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FULL TEXT

## **Alabama House approves 'Taxpayer Bill of Rights'**

*Al.com*

January 16, 2014

Kim Chandler

MONTGOMERY, Alabama -- The Alabama House of Representatives today approved a series of tax-related bills that had topped the GOP's session agenda, including a bill to establish an independent panel to hear tax appeals.

"We made it clear that this was going to be our number one objective, tax relief for the Alabama taxpayer and particularly for small business," Speaker of the House Mike Hubbard said.

One bill would let more small businesses remit sales taxes after the sales are made, instead of sending in estimated payments ahead of time. Another would allow the state to suspend taxes that cost more to collect than they bring in.

All the bills were approved without substantial opposition. They now go to the Alabama Senate for consideration.

The bill dubbed the "Alabama Taxpayers' Bill of Rights" would create a Tax Appeals Commission to hear appeals, instead of an administrative law judge who works under the state Department of Revenue.

"This bill will ensure that businesses and individual taxpayers choosing to appeal tax assessments are given a level playing field and referees who will remain neutral from the beginning of the process to the end," bill sponsor Rep. Paul DeMarco, R-Homewood, said.

Brue Ely, a Birmingham lawyer who helped write the bill, said passing it would remove a "a black mark on Alabama's pro-business reputation as far as having an independent tax appeals process."

The bill would also boost protection for "innocent spouses" and increase the window for filing appeals from 30 to 60 days.

Tom Zoebelin, a certified public accountant, said the 30-day window is too brief to launch an appeal. A notice might go to a wrong address, or it could take time for a person to find an accountant or lawyer to help fight the tax assessment.

Zoebelin said he had a client who was a doctor and eligible for a tax credit for rural doctors because he practiced in a small Alabama town. The department said he was ineligible because he lived in Birmingham three days each week. Zoebelin said the doctor kept a house there so his wife, who was ill, could be near her medical providers.

Zoebelin said he believed they would have easily won the appeal, but he was contacted too late.

The House also approved bills to:

- Give the Department of Revenue the ability to suspend taxes that cost more to collect than they bring in. Lawmakers said they knew of two taxes that were in that category – a tax on iron ore and the tax stamp on playing cards.
- Establish a shortened online tax form for filing personal property tax returns for small businesses with little property to report.
- Allow more small businesses to pay their sales taxes after collecting the money from the sale, instead of having to make up-front payments that estimate how much they owe. The Senate passed an identical bill today.

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### **GOP tax bills sail quickly through Alabama House**

*Anniston Star*

January 16, 2014

Tim Lockette

MONTGOMERY — The Alabama House of Representatives quickly passed four modest tax reform bills Thursday morning, accomplishing nearly half of House Republicans' 2014 agenda on the third day of the legislative session.

"When we announced our agenda, we made it clear this was going to be our objective," House Speaker Mike Hubbard said of the bills' quick path through the House.

By overwhelming margins, the House passed four of the five tax bills on the House GOP's nine-bill agenda for 2014. Hubbard and other House GOP members announced weeks before the session that they wanted to make "taxpayer relief" their theme for this year.

Among the bills on that agenda was a measure that would set up an independent court for hearing taxpayers' appeals. There's already an appeals court within the Department of Revenue; the House bill, sponsored by Rep. Paul DeMarco, R-Homewood, would make that court an independent entity.

Revenue Department officials have opposed the bill, saying that the current appeals judge is effectively independent. DeMarco said an independent court gives taxpayers more confidence in the court's fairness.

"The perception would be that we have a fair court, outside the body, that can hear these cases," DeMarco said. The bill passed the House in a 97-2 vote.

House members also approved a bill that would change the process of paying sales taxes for some small businesses. Under current state law, businesses have to estimate their sales taxes for

the month ahead, and pay up front if their taxes add up to more than \$1,000. Under the bill passed Thursday, the threshold to pay up front would rise to \$2,500.

Removing the up-front requirement would, in effect, save businesses below the \$2,500 threshold one month of sales tax payments — and cost the state about \$4.5 million in sales tax revenue. The bill passed 96-2.

Also moving quickly through the House was a bill that would allow the Revenue Department to stop collecting taxes that cost more money to collect than the revenue they pull in. Sponsor Rep. Jim Patterson, R-Meridianville, said the bill would affect only two taxes: the state's iron ore tax and the tax on playing cards.

The decline of iron mining in Alabama has tax officials inspecting empty mines, Patterson said, and the tax stamps on decks of playing cards are more trouble to the state than they're worth.

"It costs more to put the stamps on than the money we collect," he said.

A "fiscal note" attached to the bill said it would cost the state \$100,000 in revenue, and save \$115,000 in administrative costs. The bill passed 95-0.

House members also passed, by a 99-0 vote, a bill that would create a short form for businesses filing personal property tax, if the assets being taxed add up to less than \$10,000 in a year.

House Republicans acknowledged that the bills would save taxpayers only a small amount of money.

"It's not a lot of money, but it helps," said Rep. Koven L. Brown, R-Jacksonville. "I know the personal property thing is a pain in the butt. It costs more to prepare the return than you actually pay in tax."

Only one of the five tax bills on the GOP agenda met with significant opposition Monday. A bill by Rep. Wayne Johnson, R-Ryland, would make it a misdemeanor for Revenue Department employees to violate tax laws "for the purpose of retaliating against or harassing a taxpayer."

On the House floor, Johnson cited the controversy that erupted last year when the IRS acknowledged flagging political groups for a higher level of scrutiny. Johnson described the bill as a "safeguard" to keep Alabama from investigating groups based on their politics.

"This goes back to our constitutionally protected right of free speech," he said.

Some Democrats countered that the three-page bill seemed too broad, and needed a closer look. Rep. Artis McCampbell, D-Livingston, said bills were moving too fast and that there may already be safeguards in place.

"There are remedies that are already out there," he said. "You are trying to add on another layer of bureaucracy that I am kind of worried about."

The House held the bill for consideration later.

Hubbard said that when the House returns Tuesday, it will likely take up the Healthcare Rights of Conscience Act, one of the more controversial bills on the House GOP agenda. Sponsored by Rep. Becky Nordgren, R-Gadsden, the bill would allow health care workers to opt out of providing medical services that violate the workers' conscience. Abortion clinics are explicitly exempted from the bill, but opponents of the measure say it could affect women's access to contraception, particularly in rural areas.

The bill was initially on the House's Thursday schedule, but was pushed back. Hubbard said the bill was postponed because the House was focusing on tax-themed bills Thursday.

"It didn't quite fit," he said.

All the bills approved in the House on Thursday will move on to the Senate for a vote.

Read more: [Anniston Star - GOP tax bills sail quickly through Alabama House](#)

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### **Alabama House passes Republican tax bills**

*Times Daily*

January 16, 2014

MONTGOMERY (AP) — The Alabama House of Representatives has approved a slate of tax bills that are part of the Republicans' election-year agenda.

All four passed overwhelmingly Thursday and now head to the Senate, where they are also expected to win easy approval.

House Speaker Mike Hubbard described the bills as common-sense measures to help individual and small-business taxpayers.

House Bill 105 would create an independent agency to oversee taxpayer disputes. Current law allows the Department of Revenue to settle disagreements using its own administrative judges. Lawmakers say that system gives the agency too much power. The bill, which Republicans have dubbed the "Taxpayers' Bill of Rights," passed 97-2.

Two measures are aimed at small businesses.

Current law requires estimated advance sales-tax payments from any business whose sales tax collections over the previous year averaged at least \$1,000 per month. House Bill 151 would raise that threshold to \$2,500. That would free about 4,000 businesses from paying ahead of time and allow them to pay based on actual collections for the previous month.

The shift will mean a one-time \$4.5 million loss in sales tax collections, which go to the education budget. But there will be no long-term change as payments resume normally after the one-month shift from early estimated payments to later exact payments.

The bill passed 96-2. One of the dissenters was Rep. Patricia Todd, a Birmingham Democrat who also voted against the bill in the Ways and Means Committee on Wednesday. Todd has questioned Republican proposals that cost the state revenue — even through a one-time accounting change — after several years of tight budgets with cuts in public services. The Senate passed its own version of the measure Thursday, as well.

A second small-business bill would set a \$10,000 threshold for firms to have to file itemized statements when they pay taxes on movable property.

Currently, all businesses must itemize when paying taxes on items such as furniture and equipment. House Bill 108, which passed 99-0, would allow a business to file a short form with no itemization if their property doesn't exceed \$10,000 in total cost. They would pay property tax based on the assumption of \$10,000 in taxable property.

The National Federation of Independent Business pushed for the change. The group's lobbyist, Rosemary Elebash, said she doesn't know how many businesses would benefit, but she said any simplification helps small operators who handle their own tax forms.

The final proposal would allow the Revenue Department to suspend any tax or fee if collecting the revenue costs more than what the state gets out of the levy. House Bill 97 passed 95-0. The bill includes an exception that would leave in place any tax or fee that is required by a federal law or regulation.

State tax officials say the law would allow suspension of a severance tax on iron ore and a tax on playing cards. Those levies generated less than \$100,000 annually over the last three years but cost \$115,000 each year to collect.

Hubbard said the savings are probably minimal. But, he added, "That's still taxpayer money that doesn't have to be expended."

The speaker said that next week the House will consider a \$1,000 personal income-tax credit for certain adoptions. The credit would apply for adoptions of children in state foster care or in cases of private adoptions if the parents adopt a child from Alabama and use an adoption agency based in the state. Legislative analysts project the credit would cost \$2.5 million in tax revenues during its first year.

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**Tracking the 2014 session: Senate postpones action on new lobbying restrictions**

*Al.com*

January 16, 2014

Mike Cason

MONTGOMERY, Alabama --- The Alabama Senate today postponed action on a bill to tighten the law on former legislators lobbying in the State House.

Senate President Pro Tem Del Marsh, R-Anniston, asked for the delay on his bill when Sen. Hank Sanders, D-Selma, proposed an amendment. Sanders wants to expand the scope to apply to former governors and other public officials.

Marsh said he was glad to consider amendments but said he had committed to discussing any changes with the staff of the Alabama Ethics Commission. Marsh scheduled a Wednesday meeting with them, so the bill could return to the Senate floor Thursday.

Today was the third day of the legislative session and the first day either chamber could pass bills.

What they did:

The House passed business-friendly tax bills that were part of the “Commonsense Conservative” agenda of the Republican caucus. Among those are bills that would:

- Create a commission to hear taxpayers' appeals instead of an administrative law judge who works under the state Department of Revenue.

- Give the Department of Revenue the ability to suspend taxes that cost more to collect than they bring in.

- Allow more small businesses to pay their sales taxes after collecting the money from the sale, instead of having to make up-front payments that estimate how much they owe. The Senate passed an identical bill today.

The Senate passed six bills with little or no opposition. Among those were bills that would:

- Propose a constitutional amendment to ban unfunded mandates for local school systems, with some exceptions.

- Amend the Open Meetings Act to allow members of public boards to participate in meetings remotely through telephone conference or video conference under certain circumstances.

Coming up:

The House returns at 1 p.m. Tuesday, and the Senate returns at 2 p.m.

Quote of the day:

"Grabbing it before you count it doesn't mean you are not spending it."

Sen. Dick Brewbaker, R-Pike Road, talking about the governor's proposed education budget, which reroutes sales tax money to get around a spending cap he signed into law.

Staff writer Kim Chandler contributed to this report.

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### **Alabama's Taxpayer Bill of Rights passes House**

*Birmingham Business News*

January 16, 2014

Brent Godwin

Legislation that simplifies the process of appealing state and local tax assessments passed the Alabama House of Representatives today by a vote of 97-2.

Dubbed the "Taxpayers' Bill of Rights," the bill is heralded as a way to streamline Alabama's appeal process and make it friendlier for business owners.

"This bill will ensure that businesses and individual taxpayers choosing to appeal tax assessments are given a level playing field and referees who will remain neutral from the beginning of the process to the end," said State Representative Paul DeMarco, who sponsored the bill. "This bill can be summed up in two words that are at the core of its intent--simple fairness."

The Taxpayers' Bill of Rights creates an independent Alabama Tax Appeals Commission to hear disputes from businesses that have been given an assessment from the Department of Revenue, a municipality, or a private auditing firm. Currently, taxpayers who have a disagreement with the Department of Revenue must go through the department's internal appeals, which is far less objective than an independent board.

"This follows the trend of 32 other states that have established independent tax tribunals," said Bruce Ely, partner at Bradley Arant Boult Cummings LLP. "It removes the black mark from Alabama's pro-business reputation by making it easier for small and large businesses to be treated fairly when it comes to the tax appeals process."

A similar bill was introduced in the legislature's 2013 session, but no action was ever taken on it.

Ely said the passage of the bill through the House so early is a good sign that it won't be held up toward the end of the session and fall victim to inaction in this year's session. From here, the Taxpayers' Bill of Rights will go to the Senate.

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### **Alabama House passes 4 tax-reform bills**

*Montgomery Advertiser*

January 17, 2014

Kala Kachmar



The House passed four tax-reform bills Thursday, including one that would give nearly 4,000 small businesses in the state tax relief.

Businesses who collect more than \$1,000 in sales tax per month are required to estimate and make those payments ahead of time. The bill raises the threshold to \$2,500, meaning small business collecting less than that per month can pay after they've already collected it.

“It'll lighten some of the burden on the smallest businesses in the state,” said Rep. Barry Moore, R-Enterprise, who sponsored the bill. “It doesn't cut rates, it just changes the date your bill is due.”

Moore said there are about 6,000 businesses in the state the bill will affect. Essentially, businesses will get an additional 30 days to make the payment to the state and will no longer have to estimate those amounts.

He said cities and counties don't require payment of sales tax early.

The impact would delay \$4.5 million in tax receipts to the Education Trust Fund by about 30 days at the end of fiscal year 2013-14.

Another tax bill would eliminate taxes that cost more to collect than the actual amount collected, including a severance tax on iron ore and a playing card tax. Together, the two taxes generate less than \$100,000 per year, but the administrative costs are about \$115,000.

A bill sponsored by Reps. Paul DeMarco, R-Homewood, and Greg Wren, R-Montgomery, creates a tax appeals commission that would be independent of the Department of Revenue. DeMarco said the bill gives taxpayers who want to appeal tax assessments a “level playing field.”

DeMarco said the bill has been passed by the House three times, and has gotten caught in the Senate three times.

The fourth tax bill passed by the House, sponsored by Wren and House Speaker Mike Hubbard, R-Auburn, would simplify the process of filing personal property tax returns. The bill sets up an online filing system that all businesses can use, as well as a shortened tax form available to small businesses who have less \$10,000 in movable property.

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### **Rep. Barry Moore introduces bill to render ObamaCare 'null and void' in Alabama**

*Yellowhammer News*

January 16, 2014

Cliff Sims

Rep. Barry Moore, R-Enterprise, has introduced a bill that would render null and void certain provisions of ObamaCare and prevent Alabama state employees and agencies from

implementing portions of the law that exceed the powers granted to the federal government in the U.S. Constitution.

“I refuse to sit idly by and watch Obamacare destroy our healthcare system and hurt working families all over this state,” Rep. Moore said. “I want Alabama to have the strongest possible protections against this destructive law. The states have an obligation to check the federal government when it exceeds the boundaries set forth in the Constitution. That’s exactly what this bill does. People throughout my district have expressed to me the harmful effects of Obamacare on their families and small businesses. We’re not going to have state employees doing the dirty work of the federal government when it comes to infringing on our liberties.”

The Alabama Freedom of Health Care Act cites the Tenth Amendment to the Constitutes, which provides that the federal government is authorized to exercise only those powers delegated to it in the Constitution.

The bill states that ObamaCare “grossly exceeds” those powers and therefore cannot and should not be considered the supreme law of the land.

The bill goes on to state that “no agency, officer, or employee of the state, or any political subdivision thereof, may engage in an activity that aids any agency in the enforcement of those provisions of (ObamaCare)... that exceed the authority of the United States Constitution.”

The bill empowers the Alabama state legislature to take “all necessary actions to ensure that all agencies, departments and political subdivisions of the state” do not aid in the law’s implementation in the state.

The Alabama Attorney General is also empowered to bring court action in the name of the state if he has “reasonable cause to believe that a person or business is being harmed by the implementation of the Patient Protection and Affordable Care Act of 2010.”

Such action could be taken against “the person or entity causing the harm to restrain by temporary restraining order, temporary injunction, or permanent injunction the use of such method, act, or practice.”

Moore said that constituents in his wiregrass-area district have grown frustrated with the rising costs of health insurance brought on by ObamaCare and have expressed their desire for him to act.

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**Bentley budget reroutes money to get around spending limit (that he signed into law)**

*Al.com*

January 16, 2014

Kim Chandler

MONTGOMERY, Alabama -- Gov. Robert Bentley's proposed education budget reroutes \$92 million outside the Education Trust Fund, allowing him to get around a spending limit that he signed into law in 2011.

The Rolling Reserve Act, pushed by Republicans, sets an ETF spending cap based on fund growth over the last 15 years. Lawmakers said it would prevent the writing of overly optimistic budgets that ended up with shortfalls.

Bentley submitted a proposed Education Trust Fund budget that spends at this year's cap of \$5.89 billion.

But he is also proposing to reroute another \$92 million in sales tax collections so the money goes directly to public schools and bypasses the Education Trust Fund. Since the money doesn't appear in the Education Trust Fund, the ETF cap is not exceeded.

A Republican senator called it budgeting "sleight of hand" to skirt the cap.

"It's legal, but it's kind of playing games with numbers," Sen. Dick Brewbaker, R-Pike Road.

"Grabbing it before you count it, doesn't mean you are not spending it," Brewbaker said.

Bentley defended the decision this morning.

"There are a number of things that would be difficult to do if we did not do that," Bentley said this morning.

"We're not doing it to try to circumvent anything. It's just a way to do the things we feel are necessary like the 2 percent teacher pay raise and funding the programs we want to fund without building up a very large stabilization fund that just sits there," Bentley said.

State law requires any money that comes in over the cap to go to repay debt to a proration prevention fund, or a stabilization fund if the rainy day debt is paid in full.

Bentley said funding the 2 percent pay raise for teachers, which carries a \$73 million price tag, as well as other education programs would otherwise be difficult to do.

Bentley administration members said the overall spending plan is conservative and within the state's means. Administration members said the cap is not violated since the money is flowing from one of many state funds that fuel education.

Republicans heralded the spending reform when they approved it in their first year in control of the Legislature. They said it would stop the building of wildly optimistic budgets that only ended up with shortfalls.

"We're trying to do what's fiscally right, fiscally proper," Bentley said in 2011.

Lawmakers have also done this once before.

The Republican-controlled Legislature got around the cap in the 2012 session with a similar rerouting of money. They initially balked at the idea, but ultimately approved it.

If Republicans do away with the shuffle this year, they have to find \$92 million to cut out of the budget.

If they say it's OK, they could be accused of violating the spirit of the spending reform they championed.

"It's hypocrisy," House Minority Leader Craig Ford, D-Gadsden.

"It's just proof the Rolling Reserve needs to be repealed. They never lived by it," Ford said.

Senate President Pro Tem Del Marsh, R-Anniston, said Wednesday he had not seen the governor's budget bill and could not comment.

Marsh said he would not favor a "back door" approach to get around the cap, although he acknowledged lawmakers have done it once before.

"It comes back to haunt you as we've seen in the past," Marsh said.

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### **Running around the Rolling Reserve Act?**

*Montgomery Advertiser*

January 16, 2014

Brian Lyman

The Governor's funding proposal

Under the 2011 Rolling Reserve Act, spending in the Education Trust Fund is capped based on a 15-year average of previous growth. This year, the cap is \$5.89 billion, according to the Legislative Fiscal Office.

The Governor's office agrees with that estimate, and in its budget spreadsheets, says its "Grand Total Education Trust Fund Appropriations" are \$5.899 billion. But its "Grand Total" -- presumably referring to all education spending -- is \$5.991 billion.

The reason for the discrepancy: The Governor's office proposes taking \$92 million in gross sales tax before it goes into the Education Trust Fund, and transferring it directly to state schools. For this to work, Bentley's office considers that \$92 million a funding source separate from the Education Trust Fund, and therefore not subject to the cap.

A similar move was made in the Education Trust Fund budget for FY 2013. However, GOP legislative leaders, who consider the Rolling Reserve Act a major accomplishment, sounded skeptical about the plan. “Our goal is to make sure we don’t over-appropriate, and (that) we have the discipline not to spend every dime available,” said House Speaker Mike Hubbard, R-Auburn, on Thursday.

More

Gov. Robert Bentley’s 2015 education budget proposal raises an unusual, but not unprecedented question for lawmakers: Does the Education Trust Fund budget pay for all school funding in the state, or is it a very, very large part of a bigger picture?

The governor’s office goes with the latter. That, they say, is why the Governor’s ETF proposal, submitted to the Legislature this week, is about \$92 million above a \$5.89 billion spending cap imposed under the terms of the 2011 Rolling Reserve Act, aimed at bringing order to the sometimes volatile budget.

“It’s just the way we can do the things we feel are necessary, like giving the two percent pay raise (to teachers) and funding the programs we want to fund,” Bentley said.

But GOP legislative leaders, who consider the Rolling Reserve one of their major accomplishments -- and will be drawing up the budgets in the coming months -- are, at best, uneasy with that interpretation. House Speaker Mike Hubbard, R-Auburn, said Thursday he personally had concerns about what the governor is doing. The Speaker said they might have to come back and “make it more clear.”

“Our goal is to make sure we don’t over-appropriate, and (that) we have the discipline not to spend every dime available,” he said.

The Education Trust Fund gets about three-fourths of its revenue from income and sales taxes. The Rolling Reserve Act sets an annual limit on what lawmakers can spend out of it, based on a 15-year average of growth in the budget’s revenues, with any money above the cap going to first pay off proration prevention accounts. After those are made whole, money goes to a budget stabilization fund that can not exceed 20 percent of the previous year’s ETF budget.

In the governor’s FY 2015 budget proposal, the Education Trust Fund appropriation is \$5.89 billion, at this year’s cap. However, about \$92 million of gross sales tax fund transfer are diverted straight to schools before they reach the ETF, leading to spending above the limit imposed by the Rolling Reserve Act.

Bentley said Thursday his goal was not to circumvent the Rolling Reserve cap, and noted that his office proposed -- and lawmakers approved -- a similar measure in the FY 2013 budget. However, the governor also said that without the move, there would be “a number of things that would be difficult to pay for,” including the two percent pay raise for teachers, and requested funding for state educators’ insurance program.

Bentley also said that lawmakers should consider amending the Rolling Reserve Act in the future, saying a budget stabilization fund that was 20 percent of ETF -- which, if full today, would amount to \$1.17 billion -- might be too large.

“That is a lot of money that’s sitting there,” he said. “In fact, that is \$1.2 billion. We don’t need that just sitting there and not being used for programs in education, because there are too many needs in education.”

Both Bentley and State Finance Director Bill Newton also argued that the gross sales tax revenue was an education funding source independent of the ETF, and therefore not subject to the terms of the Rolling Reserve Act.

“Anyone who read that law would make that conclusion. It’s not unclear,” Newton said Wednesday.

GOP lawmakers, who have said repaying the state’s Rainy Day Account will be their priority with the ETF, sounded skeptical. Senate President Pro Tem Del Marsh, R-Anniston and Senate Finance and Taxation Education chairman Trip Pittman, R-Daphne, both said they would look at Bentley’s proposal over the weekend. However, Marsh said Wednesday he does “not support a back door approach,” and added that he did not want the moves made in the FY 2013 budget to become “the norm.”

“I believe the Rolling Reserve will prevent us from going into proration, if we let it work the way it was designed to work,” he said.

Bentley Thursday said he agreed that the Rolling Reserve Act was designed to prevent proration. But he also noted that the state was getting increasingly close to repaying a Rainy Day Account in the ETF that was emptied in 2009 to offset the effects of budget cuts. The governor’s office estimates that in the current fiscal year, the state can pay up to \$135 million of the \$163 million still owed to the account; that would require budget makers to allocate \$27.5 million in the FY 15 budget to make up the difference. The full amount must be repaid by July 2015.

Newton also said it was ultimately up to the Legislature to decide whether or not to go with the governor’s proposal.

“If the Legislature were to amend the governor’s proposal and delete this \$92 million, there’s \$92 million less going to K-12,” he said.

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## **Summary of action in Alabama Legislature**

*The Associated Press*

January 16, 2014

A summary of action in the Alabama Legislature on Thursday, the third meeting day of the regular session:

## HOUSE:

- Approved a bill to create an independent agency to oversee taxpayer disputes. Goes to Senate.
- Passed a bill to raise the threshold where small businesses have to make estimated sales tax payments. Goes to Senate.
- Approved a bill to set a \$10,000 threshold for firms to file itemized statements when they pay taxes on movable property. Goes to Senate.
- Passed a bill to allow the state Revenue Department to suspend the collection of any tax if collecting it costs more than the tax produces. Goes to Senate.

## SENATE:

- Delayed action on a bill to place new restrictions on lobbying by former legislators.
- Passed a bill to raise the threshold where small businesses have to make estimated sales tax payments. Goes to House.

## AGENDA:

- House meets at 1 p.m. Tuesday and Senate at 2 p.m.

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### **Recap of Thursday's legislative actions**

*Montgomery Advertiser*

January 17, 2014

Brian Lyman/Kala Kachmar

A summary of actions taken by the Alabama Legislature on Thursday, the third legislative day.

Alabama House of Representatives

- Passed HB92, sponsored by Rep. Paul Beckman, R-Prattville, that would allow the Elmore County probate judge to establish a policy on accessing computerized index information.
- Passed HB151, sponsored by Rep. Barry Moore, R-Enterprise, that would increase the average monthly tax liability for a taxpayer to be required to make estimated sales tax payments from \$1,000 to \$2,500 or greater.
- Passed HB97, sponsored by Rep. Jim Patterson, R-Meridianville, that would eliminate taxes that cost more to collect than the amount of taxes collected.

- Passed HB62, sponsored by Rep. Ronald Johnson, R-Sylacauga, that would change election deadlines to comply with the Federal Uniformed and Overseas Citizens Absentee Voting Act.
- Passed HB108, sponsored by Rep. Greg Wren, R-Montgomery, that would allow businesses to file personal property tax online and create a short, non-itemized form for businesses with assets worth \$10,000 or less.
- Passed HB105, sponsored by Rep. Paul DeMarco, R-Homewood, that would create the Alabama Tax Appeals Commission, an independent body that would hear tax assessment appeals.

The House will return at 1 p.m. Tuesday.

#### Alabama Senate

- Passed SB20, sponsored by Sen. Bill Beasley, D-Clayton, that would establish the Alabama Drought Assessment and Planning Team.
- Passed SB58, sponsored by Sen. Arthur Orr, R-Decatur, that would allow members of governmental bodies to participate in public meetings electronically.
- Passed SB7, sponsored by Sen. Dick Brewbaker, R-Montgomery, that would extend the state's ban on unfunded mandates to school boards.
- Passed SB46, sponsored by Sen. Bryan Taylor, R-Prattville, that would increase the sales tax threshold at which businesses must begin making estimated state sales tax payments from \$1,000 per month to \$2,500 per month.
- Passed SB173, sponsored by Sen. Trip Pittman, R-Daphne, that would require governments and municipalities to disclose the purchase of real property within 30 days of purchase, unless the purchase is made related to an economic development project. Disclosure then would be made 30 days after the announcement of that project.
- Passed SB21, sponsored by Sen. Gerald Allen, R-Tuscaloosa, that would allow the state's Director of Transportation to make changes of up to \$200,000 in contracts without the approval of the governor.

The Senate will return at 2 p.m. Tuesday.

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#### **State Senate bill allows electronic attendance in meetings**

*Times Daily*

January 16, 2014

Mary Sell



MONTGOMERY — The Alabama Senate today passed a bill that would allow some members of certain state governmental agencies to participate in meetings electronically under the state's Open Meetings Act.

Sen. Arthur Orr, R-Decatur, said his bill would save the state money by not having to reimburse people for their travel to Montgomery.

According to the bill's fiscal note, it could decrease various boards' and agencies' costs by up to \$2.1 million a year, depending on how many people telecommute to meetings.

It could save the state Legislature up to \$36,000 a year.

Senate Bill 58 says there still must be a location for all meetings, and electronic participation does not count for establishing a quorum, so a majority of members would have to physically be in attendance.

The bill does not apply to a few state boards, including the Public Service Commission and state Board of Education.

The bill would not apply to lawmakers during the legislative session.

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### **Alabama Senate approves plan to set up Prison Reform Task Force**

*Al.com*

January 16, 2014

Mike Cason

MONTGOMERY, Alabama --- The Alabama Senate today passed a resolution to form a Prison Reform Task Force, a step needed to get a national group to help with the state's overcrowded system.

Sen. Cam Ward, R-Alabaster, said the intent is to get The Council of State Governments to study the state's criminal justice system and recommend changes. He said the state needs a task force in order to work with the council, which he said would not result in any cost to the state.

Ward said The Council of State Governments helped Texas make improvements to its prison system and is working with other states.

Alabama's prisons are filled beyond capacity.

"We're dealing with a box of dynamite in our prison system," Ward said recently. He has said the state is at risk of federal intervention because of prison conditions.

The resolution now goes to the House.

Ward said representatives of The Council of State Governments are scheduled to be in Alabama next week to meet with the governor's office, the chief justice, legislative leaders and others.

He said the study could start in about a month and would be expected to take about eight months.

Recommendations from the council would likely focus on alternatives to prison, such as community corrections programs and drug courts, he said.

The Task Force will include legislators, prosecutors, victims' advocates, the state prison commissioner, members appointed by the governor and by the chief justice, and others.

"It will be a broad based and very diverse task force," Ward said.

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### **Gov. Robert Bentley, lawmakers introduce bill to strengthen Open Meetings Act**

*Al.com*

January 16, 2014

Mike Cason

MONTGOMERY, Alabama --- Gov. Robert Bentley and two state legislators today introduced a bill they said would fix what three recent court rulings indicated were gaps in the state's Open Meetings law, passed in 2005.

"I think it's so important that any organization, any entity that is supported by taxpayer dollars should always be open to the press and it should always be open to the people," Bentley said.

Sen. Cam Ward, R-Alabaster, and Rep. Mike Hill, R-Columbiana, will sponsor the bill. The Alabama Press Association was involved in writing the bill, as it was the 2005 law.

The bill would:

- Expressly state that meetings in small groups without proper notice to discuss issues that will come before the full body is not permitted.
- Clarify that any citizen has a right to bring an action against any governmental body they think has violated the law and that any penalties assessed are payable to the plaintiff.
- Reflect that the Alabama Constitution requires the meetings of the Legislature be open to the public unless there is a public vote that secrecy is required in some circumstances.

The Legislature unanimously passed the Open Meetings Act in 2005, replacing another law that had been in place since 1913. Ward said the intent was to ensure transparency.

"Three recent Supreme Court decisions really tore that transparency to shreds," Ward said.

One decision held that the Legislature's authority to make its own rules, granted by the Constitution, trumps any claim of an Open Meetings law violation by the Legislature.

Another decision held that citizens did not have standing to sue for an Open Meetings Act violation unless they would benefit from any civil penalties.

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### **Lawmakers from Shoals are pushing Bronner bill**

*Times Daily*

January 17, 2014

Mary Sell

MONTGOMERY — Two north Alabama Democrats are backing a bill protecting Retirement Systems of Alabama chief David Bronner's decision-making authority.

"I just want an up or down vote," Rep. Johnny Mack Morrow, D-Red Bay, said about his bill giving Bronner, or whoever runs RSA, "total unilateral control" to make investment decisions.

The bill is in the House committee on state government, of which Morrow is the ranking minority member, but Morrow said he can't get a straight answer on when or if it will be placed on the committee's agenda. Committee approval must happen before a bill can go to the full House.

Committee chairwoman Jamie Ison, R-Mobile, said she wants time to learn more about Morrow's bill before putting it on the agenda.

"I expect that it will come before the committee, I just don't know when," Ison said Thursday.

Sen. Roger Bedford, D-Russellville, is sponsoring the same bill in the Senate, where it is in the Senate General Fund budget committee.

"I'm having an open dialogue to try to make sure it becomes a priority in the Senate," Bedford said. Like Morrow, he said he just wants an up or down recorded vote.

Ison said she had some concerns about Morrow's bill because she didn't know of any organizations similar to RSA where one person had total decision-making authority.

Morrow's legislation was prompted by a December resolution approved by the employees' retirement system board that would require that Bronner's investment recommendations be reviewed and approved by a three-member investment committee. That is contrary to how RSA has operated for nearly 40 years, Bronner said.

The resolution doesn't go into effect until Feb. 1 and there is a board meeting at the end of the month to discuss it further.

In the January issue of RSA's newsletter, Bronner defended the system's investment process and team.

Some lawmakers have questions about how much money RSA is making. At a presentation earlier this week, the state's acting finance director, Bill Newton, said RSA's ratio of assets to liabilities is a little over 60 percent, down from about 100 percent in the late 1990s.

Sen. Arthur Orr, R-Decatur, said he wants lawmakers in charge of the state budgets to have a public meeting with RSA representatives to discuss those numbers.

"In the 10-year average, we are in the bottom 1 percent of our peer group," Orr said.

No one wants to be a Monday morning quarterback, he said, "but as the largest investor in RSA, we'd like to know more about how the investments are going."

The system is funded by employee contributions, investments and the state.

According to the Legislative Fiscal Office, the state's funding has risen significantly in the past 10 years. In the employees' system, it increased from \$46 million in 2002 to \$152 million in 2012. In the teachers' system, that increase was from \$266 million to \$621 million.

Mary Sell covers state government for The TimesDaily. She can be reached at [msell@timesdaily.com](mailto:msell@timesdaily.com). Follow her on Twitter @DD\_MarySell.

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### **Alabama plans trade missions to Southeast Asia, South America and Europe this year**

*Al.com*

January 16, 2014

Dawn Kent Azok

MONTGOMERY, Alabama -- Alabama's business recruiters plan to lead trade missions to countries in Southeast Asia, South America and Europe this year.

The Alabama Department of Commerce and the Export Alabama Alliance are inviting representatives of local companies to participate in the trips, where they can meet with international companies and possibly find new markets for their products and services.

Export growth tends to fuel job growth. In 2012, the latest year available, the value of Alabama's exports reached \$19.5 billion, a 9.4 percent improvement from the previous year.

This year's trade mission schedule includes Thailand, Indonesia and Singapore in March, Peru and Uruguay in June and Belgium and the Netherlands in the fall.

See the Commerce Department's website for more information on how to participate.

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### **Judge rules against attorney general Strange on gambling machines**

*The Associated Press*

January 16, 2014

EUTAW — A judge has ruled against the Alabama attorney general's request to keep nearly \$94,000 in cash and 376 gambling machines seized in a raid of Greentrack in 2011.

Circuit Judge Houston Brown ruled Wednesday that the state waited too long to file correct paperwork seeking forfeiture of the cash and machines seized in the raid of the Greene County gambling business on June 1, 2011.

The judge said state law requires forfeiture proceedings to be instituted promptly, and the state's the 13-week delay made the forfeiture complaint ineffective.

A spokeswoman for the attorney general said Thursday that he disagrees with the ruling and plans to appeal to the Alabama Supreme Court.

The judge had ordered the equipment returned once before, but the state Supreme Court put that ruling on hold.

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### **Alabama lawmakers split vote on Senate's \$1 trillion spending bill**

*Al.com*

January 16, 2014

Leada Gore

Alabama's Senators cast split votes on today's sweeping \$1.1 trillion spending bill to fund the government through September and prevent a repeat of October's 16-day shutdown.

Sen. Richard Shelby was among 72 Senators voting for the measure, with Sessions and 25 other Republicans voting "no." Sessions cited the inclusion of cuts to pensions for working-age military retirees as the reason for his "no" vote.

The House passed the measure on a 359-67 vote the previous day, with Rep. Mo Brooks and Rep. Bradley Byrne casting the only "no" votes among Alabama representatives.

Shelby, vice chairman of the Senate Appropriations Committee, said earlier in the day the bill represented "a middle ground."

"We, of course, have our difference and each of us would like many things in this bill to be different, but that is the nature of a negotiation and ultimately of a compromise," Shelby said from the Senate floor. "It is certainly far better than the alternative, which would be another

confrontation, another government shutdown, and another giant step further away from establishing some sense of regular order."

The appropriations bill meets the spending caps approved by the joint House/Senate budget committee in December. That budget deal rolled back many of the cuts from sequestration and allowed agencies, particularly the Pentagon, to have additional flexibility on spending.

The appropriations bill includes a 1 percent pay raise for federal workers and reduces Obamacare expenditures by \$1 billion, along with a series of smaller cuts. It replaces short-term Continuing Resolutions used by the government in the last two years and continues efforts towards spending reductions, Shelby said.

"The bill funds total discretionary spending below the 2004 level, when adjusted for inflation," he said.

The measure now goes to the White House for President Obama's signature.

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**Voting rights bill would revive pre-clearance provision; Alabama would not be included on initial list of watched states**

*Montgomery Advertiser*

January 17, 2014

Mary Orndorff Troyan

WASHINGTON — A proposal to revive a law that required certain states to prove their election procedures weren't discriminatory would not immediately affect some Deep South states with a history of suppressing minority voting, including Alabama and South Carolina.

Rep. John Conyers, D-Mich., Rep. James Sensenbrenner, R-Wis., and Sen. Patrick Leahy, D-Vt., introduced legislation Thursday that would breathe new life into the 1965 Voting Rights Act, which the Supreme Court partially struck down last year.

In a case brought by Shelby County, Ala., the justices threw out the four-decade-old formula that had determined which states had to get federal permission — or pre-clearance — before making any changes affecting voting or elections. The formula targeted all or parts of 15 states with a long history of disenfranchising minority voters, including Alabama and South Carolina.

Under the new proposal, which has a long way to go before becoming law, only states with at least five voting-rights violations in the last 15 years would be subject to pre-clearance, and one of them would have to be a statewide violation.

States that would immediately be covered include Georgia, Louisiana, Mississippi and Texas, Sensenbrenner said. Each of those states has had at least one statewide violation of the Voting Rights Act in the last 15 years.

Alabama and South Carolina have not had enough voting rights infractions in the last 15 years to be automatically included. But under the bill, any state that reached the five-violations-in-15-years threshold would be added to the list for extra federal supervision.

The previous formula used voting data from the 1970s, leading the Supreme Court to declare it outdated and unconstitutional.

But the court's ruling left open the possibility Congress would update the formula with newer data and revive strict oversight on jurisdictions with a persistent and more recent record of discrimination.

The bill would make the pre-clearance provision of the Voting Rights Act a national policy, not one that applied only to states where discrimination was most blatant in the 1960s.

The lawmakers called it an imperfect but solid compromise that already is attracting bipartisan support on Capitol Hill. In addition to Sensenbrenner, Republican Rep. Spencer Bachus of Alabama is co-sponsoring the legislation. The Senate version does not yet have any GOP cosponsors.

"This bill modernizes the Voting Rights Act and restores those protections that were gutted by the court to ensure every citizen has an equal opportunity to participate in our democracy," Sensenbrenner said in a news conference on Capitol Hill. Also attending were Conyers, Leahy, Rep. John Lewis, D-Ga., and Sen. Chris Coons, D-Del.

Civil rights groups that had worked to preserve the old formula said the legislation is a step toward restoring some protections for minority voters. Pre-clearance, which Congress created and maintained for nearly a half-century before the court decision, was designed to block discriminatory practices before they affect voters.

States, cities and counties under the formula had to submit proposed election changes — such as moving a polling place or redrawing district boundaries — to the U.S. Justice Department or a federal court for review before they could be implemented.

"Millions of voters of color were made even more vulnerable to racial discrimination by the Supreme Court's devastating ruling," said Ryan Haygood, director of the Political Participation Group of the NAACP's Legal Defense and Educational Fund. "Today, less than a year after that shameful ruling, Congress took a bold step toward restoring our nation's discrimination checkpoint and helping to ensure that voters of color have full, equal and active access to ballot box, the fundamental right that is preservative of all other rights."

Elected officials in some Southern states had complained in recent years that pre-clearance was burdensome and was based on the unfair presumption they were prone to discrimination.

The lawmakers who negotiated the proposal, which would amend the 1965 Voting Rights Act, said they tried to create a formula that was both constitutional and politically acceptable to Democrats and Republicans.

“I think we’ve threaded that needle,” Sensenbrenner said.

In addition to the five-violations-in-15-years standard, the proposal would narrow the original formula in other ways. A state voter ID law that ran afoul of the voting rights law would not count as an infraction. And states that went 15 years without a violation automatically would be freed from the pre-clearance requirement.

But in other ways, the proposal would broaden the Voting Rights Act. For example, it would allow a federal judge or the Justice Department to put a state or local government under pre-clearance for violations that are unintentionally discriminatory.

And it would require all jurisdictions to publicly disclose all voting-related changes well before elections. A local city or county also could be subject to pre-clearance for three violations in 15 years, or one violation coupled with extremely low minority voter turnout.

“It is amazing to me, unbelievable, almost unreal that we were able to come together so quickly to craft a compromise that Democrats and Republicans can find a way to support and move forward,” said Lewis, the Georgia Democrat who was born in Alabama. “Voting is the most powerful nonviolent tool we have in a Democratic society.”

Rep. Trey Gowdy, R-Spartanburg, is a member of the House Judiciary Committee where the bill will be debated. His spokeswoman said Thursday that Gowdy has asked the Justice Department for more information about South Carolina’s voting rights record, but that his conversations with his colleagues have been positive.

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### **Federal lawmakers filing Voting Rights bill following Supreme Court ruling in Shelby County case**

*Al.com*

January 16, 2014

Martin J. Reed

WASHINGTON, D.C. -- U.S. Reps. James Sensenbrenner, R-Wis., and John Conyers, D-Mich., along with U.S. Sen. Patrick Leahy, D-Vt., were expected today to introduce the Voting Rights Amendment Act of 2014 into Congress in response to the U.S. Supreme Court’s decision in *Shelby County v. Holder*.

The bill includes language that will target areas with the worst recent record of voting discrimination and require those areas to undergo a pre-implementation review of their voting changes. The legislation would also enhance the ability for challenging voting changes through obtaining preliminary injunctive relief and expand requirements for jurisdictions to publicize proposed voting changes.



"Although not perfect, this bill is an important first step," Sherrilyn Ifill, president and director-counsel of the NAACP Legal Defense Fund, said in a statement today. "The bill released today provides an excellent starting point for public engagement in this process. It's imperative that we all work together to ensure that no one is denied the right to vote, particularly on account of their race or language minority status."

The bill follows the U.S. Supreme Court's ruling last June 25 that overturned requirements in the Voting Rights Act of 1965 with the formula used to determine which jurisdictions including Alabama are required to get federal government permission for election changes.

Siding with Shelby County's arguments, the court ruled 5-4 to strike down Section 4's coverage formula that determined which states are covered by the Voting Rights Act of 1965's Section 5 preclearance requirements. Those requirements mandate that certain states with histories of racial discrimination get federal government approval of changes to elections and voting laws.

Section 5 covered all or parts of 15 states. Fully covered states included Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia. Partially covered states included California, Florida, Michigan, New York, North Carolina and South Dakota.

"Our decision in no way affects the permanent, nationwide ban on racial discrimination in voting found in [Section] 2. We issue no holding on [Section] 5 itself, only on the coverage formula. Congress may draft another formula based on current conditions," the court said in the ruling by Chief Justice John G. Roberts Jr.

Joining Roberts in the decision striking down Section 4's coverage formula were Antonin Scalia, Anthony M. Kennedy, Samuel Anthony Alito Jr. and Clarence Thomas, who also filed a concurring opinion the historic legislation's Section 5 should face a similar decision.

Shelby County, with legal counsel provided by Alexandria, Va.-based Project on Fair Representation, filed the lawsuit against the federal government in April 2010. Lower court rulings against the county surfaced in September 2011 and May 2012. The U.S. Supreme Court heard oral arguments in the case on Feb. 27.

Associate Justice Ruth Bader Ginsburg filed the dissenting opinion with Stephen G. Breyer, Sonia Sotomayor and Elena Kagan. In Ginsburg's dissent, she wrote: "In the Court's view, the very success of Section 5 of the Voting Rights Act demands its dormancy."

Various civil rights groups applauded today's move by the lawmakers. "While not perfect, today's bill successfully answers Chief Justice Roberts' invitation to Congress in Shelby to modernize the Voting Rights Act," Deborah J. Vagins, ACLU senior legislative counsel, said in a statement.

"The bill includes commonsense updates to a law that has protected the fundamental right to vote for American citizens for nearly 50 years. While it does not fix everything that was lost in Shelby, we are pleased to see a bipartisan bill that contains a set of protections that are flexible,

forward-looking, and written to capture recent discrimination and stop discriminatory changes before elections take place," Vagins said.

Ifill also said in her statement: "There is much more work for Congress, civil rights groups, and communities to do. Our common aim is to ensure that all Americans can participate equally in the political process."

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### **Justice Department to expand rules against racial profiling to include religion, national origin: Reports**

*Al.com*

January 16, 2014

Leada Gore

The U.S. Justice Department is set to significantly expand its definition of racial profiling to prohibit federal agents from considering religion, national origin, gender and sexual orientation in their investigations, The New York Times is reporting.

Racial profiling was technically banned in 2003 but the prohibition did not apply to national security cases and covered only race. Attorney General Eric Holder is reportedly making the changes following criticism federal authorities have singled out Muslims in counterterrorism investigations and Latinos for immigration investigations.

It is unclear, the Times reports, if Holder will make the same rules apply to all national security investigations.

"Adding religion and national origin is huge," Linda Sarsour, advocacy director for the National Network for Arab American Communities, told The Times. "But if they don't close the national security loophole, then it's really irrelevant."

Sarsour said she hoped the exclusions would be expanded to include surveillance and not just traffic stops and arrests.

The Justice Department has yet to confirm the new rules.

You can read the entire Times report [here](#).

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### **States get down to small business: Legislatures' 2014 agendas to include taxes, pay, days off**

*The Associated Press*

January 15, 2014

Minimum wage may be getting most of the headlines, but other issues that affect small businesses will be debated as state legislatures convene this year. Tax cuts will be high on many agendas as will various kinds of leave.

A look at some issues lawmakers are expected to take up in 2014:

#### Taxes

Expect small-business groups to lobby for tax cuts. State and local revenues have increased as the economy recovered from recession and more people worked and paid taxes. The total amount of taxes collected by state and local governments nationwide was up 7 percent during the second quarter of 2013 from a year earlier, according to the most recent figures available from the Census Bureau.

Governors and legislators will likely be willing to lower taxes. There are 36 gubernatorial elections this year, and legislative seats in 46 states are also expected to be on the ballot.

The taxes that will be targeted will become clear as governors give state of the state addresses in the coming weeks, says Steve Woods, senior vice president for state operations for the advocacy group National Federation of Independent Business.

Real estate tax cuts are on wish lists of many businesses. Groups are also going after specific business taxes. Indiana's Chamber of Commerce wants a repeal of the state's tax on business property including machinery and equipment. Kentucky's chamber seeks an end to a tax on inventories.

#### Minimum wage

The minimum wage will be debated across the country. In 2013, bills to raise the minimum wage were introduced in more than 30 states and Washington, D.C. Lawmakers in four states including — California, Connecticut, New York and Rhode Island — approved increases.

States where a minimum-wage hike has the best chance of approval include Hawaii, Illinois, Maryland, Michigan, Minnesota, Pennsylvania and West Virginia, according to Holly Sklar, director of the advocacy group Business for a Fair Minimum Wage. But states whose neighbors have higher minimums may be pressed to raise their wages to compete for workers.

Groups opposing a higher wage say increases will hurt small businesses like retailers and force some to cut jobs. But company owners surveyed last year by the advocacy group Small Business Majority supported a higher minimum wage. Two-thirds wanted the wage increased from the current federal minimum with annual adjustments for inflation. Eighty-five percent said they paid their employees above the minimum.

#### Family and sick leave

Connecticut, Illinois and New York are among the states where bills about family or sick leave are expected to be introduced.

Three states — California, New Jersey and Rhode Island — already have what are called family and medical leave insurance laws that provide for employees to receive some of their salary when they take leave. A state insurance pool, to which workers but not their employers contribute, funds the payments. In New Jersey, for example, workers will pay a maximum of \$31.50 into the pool this year.

Paid sick leave bills, meanwhile, would require owners of many businesses to grant workers paid days off for illness or to care for a sick relative. Such laws are in effect in Connecticut and cities including New York City, San Francisco, Washington, D.C., and Portland, Ore.