m. Wednesday, the House passed the budget on a 70-21 vote. The House voted to adjourn *sine die* to end the session. Gov. Robert Bentley signed the budget into law shortly before noon Thursday.

The \$1.75 billion budget essentially provides \$172 million over the current year fiscal plan – considerably less than the \$541 million Gov. Bentley originally sought.

Here's how it all shook out:

-A slight majority of the Use Tax (53 percent) is being moved from the Education Trust Fund to the General Fund. Anticipated revenue: \$80 million.

-The state's cigarette tax increases by 25 cents per pack. There will also be a reduction in the tax discount for distributors, and there will be a redirection of the state sales tax on vapor products Antici-

pated revenue: \$70 million.

- There will be a two-year increase in provider taxes for pharmacies and long-term care facilities. Anticipated revenue: \$16 million.

-The way the automobile sales taxes are collected will be changed and will provide a one-time benefit. Anticipated revenue: \$6 million.

The budget will appropriate a baseline of \$685 million to Medicaid, which is the same as this year's budget. The two provider taxes will go on top of that to take Medicaid to \$701 million, short of the \$735-745 million initially sought by the health care community. The additional \$6 million in auto sales tax will be directed to Medicaid as well. Hospitals, which were especially hopeful for the \$735-745 million range in order to help launch the new regional care organizations for Medicaid reform, will be asked

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## Budget

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to help make up some of the shortfall through bearing more costs on their end, but Gov. Bentley says he will provide some help – potentially up to \$30 million which would likely come from the first installment of the BP settlement.

Most state agencies will face hefty cuts, but that has been in the cards for months now and savvy agency heads have been planning.

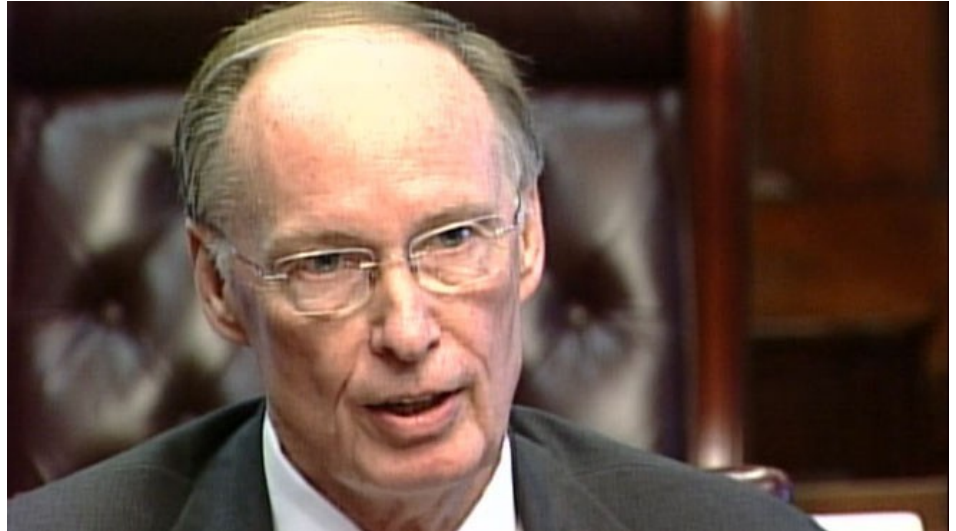
That the session ended this way is not particularly surprising because a budget had to be in place by the end of the month to avoid a shutdown of state government. If any one person in particular will be breathing a deep sigh of relief it would be Senate President Pro Tempore Del Marsh (R-Anniston).

For months, Sen. Marsh has dealt with a sharply divided caucus on revenue bills – and other issues. And for weeks, the word was that he could generate only eight votes within his caucus for a cigarette tax increase. Democrats were holding firm on their plan to vote against all revenue plans that didn't involve expanding Medicaid.

Ultimately, Marsh doubled up on eight votes – gaining 16 Republican votes for the cigarette tax. Four Democrats and one Independent also voted for the cigarette tax for a 21-13 margin.

The education leadership community got major concessions in the battle over the use tax transfer. That piece of legislation traveled in concert with changes to the Rolling Reserve Act. The Senate version of the use tax bill transferred \$100 million to the General Fund, while the House version transferred \$50 million. The conference committee settled on \$80 million.

The Rolling Reserve threshold (the amount required in the education "savings account") was lowered, freeing up millions for education. Adding in new



**GOV. ROBERT BENTLEY SETTLED FOR FAR LESS THAN THE \$541 MILLION IN NEW REVENUE HE ORIGINALLY SOUGHT**

dollars collected in the regular and first special sessions, the \$80 million loss of use tax still left education ahead of where it was at the beginning of the year.

Senate budget hard-liners were left standing alone once the education community became satisfied with the rolling reserve changes. The same applied to some House hard-liners as well. Rep. Paul Lee (R-Dothan) strongly chided some of his colleagues for voting against revenue increases, but then planning to vote for the budget at the end.

He seemed particularly agitated with those who took shots on social media at Republicans who voted to increase revenue to fill the gap.

"Shame on you!" he bellowed. "Vote No!"

Rep. Lee's reasoning was that if they were against the revenue then they should be against the budget, too, and shouldn't be able to tell their constituents that they did their job. Despite Rep. Lee's challenge no House Republican voted against the budget. Upstairs, four Republicans voted against the budget – three of which had voted against all the revenue bills.

The Legislature has been in and out of session since early March – not counting the organizational session in January. Members need time away from each other, but the fundamental problems will be waiting on them in February when they return for the next regular session – a fact not lost upon any member.

You can expect a renewed push for new revenue, and the words "lottery" and "gaming" will be on the lips of many – perhaps including Gov. Bentley. The battle then starts over where the money will go – toward education and perhaps scholarships as in other states, or for the still cash-strapped General Fund. Democrats will continue to push for the expansion of Medicaid, and they may find some Republicans ready to make the deal. First on that list could be Gov. Bentley. We hear he is strongly considering Medicaid expansion, which could create \$1 billion in new revenue.

When the next session arrives, the fundamental budget issues remain. And the old rule will still apply. Nothing will happen until the grease gets hot. After six months, it finally got hot enough to pass a FY2016 budget.

Hushpuppies, anyone?

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**Note:** The Windom Galliher Montgomery Update publishes weekly during legislative sessions and otherwise as events warrant.