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As lawmakers weigh demands for new revenue, Republican Gov. Rick Perry has suggested taxpayer rebates of surplus funds.

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Legislature has money, options

But it must deal with spending cap and prioritizing

By PEGGY FIKAC

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AUSTIN — Lawmakers expect to have billions more dollars available when they write Texas' next budget, but the interests competing for cash are just as big.

And there's a legal roadblock they'll have to get around if they want to spend all the money.

After considering basic demands like school enrollment growth and making good on a highly touted promise to lower local school property tax rates, there are choices to be made. Loosen restrictions in public health care programs? Target high college tuition rates? Lower property taxes further? Or save for the future?

"It's never going to be easy to write a budget. There are many legitimate needs out there," Sen. Steve Ogden, R-Bryan, Senate Finance Committee chairman, has said.

What's more, before leaders can have a free hand in deciding to spend, save or give tax breaks, they'll have to pry loose a constitutional spending cap that will otherwise put billions of dollars beyond their reach.

"There's a challenge in the pull on funds — particularly the billions needed in state dollars to lower local school property taxes — and the cap," said Rep. Jim Pitts, R-Waxahachie.

As chairman of the Appropriations Committee, Pitts' budget experience is among the pluses he touts as a House speaker candidate: "This is the 'budget session,' " he said.

"It will be extremely challenging, because it always is," agreed Sen. Judith Zaffirini, D-Laredo,

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who has been Senate Finance Committee vice chair through bone-thin and pleasantly plump budget times. "There's a challenge when there is money, and when there isn't."

This time, there appears to be money.

House Speaker Tom Craddick, R-Midland, has estimated lawmakers will have \$15.5 billion in new state dollars available when they write the budget for the next two years. That's an unofficial tally; the state comptroller will make the official estimate.

The budget approved two years ago topped \$138 billion, including state and federal funds. Lawmakers have promised billions more to ease local property taxes into the future. Some state spending — such as on federal health programs — can trigger additional federal dollars to boost available funds.

As lawmakers weigh demands for new revenue, Republican Gov. Rick Perry has suggested taxpayer rebates of surplus funds. And a new interest group, Texans for Fiscal Responsibility, is pushing to return a big share of the \$15.5 billion, perhaps through lower business or property tax rates or an extra sales tax holiday.

That's music to the ears of lawmakers such as Sen.-elect Dan Patrick of Houston, a GOP conservative being watched closely because he has a radio show with activist listeners.

"Texans are fair and reasonable people, and if we have a huge surplus, I think most of them would say, 'Let's set some aside because we never know what the future holds. And let's take some of it and address specific crucial needs,' " he said.

"But most of it should come back to us. Because government never fails at spending every dollar we send them. And, quite frankly, there could be a \$30 billion surplus and there would be people saying we shouldn't send any back."

Any extra tax cut is envisioned on top of the already-promised reductions in local school property tax rates.

'Pound foolish'

Others have their eyes on restoring services they say still suffer from cutbacks made in 2003, when lawmakers faced a \$10 billion revenue shortfall.

"I think we have seen some of those cuts were probably penny wise and pound foolish — for example, the (Children's Health Insurance Program) cuts. We're seeing all of the millions and millions of dollars of unreimbursed care that our local hospitals are having to pick up, and that in the end the taxpayers pick up," said Rep. José Menéndez, D-San Antonio, House Appropriations Committee member.

It would take the entire \$15.5 billion, plus \$2.7 billion more, just to restore general spending to the 2002 level, according to the Center for Public Policy Priorities, which advocates for services for low-income Texans. That estimate takes into account inflation and population growth.

"Taking every dollar that the speaker thinks we're going to have and spending it somewhere still doesn't get us back up to where we used to be before we made some pretty horrible cuts for social services," said Eva DeLuna Castro, senior budget analyst for the center.

Some of the cut revenue has been restored, but restrictions are still in effect in areas including access to health care.

Among pressing needs, lawmakers face funding demands for school enrollment growth and must deal with overflowing prisons. There's also a call from as high up as Gov. Rick Perry to ensure money dedicated to certain programs, such as parks, isn't diverted to help balance the budget.

GOP Lt. Gov. David Dewhurst, who heads the Senate, has said key necessities including enrollment growth and federally mandated programs tally \$11 billion.

Byron Schломach, chief economist of the Texas Public Policy Foundation, which advocates for limited government, takes issue with assertions from groups like the Center for Public Policy Priorities that the extra dollars don't constitute a surplus because there are unmet needs.

"People who deny there is a surplus do not want to keep current programs. They want to expand them," said Schломach by e-mail, adding that the center "assumes the current level of government is necessary and desirable, while I believe it can be reduced."

For Zaffirini, who had sleepless nights in 2003 as she struggled to make required cuts while preserving crucial programs, a key priority is filling remaining gaps in health and human services programs.

In 2003, she said, "I felt the burden of the poor was on my back." This time, she said, "We need to go back and see what we can do there." Among other priorities, she also would like to increase state funding for higher education so universities can rely less on tuition, allowing rates to be lowered.

Increasing border security

While Patrick wants to see money returned to taxpayers, he also sees the need to spend in areas such as beefing up border security, which he said would benefit taxpayers in the long run by reducing costs associated with illegal immigration.

"Until we get control of the border, there is no way we are going to get control of the budget," he said.

Former state Comptroller Carole Keeton Strayhorn estimated undocumented immigrants benefit the state economy but pose a cost to local governments.

Lawmakers must balance current needs against expected future demands. Leaders want money put aside to meet those commitments, including the big outlay for ongoing local school property tax relief.

Spending cap looms

"We've got an obligation to be careful," Dewhurst has said. "If, in fact, as the smart guys say, this is a one-time surplus, we don't want to spend ourselves down into a hole where we're back into a problem in 2009."

Looming over the debate is the constitutional spending cap, which limits growth in certain state spending to the rate of Texas' economic growth. The cap applies to state tax revenues not constitutionally dedicated to other purposes.

Unless lawmakers suspend the cap — a vote some in the GOP-majority Legislature might find difficult even if it's tied to tax relief — or leaders find an innovative way around it, much of the \$15.5 billion surplus will remain off limits.

Unless they make reconciling cuts elsewhere, the Legislature would be unable to meet its promise to cut school property tax rates to \$1 per \$100 valuation without breaking the cap, which would allow no more than \$9.5 billion in spending from affected revenues.

Legislative Budget Board director John O'Brien has said the estimated \$13.5 billion needed to pay for the school property tax cut in the coming two years would alone put lawmakers over the cap,

leaving no funding increases for anything else.

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