Stop Driving 6,000 From Their Homes

Implementing a plan for sweeping telecommunications deregulation, on March 14 Indiana Gov. Mitch Daniels (R) signed into law House Enrolled Act 1279, which the Indiana House and Senate had both passed by strong margins.

State Sen. Brandt Hershman (R-Wheatfield), the bill’s sponsor, promised “consumers will be the direct benefactors” of competition.

By Arpan Sura

Terrorists Profit from Smuggling

By Michael D. LaFave

A multimillion-dollar smuggling operation based in Michigan allegedly helped fund the Hizballah terrorist organization (also known as Hezbollah), according to a federal indictment of 19 men that was announced March 29.

Nine members of the alleged smuggling operation were arrested on the day of the announcement. One other man surrendered later. The others remain at large and are believed to be living in Lebanon or elsewhere in the Middle East, where Hizballah is based.

Program called a menace to budgets, patients’ health

Medicaid’s skyrocketing expenditures are reaching a breaking point in state budgets, experts say, and state legislatures are responding with sweeping new reform bills that fundamentally change the way states finance and deliver the federally mandated program.

“Medicaid spending consumes, on average, roughly 25 percent of states’ budgets. This figure continues to grow, and will grow unabated unless states reform their Medicaid programs,” said Michael Keegan, director of the Tax and Fiscal Policy Task Force at the American Legislative Exchange Council, the nation’s largest nonpartisan membership association of state legislators.

“Because this rate of growth cannot be sustained, the question is no longer whether states will implement structural reforms, but rather when and how they will do so,” Keegan added.

‘Perverse Incentives’ Cited

Some legislators say Medicaid’s budget woes stem from “perverse incentives” that encourage state governments, doctors, and patients to overspend and overutilize medical care.

“Because this rate of growth cannot be sustained, the question is no longer whether states will implement structural reforms, but rather when and how they will do so,” Keegan added.

Program called a menace to budgets, patients’ health

By Christie Raniszewski Herrera

Washington Judge Voids Tax Hikes

By Jason Mercier

Washington state’s 2005-07 budget violates Washington’s tax and expenditure limit, according to a ruling March 17 by Snohomish County Superior Court Judge James Allenboerger.

During the 2005 legislative session, lawmakers artificially increased the limits set by Initiative 601 by engaging in a $250 million “merry-go-round” fund transfer among three state accounts. The state contended the transfers increased the limits. The maneuver enabled legislators to add

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Penetrating analysis of many of the major public policy issues of the day, written by 11 of the nation’s leading experts!
Illinois Taxes Hurting Airline Industry
Chicago charges nation’s highest jet fuel taxes

By John W. Skorburg

O hare International Airport in Chicago, perennially one of the nation’s busiest airports, has the dubious distinction of charging the nation’s highest jet fuel taxes. Its smaller sister airport, Midway Airport on Chicago’s south side, charges the same high fuel taxes.

“In those states where the fuel tax is a percentage of the cost of the fuel, taxes have skyrocketed, resulting in a windfall for the states. Fuel purchased in Chicago is now subject to the highest taxes in the country,” said John Heimlich, vice president and chief economist at the Air Transportation Association (ATA), in an April 11 press statement. ATA members transport more than 90 percent of all U.S. airline passenger and cargo traffic.

Chicago’s airports charge the Illinois state sales tax of 6.25 percent, local sales taxes of 2.75 percent, and an additional tax of 5 cents per gallon. As a result, airlines are paying about 21.2 cents in taxes on top of the estimated fuel price of $1.90 per gallon, said Heimlich.

Buying Fuel Elsewhere
In early March, the Illinois Senate Revenue Committee met to discuss the issue and listen to the concerns of the airline industry.

Mark Anderson, United Airlines vice president for government affairs, told the committee, “As the price of fuel goes up, our taxes in Illinois have gone up exponentially. United has decreased its purchase of fuel in Illinois by about 10 percent, through conservation and purchasing it in other states.” United is headquartered in suburban Chicago.

“We are doing everything possible to lower the cost of fuel,” said Mary Frances Fagan, spokeswoman for American Airlines, at the committee meeting. “But at the end of the day, you still have a very high tax rate in the state of Illinois. We’ve spent a lot of time looking at ways to reduce our fuel costs. Looking at our tax bill is part of that.”

“Fuel purchased in Chicago is now subject to the highest taxes in the country.”

J OH N H E I M L I C H
V ICE P R E S I D E N T A N D C H IEF E C O N O M I S T
A IR T R A N S P O R T A T I O N A S S O C I AT I O N

Considering Tax Cap
Illinois Senate Assistant Majority Leader James DeLeo (D-Chicago) has offered a solution. DeLeo is advancing a bill to cap state jet fuel taxes in Illinois at 7.2 cents per gallon. That would be about 5 cents per gallon lower than the current state tax on jet fuel, making Illinois airports more tax-competitive with the rest of the nation.

DeLeo’s measure would aid United Airlines and its hub in Chicago. Since 2002, the amount of money United has spent on jet fuel and taxes in Illinois has doubled, according to DeLeo.

“Just use United as a barometer; they are just coming out of bankruptcy,” DeLeo said during the committee meeting. “They’re not asking for a handout, they’re not asking for a subsidy. They’re our own economic engine and a [well-spring] of jobs.”

John W. Skorburg (skorburg@heartland.org) is a visiting lecturer in economics at the University of Illinois at Chicago and associate editor of Budget & Tax News.

High Prices, Taxes a Drag on Airlines Nationally

Higher oil prices, coupled with high state jet fuel taxes, have become a serious threat to the airline industry this summer. Politicians and industry leaders are looking for ways to ease the situation for the nation’s air carriers.

“Record crude oil prices, which are expected to average nearly $70 per barrel this summer, will hamper the industry’s widespread efforts to reverse the losses that have plagued the airlines in recent years,” said John Heimlich, vice president and chief economist at the Air Transportation Association (ATA), in an April 11 press statement.

System Modernization Needed
The U.S. Energy Information Administration shows the price of benchmark crude oil averaged $81.27 in the first quarter of 2006, up 27 percent from the same period in 2005. The average price of jet fuel rose 40 cents per gallon, from $1.45 to $1.85, and will exceed $2.00 per gallon if crude oil prices stay above $70 per barrel for an extended period of time.

“These high fuel prices highlight the need for airspace modernization to mitigate fuel expenses. A modernized system could save hundreds of millions of gallons of jet fuel per year, not to mention the environmental benefits that such improved operational efficiency would produce,” said Heimlich in his statement.

— John W. Skorburg
Wyoming Has Best Tax Climate, New York Worst

By William Ahern and Steve Stanek

Anyone thinking about starting a new business or relocating an existing one might want to consider Wyoming, which has the nation’s most business-friendly tax climate, according to the third edition of The Tax Foundation’s State Business Tax Climate Index.

The index, released in March, shows tax-heavy New York state as having the worst business tax climate in the nation.

Joining Wyoming with the most business-friendly tax climates are South Dakota, Alaska, Florida, Nevada, New Hampshire, Texas, Delaware, Montana, and Oregon. Joining New York with the most hostile tax climates are New Jersey, Rhode Island, Ohio, Vermont, Maine, Kentucky, Nebraska, Iowa, and Alabama.

Tax Foundation economist Curtis S. Dubay and president Scott A. Hodge compiled the index.

Dubay noted in an interview for this article, “Every one of the best tax systems raises sufficient revenue without imposing at least one of the three major state taxes—sales taxes, personal income taxes, and corporate income taxes.”

Spending Is Concern

Tom Jones agrees Wyoming has an excellent business tax climate. He is a former Wyoming state representative who now serves as Wyoming state director of the National Federation of Independent Business.

“We have no income tax, corporate or personal,” Jones said. “Along with that, we have low property taxes, too. Our state sales tax is 4 percent. There are two more cents that can be imposed at the local level. So compared to other states, we are very reasonable.”

But warn, though, that Wyoming lawmakers have been spending money as fast as it comes in.

“Our tax structure is based on minimal production, and that’s a cyclical thing,” Jones said. “We are producing lots of coal and gas and oil. But when you have incurred a jillion obligations, it’s tough when the bust comes, and it will come. A bust hit in 1986, and I can’t convince lawmakers it’s going to happen again.”

NY Pol Defends Taxes

New York state Rep. Ivan LaFayette (D-Jackson Heights) said high taxes are no problem if citizens receive good value for the money they pay.

“In New York City the business climate must be good despite the taxes,” LaFayette said. “There isn’t an empty building or store. They can’t build office buildings fast enough. Where else do you get first-class cultural museums that are free, free parks, free pre-K education, public hospitals that are ranked among the best in the U.S., colleges at minimal tuition and high quality? You get what you pay for.”

LaFayette also pointed out New York has cut taxes in recent years.

“We have lowered the state income tax a number of times,” LaFayette said. “I was in California recently, and the personal income tax there is over 9 percent. New York’s income tax is 7-something percent. We’ve taken the sales tax off clothing under $100. We’re taking it off other items, too.

“When people ask why are taxes so high, I say you can’t just go by how high they are,” LaFayette said. “If taxes bought what are your priorities—safety, cleanliness, a good environment, culturally something good—then you think your taxes are well spent.”

Index Stresses Fundamentals

Hodge said the goal of the index is to focus lawmakers on good tax fundamentals in their states, rather than short-term tax abatements and exemptions targeted to specific businesses or industries.

“States do not enact tax changes in a vacuum,” said Hodge. “Every tax change will affect a state’s competitive position relative to its neighbors, as well as globally.”

The temptation is for state lawmakers to lure high-profile companies with packages of tax bonuses, but that strategy can backfire.

For example, in 2000, officials in Columbus, Ohio lured a moving company with a five-year package of tax goodies. In 2004, the company had not only failed to add 100 jobs as promised, but it had actually fired 98 employees, prompting lawmakers to yank the final year of tax breaks.

“Ohio’s experience shows preferential tax bonuses don’t guarantee jobs will stay permanently,” said Hodge. “Often they mask deeper flaws in state taxes.”

Flatness Essential

Generally the tax climate index rewards tax codes that have low, flat tax rates that apply to everyone. This makes tax law simpler and more transparent and avoids double taxation. The worst state tax codes, according to the study, tend to have:

- complex, multi-rate corporate and individual income taxes;
- above-average sales tax rates that don’t exempt business-to-business purchases;
- complex, high-rate unemployment tax systems; and
- high effective property tax rates, as well as a host of other wealth-based taxes.

The ideal tax system, whether at the state, federal, or international level, should be neutral to business activity,” said Dubay. “In such a system, people would base their economic decisions on the merits of the transactions rather than the tax implications.”

Each state’s laws and tax collections were assessed as of the beginning of the 2006 fiscal year, which for the states was July 1, 2005. The rankings reflect the business tax climate at that time and do not consider legislative action since then.

William Ahern (ahern@taxfoundation.org) is communications director at The Tax Foundation in Washington, D.C. Steve Stanek (staneke@heartland.org) is managing editor of Budget & Tax News.

INTERNET INFO

The Tax Foundation’s State Business Tax Climate Index is available online at http://www.taxfoundation.org/publications/show/78.html.
Washington

Continued from page 1

almost $500 million in new taxes and an equal amount of new spending without triggering a vote of the people as required by I-601.

Included in the new taxes were a Washington-only death tax and new taxes on cigarettes, liquor, and warranties. (See “Budget Discipline Collapses in Washington State,” Budget & Tax News, June 2005.)

In ruling against the state, Allendoerfer ordered the I-601 spending limit lowered by $250 million and invalidated the tax increases, barring the state from collecting them unless a proposal to do so is ratified by a vote of the people.

“The legislature exploited a loophole in I-601 for the express purpose of artificially increasing the expenditure limit so as to avoid a vote by the people on the new taxes included in the biennium budget. The loophole, designated ‘triangulation’ by the plaintiffs, and referred to by legislative staff as a ‘huge loophole,’ and the ‘magic three-for-one provision,’ has the potential of trumping the intent and spirit of I-601 altogether.”

JAMES ALLENDOERFER

SNOHOMISH COUNTY SUPERIOR COURT JUDGE

Upholds Intent of Voters

Allendoerfer wrote, “Here, the legislature exploited a loophole in I-601 for the express purpose of artificially increasing the expenditure limit so as to avoid a vote by the people on the new taxes included in the biennium budget. The loophole, designated ‘triangulation’ by the plaintiffs, and referred to by legislative staff as a ‘huge loophole,’ and the ‘magic three-for-one provision,’ has the potential of trumping the intent and spirit of I-601 altogether.”

Plaintiffs who sued the state over the budget maneuvers included the Washington Farm Bureau, National Federation of Independent Business (NFIB), Washington State Grange, Building Industry Association of Washington (BIAW), Washington Association of REALTORS, Evergreen Freedom Foundation, and taxpayer Steve Neighbors.

Voters approved I-601 in 1993 in response to the state’s largest-ever tax increase, imposed earlier that year. That increase remains the largest ever in the state. I-601 restricts the rate at which the budget can grow and requires any tax increase in excess of that limit to be ratified by voters before taking effect.

Death Tax Survives

While the judge’s ruling invalidates most of the taxes enacted in 2005, the death tax survived on a technicality. I-601’s taxpayer protections apply to the state’s general fund only. When enacting the death tax, the legislature dedicated the expected revenue to an off-budget account.

“The taxpayer protections of I-601 need to be tightened to avoid a repeat of the legislature’s death-tax gimmickry,” said Bob Williams, president of the Evergreen Freedom Foundation. “Otherwise the legislature will continue to circumvent I-601 by enacting ‘off-budget’ tax increases.”

Supporters ‘Thrilled’

Supporters of I-601 were excited about the judge’s decision, despite the survival of the death tax.

“We are thrilled with the judge’s decision, which affirms the initiative process,” Dean Boyer of the Washington Farm Bureau told KING 5 News in Seattle. “The judge sent a clear message to the state legislature that the people are a coequal branch of government, as spelled out in our state constitution, and that lawmakers must follow the laws adopted by the people through the initiative process.”

Also supporting the decision were Republican lawmakers.

“Last year, when Democrat budget writers raised taxes without a vote of the people and blew the lid off of the spending limits contained in voter-approved Initiative 601, Republicans in the legislature cried foul,” said state Sen. Joe Zarelli (R-Ridgefield), ranking member of the Senate Ways and Means Committee. “There was a general feeling among many of us that at best, these fund shifts and shell games violated the spirit of I-601 and the trust of the voters, and at worst, opened the door to unlimited budget increases and were unconstitutional.”

Democrats in the legislature, on the other hand, encouraged the state to appeal.

“I don’t think any of us know what it means,” state Rep. Helen Sommers (D-Seattle), chairman of the House Appropriations Committee, told The Olympian newspaper. “The message seems to be unclear and complicated. I’m assuming it would be appealed and go to the Supreme Court.”

State to Appeal

At a March 31 signing ceremony for the record $1.35 billion 2006 supplemental budget increase, Gov. Christine Gregoire (D) announced the state would appeal the judge’s ruling. That announcement came before state attorneys had reviewed the oral transcript of the ruling or agreed to the written order for the judge to sign.

Shortly after the governor’s budget news conference, the attorney general confirmed the decision to appeal.

Williams asked, “How can the governor, a former attorney general, decide to appeal a ruling she hasn’t even read? Rather than spending more taxpayer dollars to defend illegal tax increases, the governor should be more concerned with honoring the intent of I-601.”

Special Session Requested

The Senate vote on the budget maneuvers was 25-22. All votes approving the fund-shifting were Democrats, with only one Democrat voting no. In the House, the vote was 56-42. Only one of the 56 votes in favor of the fund-shifting came from a Republican.

Hoping to take advantage of the renewed attention to the budget actions led by state Democrats, Zarelli called for a special session in response to the judge’s ruling.

“I think (a special session) would be good. I like the fact that it would give attention to what was done,” Zarelli told the Longview Daily News.

Democrats, however, see no need for a special session.

According to the Longview Daily News, state Senate budget committee vice chairman Mark Doumit (D-Cathlamet) said, “There shouldn’t be any need to go back for a special session. The bottom-line, I think, is the legislature needs to maintain the ability to write budgets in a fashion that a majority (of lawmakers) feels needs to be done.”

“The taxpayer protections of I-601 need to be tightened to avoid a repeat of the legislature’s death-tax gimmickry.”

BOB WILLIAMS

PRESIDENT

EVERGREEN FREEDOM FOUNDATION

Next Steps Considered

Once the state determines the basis for its appeal, it is likely both sides will agree to a direct review by the state supreme court. I-601 supporters are confident the ruling will be upheld by the state supreme court upon appeal.

“Instead of repealing I-601, the legislature manipulated its protections, all the while telling the people it was honoring their will. Thankfully, legislators’ disingenuous budget gimmicks did not withstand the scrutiny of legal review or the light of day. We are confident the supreme court will uphold this common-sense ruling and the illegal taxes will be invalidated,” said Williams.

Jason Mercier (jmercer@effwa.org) is senior budget analyst at the Evergreen Freedom Foundation in Olympia, Washington.

By Kurt O'Keefe

Voters in Michigan may get a chance this November to make big changes in state policy and how the state manages its tax revenues.

Petitioners across the state are gathering signatures to put the Stop OverSpending (SOS) initiative on the 2006 ballot. SOS, as its supporters call it, is designed to give voters a say in state spending decisions. The goal of SOS is to stabilize state spending so it doesn’t go through a bust-and-boom cycle.

Given state spending conditions in Michigan in recent years, some people believe the timing couldn’t be better.

“We’re getting a tremendous response on the grassroots level,” said Scott Tillman, who serves on the Michigan Stop OverSpending committee. “We’re working to put the people back in charge of how their money is spent, and that really resonates.”

Tillman, who also works with Americans for Limited Government, a national group sponsoring similar measures across the country, said the committee is working hard and gaining volunteers every day. The petition signatures are due July 10.

“We’re getting a tremendous response on the grassroots level. We’re working to put the people back in charge of how their money is spent, and that really resonates.”

SCOTT TILLMAN
MICHIGAN STOP OVERSPENDING

Losing Jobs, People

Michigan was the only state to lose jobs in both 2004 and 2005, supporters of the measure note. The state lost 45,000 jobs last year, and businesses and people are leaving in droves.

According to the U.S. Census Bureau, between July 2004 and July 2005 48,000 more people moved out of Michigan than moved in. Many analysts blame state government for many of Michigan’s financial woes. Between 1990 and 2004, Michigan state spending increased by 127 percent.

Critics of the SOS bill argue it will slash essential state programs. The Michigan arm of the American Federation of Teachers, for instance, warns on its Web site, “This proposal would have a highly detrimental impact on education and other human services.”

Tillman disputes that and notes SOS allows government spending to grow down in lean times to avoid deep budget cuts.

“The most important part of SOS, Tillman says, is that it gives taxpayers a say in state spending.

“If politicians want to spend more than the SOS limit, they can—but only if the people approve at the voting booth,” Tillman said.

Kurt O’Keefe (koklaw@gmail.com) is an attorney specializing in bankruptcy law and a member of the Stop OverSpending Committee.

“I believe the very heart and soul of conservatism is libertarianism.”
— Ronald Reagan

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Michigan Governor Vetoes Repeal of ‘Jobs-Killing’ Tax

‘Single Business Tax’ taxes losses as well as profits

By Chris Atkins

On March 31, Michigan Gov. Jennifer Granholm (D) vetoed a bill that would have accelerated plans to repeal the state’s Single Business Tax (SBT).

The bill, passed largely along party lines in both houses of the Michigan Legislature, would have scheduled the SBT for repeal on January 1, 2008. Under current law, the tax will go off the books in 2009.

“This legislation threatens our families, our businesses, and our economic future,” Granholm said in her veto message. “[This measure] would result in either a significant tax increase for working families or massive cuts ... in education, health care, and public safety.”

The SBT is unique among state business taxes. While most states tax business, health care, and public safety.

The SBT is gone. However, the Mackinac Center has identified almost $2 billion in potential savings in the state budget, more than enough to fill the gap.

Essentially, Patterson proposes a burn-the-fleet, “Proposal A moment,” in which the political establishment throws out the current system with no plan to replace it, as was done with school property taxes in 1993. This is commendable, because there is a consensus that the SBT is a bad tax that’s crippling our economy and the state cannot afford further delay.

By Jack P. McHugh

During his 2006 State of the County Address, Oakland County (Michigan) Executive L. Brooks Patterson called for a petition drive and ballot initiative to eliminate the state’s economically destructive Single Business Tax. Patterson called the SBT a “damnable tax” and correctly cited it as an important factor in holding down Michigan’s alimony economy.

Michigan has been in a “one-state recession” for several years, while every other state except those slammed by hurricanes has experienced impressive growth. The causes of Michigan’s recession are complex, but they largely come down to the fact that the state is burdened with destructive business taxes, excessive regulations, and bad labor laws that give the state one of the least-competitive business climates in the United States.

While it makes up only 4.4 percent of state spending, the SBT provides 20 percent of the general fund money. “[T]here is a consensus that the SBT is a bad tax that’s crippling our economy and the state cannot afford further delay.”

Legislators have the most control over. This explains the apocalyptic pronouncements whenever anyone suggests eliminating the SBT and replacing it with nothing.

Replacement Unnecessary

Patterson’s proposal does not specify a replacement revenue source once the SBT is gone. However, the Mackinac Center has identified almost $2 billion in potential savings in the state budget, more than enough to fill the gap.

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By Chris Atkins (eda@taxfoundation.org) is staff attorney at the Tax Foundation in Washington, D.C.

Commentary: Blowing Up a ‘Damnable Tax’

By Jack P. McHugh

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By Chris Atkins (eda@taxfoundation.org) is staff attorney at the Tax Foundation in Washington, D.C.

State is Losing Jobs

The Michigan economy has underperformed in recent years. Michigan is one of only two states that lost jobs (38,000 total) between February 2005 and February 2006, according to the latest Bureau of Labor Statistics data. The only other state to lose jobs in that period was Louisiana, which was hit with a devastating Category 5 hurricane last August.

Michigan’s unemployement rate in February was the third-highest in the nation (6.6 percent), trailing only Mississippi (8.4 percent) and Alaska (7.0 percent). Michigan experienced the most sluggish growth in Gross State Product (1.2 percent) of any state between 2003 and 2004, as calculated by the Bureau of Economic Analysis.

Greater Risk

“[T]here is a consensus that the SBT is a bad tax that’s crippling our economy and the state cannot afford further delay.”

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Essentially, Patterson proposes a burn-the-fleet, “Proposal A moment,” in which the political establishment throws out the current system with no plan to replace it, as was done with school property taxes in 1993. This is commendable, because there is a consensus that the SBT is a bad tax that’s crippling our economy and the state cannot afford further delay.

By Chris Atkins (eda@taxfoundation.org) is staff attorney at the Tax Foundation in Washington, D.C.

Report Imminent

Originally adopted to replace numerous state business taxes, the SBT now extracts the seventh-highest state corporate tax burden in the United States.

In the late 1990s, then-governor John Engler (R) managed to persuade Michigan lawmakers to repeal the SBT over 23 years, with rate reductions taking place in a series of steps until the tax was eliminated. Lawmakers upped the ante, agreeing to phase out the tax entirely by 2009.

Given the continuation of Michigan’s economic doldrums, many lawmakers (mostly Republicans) now want to repeal the tax still more quickly.

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Commentary: Blowing Up a ‘Damnable Tax’

By Jack P. McHugh

During his 2006 State of the County Address, Oakland County (Michigan) Executive L. Brooks Patterson called for a petition drive and ballot initiative to eliminate the state’s economically destructive Single Business Tax. Patterson called the SBT a “damnable tax” and correctly cited it as an important factor in holding down Michigan’s alimony economy.

Michigan has been in a “one-state recession” for several years, while every other state except those slammed by hurricanes has experienced impressive growth. The causes of Michigan’s recession are complex, but they largely come down to the fact that the state is burdened with destructive business taxes, excessive regulations, and bad labor laws that give the state one of the least-competitive business climates in the United States.

While it makes up only 4.4 percent of state spending, the SBT provides 20 percent of the general fund money. “[T]here is a consensus that the SBT is a bad tax that’s crippling our economy and the state cannot afford further delay.”

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By Chris Atkins (eda@taxfoundation.org) is staff attorney at the Tax Foundation in Washington, D.C.
New Mexico Vetoes Denounced as Political Payback

By Paul J. Gessing

New Mexico Gov. Bill Richardson (D) recently used his line-item veto powers to cut $269 million in spending out of the state’s FY 2007 budget. Richardson issued his vetoes on March 8 in what he called “an effort to restore fiscal responsibility.”

Lauded as Fiscal Conservative

To the governor’s supporters, the vetoes were an example of Richardson living up to his reputation as a fiscal conservative.

James Jimenez, Richardson’s secretary of finance, made that point in a post-veto op-ed in the Albuquerque Journal on March 17. Jimenez wrote, “Tough choices had to be made to restore fiscal balance to the state’s budget because the Legislature’s budget package would have spent needed reserves down below 5 percent; created a $133 million deficit in the appropriation account; and misdirected funds already dedicated to education reform, emergencies and disasters.”

Critics of Richardson, especially those whose projects were cut by the line-item vetoes, took a very different view. In a March 17 article in the Farmington Daily-Times, Sen. Rod Adair (R-Farmington) scoffed at the governor’s veto claims and called him a “congenital liar.”

“New Mexico Gov. Bill Richardson (D) recently used his line-item veto powers to cut $269 million in spending out of the state’s FY 2007 budget.”

Adair charged that under Richardson, “school children are not considered as individuals. The criteria (for the vetoes and approved spending) were whether they live in a district whose legislator is a Democrat or a Republican.”

Gov. Does Out $414M

Legislators in both parties noted Richardson himself distributed $414 million in funding, while 102 legislators had to split about half that amount among themselves. They said this indicates the lawmakers, not the governor, were acting in a fiscally responsible manner.

Rep. Dan Foley (R-Roswell) said he was “particularly incensed” over Richardson’s veto of $57,000 to provide global positioning systems for New Mexico’s National Guard troops in Iraq while Richardson called for and received $75,000 to fund a state Office of Music.

Richardson First Governor to Veto Eminent Domain Protection

By Paul J. Gessing

New Mexico Gov. Bill Richardson (D) became the nation’s first governor to veto legislation aimed at protecting individual property owners from eminent domain abuse.

On March 7, Richardson vetoed House Bill 746, a measure sponsored by state Rep. Richard Cheney (R-Farmington), which would have prohibited the state or local governments from using eminent domain to take property and turn it over to a developer or other private entity within five years of the property’s condemnation.

Cheney’s bill had received unanimous support from New Mexico lawmakers. Richardson explained his veto by saying the bill’s ambiguous language could have stopped public projects simply because private entities play a role in the project. Richardson also noted some municipal officials opposed the measure.

Governor’s ‘Disregard’ Slammed

Cheney responded angrily, saying, “The final bill itself was a good compromise” and that he “couldn’t understand why the governor would have vetoed it.” Cheney added, “I do hope it will hurt him politically, and I believe it will.”

“I do hope it will hurt him politically, and I believe it will.”

RICHARD CHENEY
STATE REPRESENTATIVE
FARMINGTON, NEW MEXICO

Richardson explained his veto by saying the bill’s ambiguous language could have stopped public projects simply because private entities play a role in the project. Richardson also noted some municipal officials opposed the measure.

According to the Institute for Justice, whose lawyers defended homeowners in the Kelo case, more than 40 states have bills under consideration, and six have already passed bills to address the Court’s decision.

Several Protections Presented

In New Mexico, several proposals were introduced during the 2006 legislative session that would have addressed private-to-private takings. The strongest was a constitutional amendment introduced by Rep. Thomas Anderson (R-Bernalillo County). Anderson’s proposed amendment never made it out of committee.

While amending New Mexico’s constitution was a no-go in 2006, there was bipartisan support for addressing the eminent domain issue through legislation. Cheney introduced legislation that as originally worded would have prohibited the use of eminent domain if the taking was to promote private or commercial development and title to the property is transferred to another private entity.

The protections in Cheney’s bill were subsequently weakened to prohibit the transfer of property from one private interest to another private interest for five years. The watered-down wording passed both houses unanimously.

After vetoing the bill, Richardson promised to create a task force to study the eminent domain issue and propose legislation that he said in a statement would appropriately protect private property from condemnation geared solely at private commercial development. The governor offered no details on how he would do this and set no timetable for legislative action.

Priorities Puzzle

The inconsistency of the vetoes struck many observers as evidence of political motives.

Richardson stripped out $50,000 for educational technology in Roswell, but approved $1 million for a flight simulator at Balloon Fiesta Park. He vetoed $90,000 allocated for Berrendo Middle School in southeastern New Mexico, but approved $300,000 for an NFL “feasibility study.” And he vetoed money for new computers at a school in Lovington, in the southeast corner of the state, but approved $4 million for new filmmaking facilities and programs at other schools across the state.

The governor’s proposed 2007 budget called for an increase in general fund spending of more than 8 percent—well above the combined rates of inflation and population growth in the state. His top priorities included $318 million for a new commuter rail project, $100 million for a first-of-its-kind spacecraft to be used by space tourists, and $12 million to build an indoor-outdoor equestrian facility for rodeo and horse events.

Paul J. Gessing (pgessing@riograndefoundation.org) is president of the Rio Grande Foundation in Tijeras, New Mexico.
Cities, States Welcome Private Firms into Public Transportation Projects

By Geoffrey F. Segal

With highway transportation networks in dire need of investment, either to keep from crumbling or address congestion, promising developments that offer fresh thinking to address the challenges recently have appeared.

These developments feature a growing role for the private sector, as demonstrated by a wave of laws allowing long-term concessions to private firms that believe they can make money tackling transportation issues. At least 20 states currently have these laws in place. At least three states—Indiana, Utah, and Virginia—have passed such legislation this year.

Chicago Started Trend

The first long-term deal in the United States between a government entity and a private consortium was reached in 2005. The City of Chicago netted $1.85 billion for a 99-year lease of the Chicago Skyway, an eight-mile stretch of toll road. Ever since that deal, there has been a flurry of interest and similar activity elsewhere.

Earlier this year, Indiana entered into a deal twice the size of Chicago’s. A $3.85 billion, 75-year lease of the 157-mile Indiana Toll Road was signed with a Spanish-Australian consortium. On March 15 Gov. Mitch Daniels (R) said, “We’re the only state, I think it’s safe to March 15 Gov. Mitch Daniels (R) said, “We’re the only state, I think it’s safe to say, that has money in the bank, or will have, to fund the next set of investments [in transportation infrastructure].”

Officials in Indiana’s neighbor to the east, Ohio, apparently took note. Ken Blackwell, Ohio’s Secretary of State and Republican gubernatorial candidate in this fall’s election, has suggested leasing the Ohio Turnpike could net the state $4 billion to $6 billion.

Illinois lawmakers are likewise seriously discussing leasing state toll roads.

Virginia, Texas Weigh Initiatives

Virginia and Texas, often considered leaders on the privatization front, also are considering transportation privatization initiatives. The Virginia General Assembly passed legislation, which the governor recently signed, enabling long-term agreements similar to the ones in Indiana and Chicago.

The first candidate, the Dulles Toll Road (DTR), recently took a step backward. After receiving four proposals from private firms that would have netted the state about $1 billion, on top of significant capital upgrades, Virginia Gov. Tim Kaine (D) struck a deal giving control of DTR to the Metro Washington Airports Authority (MWAA). He said he did so to facilitate faster development of the Metrorail extension to Dulles airport.

The MWAA is a quasi-governmental authority established by the Commonwealth of Virginia, the District of Columbia, and federal law. Most Republican lawmakers oppose Kaine’s deal. Virginia House Speaker William Howell (R-Stafford) has pledged to fight the governor’s plan because he favors the private deals that would net more revenue for the state.

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In March a 31 news conference Howell called Kaine’s deal with the MWAA a “multibillion-dollar road giveaway with a stroke of the governor’s pen.” Meanwhile, Harris County, Texas, which includes Houston, is conducting a feasibility study to consider a lease of its extensive toll network. In addition, the Texas Department of Transportation is holding a two-day transportation conference in June that will, among other things, consider how to leverage assets and long-term concession deals.

New York, New Jersey Going Private?

Perhaps most intriguing are efforts in New York and New Jersey, with their large turnpikes and infrastructure needs. Investment banking sources say New York state authorities are looking into a private lease deal to assist in fixing the deteriorating Tappanzeek Bridge, or perhaps even funding the construction of a replacement bridge.

In New Jersey, legislation has been introduced, S 1777, that would allow a 49 percent investor stake in the Turnpike. In an April 1 interview with the Star-Ledger in Newark, Gov. Jon Corzine (D), who has a background in finance and banking, said the plan was “a useful idea.” He further noted revenue from any of the deal “ought to go into capital investments.”

Airports and Transit Next?

In light of the success of the Chicago Skyway deal, Mayor Richard Daley (D) is looking for a sequel. Several months ago Daley raised the possibility of privatizing Midway Airport and other prime city assets.

And according to investment banking firm Goldman Sachs, San Francisco authorities involved in the BART Oakland Airport connection project are looking to the private sector to help fund the construction of a shuttle link between the Oakland Coliseum and the airport. The project is estimated to cost $300 million and span 3.2 miles.

Geoffrey Segal [geoffrey.segal@reason.org] is director of privatization and government reform at Reason Foundation.
Medicaid Management Makeover

By Drew Beckley

A recent study, “Medicaid Makeover: Six Tough (and Unavoidable) Choices on the Road to Reform,” contends Medicaid would best serve the nation if state lawmakers reformed how the program is managed rather than implementing new policies.

The study was co-published in February by the Deloitte Center for Health Solutions with Deloitte Research, a division of Deloitte & Touche, an international firm that provides audit, tax, consulting, and financial advisory services to private businesses and government agencies.

Medicaid accounts for 20 percent or more of total state expenditures in many states. When budgets are tight, policymakers often are forced to consider making changes to their Medicaid programs, ranging from possible cuts in services to changing eligibility standards to taking programs to be, to make sure they are operating as effectively and efficiently as possible.

“State Medicaid programs ... should be run ... using the strict financial and managerial disciplines needed to operate a modern insurance or health care company, the study finds.”

Active Management Needed

In short, the study finds, states must actively and aggressively manage their Medicaid programs. Too often states fail to contain costs or expand coverage because they tend to be reactive—forecasting numbers of eligible beneficiaries and costs, then loosely tracking the program’s progress and asking legislators for more money when enrollments increase. In some instances, states trim back their programs, resulting in poorer long-term outcomes.

The Deloitte study recommends states acknowledge their Medicaid programs are not being efficiently managed, and then take steps to transform them. States should conduct a thorough assessment of their current Medicaid programs before undertaking fundamental management reform.

The study advises states to tackle the following six issues.

1. What should we be doing and not doing?

The study found many state Medicaid programs have an identity crisis. Some are primarily claims processors, while others are policy setters, contract managers, or financial stewards. Most are a confusing combination of all of the above.

States must identify what they want the core functions of their Medicaid program to be, to make sure they are operating as effectively and efficiently as possible.

2. Are we going to manage the services in our program directly, or will we contract for them?

States traditionally have operated all aspects of their Medicaid programs. However, the study found states are beginning to take a strategic view of their programs and how they administer them, considering whether some functions can be better performed by partnering with private organizations.

Texas, for example, outsources most of its Medicaid program operations, including claims processing, Medicaid Management Information Systems administration, provider and client relations, client enrollment, and client outreach and education. Accordingly, most Texas Medicaid staff work as contract managers to monitor contractor performance, rather than the traditional Medicaid roles in most states.

3. How much do we want to expand traditional Medicaid benefits to reduce the number of uninsured?

States are often tempted to use Medicaid to expand health coverage to a broader population, because many state programs already have established provider networks, technology infrastructure, and an established administrative foundation in place.

The Deloitte study cautioned that policymakers must explicitly decide how much to expand Medicaid. They must seriously consider whether their state’s climate is right for more aggressive and risky Medicaid-based program expansions. Broad-based support is critical, including from providers, member advocates, and the business community. Rigorous financial planning and control also are vital, to make sure an expanded Medicaid program doesn’t create an unsustainable entitlement.

4. Are we going to reduce or contain the costs of the Medicaid program?

The study recommends Medicaid policymakers take into account the following six factors in reducing or containing costs:

- Choose the most cost-optimal program structure for the state.
- Manage the optional population served by the program.
- Manage the optional benefits provided by the program.

- Structure the reimbursement rates to provide cost-savings incentives and control provider costs.
- Identify and implement administrative and technological efficiencies, such as a plan in Virginia to introduce electronic medical records.
- Implement consumer choice and related mechanisms to secure quality and reduce unnecessary care.

5. Will we go beyond simple program administration and use our Medicaid program to actively control the costs and quality of health care in our state?

The study suggests states should decide whether to invest in innovative arrangements (such as purchasing pools) or more advanced contracting models to manage health care costs and outcomes more systematically. For example, Georgia and other states are trying to hold down one of Medicaid’s top cost drivers—rising prescription drug costs—by pooling their purchasing power to negotiate better deals with pharmaceutical companies.

6. To what degree will Medicaid recipients share the state’s Medicaid burden?

State Medicaid directors face a natural tension when it comes to cost sharing: If Medicaid bears the entire burden, state budgets will be held hostage to rising health care costs, and patients will have no concept of health care costs and will tend to overuse the system. At the same time, however, Medicaid recipients by definition cannot shoulder the costs of high deductibles.

South Carolina is taking steps toward resolving that dilemma with its new Medicaid choice initiative. By establishing personal health accounts for most of the state’s 850,000 Medicaid recipients, the proposal aims to sensitize beneficiaries to the costs of health care while removing the economic incentive for patients to overuse services. Under the proposal, the $4 billion spent annually in South Carolina on Medicaid disbursements to providers would be diverted to personal health accounts that would be used to buy private health insurance or pay for care directly.

Drew Beckley (dbeckley@deloitte.com) is a principal for Deloitte Consulting LLP’s public sector practice and leads Deloitte’s efforts in working with states on Medicaid projects.
Medicaid’s Huge Hidden Costs

By Michael F. Cannon

In the 40 years since it was created to provide medical care to the needy, Medicaid has expanded far beyond its original mission. In 2004, Medicaid spending totaled $309 billion. The program now consumes a larger share of state budgets than elementary and secondary education.

Medicaid’s dramatic growth in the 1990s was a result of several factors, including federal State Children’s Health Insurance Program (SCHIP) funding, booming tax revenues, eligibility expansions, and an increased reliance on Medicaid-financed long-term care for seniors. But tax revenues dropped in 2001, which left states unable to manage the fiscal burden of their Medicaid programs.

In a Washington Times op-ed last October, Rep. Joe Barton (R-TX) noted, “[Medicaid is] both ‘free’ and break-the-bank expensive. ... In a sense, the program is a victim of its own success. It has grown so expensive that even the nation’s governors recognize that the future without reform is grim.”

States Seek Reform

Faced with unsustainable Medicaid growth, all 50 states have taken steps to contain spending, including more restrictive drug formularies, freezing or cutting provider payments, reducing eligibility, cutting benefits, and increasing beneficiary co-payments.

Other states are seeking federal waivers to pursue more wholesale restructuring of their Medicaid programs, such as allowing different sets of benefits for different groups of beneficiaries or moving toward a defined-contribution model.

South Carolina, for example, is trying to change its Medicaid program so that each beneficiary would receive a lump sum with which to purchase coverage (keeping any leftover money in a Health Savings Account). The governors of Florida and Colorado have expressed interest in Medicaid vouchers as well.

Mark McClellan, director of the Centers for Medicare & Medicaid Services, said in an August 8, 2005, Business Week article the agency was generally on board with such plans: “These kinds of approaches can lead to lower costs and more effective treatment. ... You can’t treat chronic illness without active patient involvement. And you can’t get that through some government pricing program.”

“[V]ouchers or HSAs may be a counterproductive way for states to rein in their Medicaid spending. With Medicaid HSAs making benefits more attractive, more eligible people would likely enroll in Medicaid (only about two-thirds of those eligible sign up at present), and would stay enrolled for longer periods.”

Savings Unlikely

But vouchers or HSAs may be a counterproductive way for states to rein in their Medicaid spending. With Medicaid HSAs making benefits more attractive, more eligible people would likely enroll in Medicaid (only about two-thirds of those eligible sign up at present), and would stay enrolled for longer periods. Furthermore, when gaps in coverage arise after beneficiaries deplete their HSA funds, states will step in to cover those gaps, obliterating any potential savings. That means higher taxes and greater dependence, two things that real Medicaid reform should avoid at all costs.

Before implementing ambitious Medicaid reform proposals, states need to examine ways to maintain the delicate balance between providing care for the truly poor and discouraging dependency on government. The road to Medicaid reform must begin with an honest assessment of all of its costs—those that appear in states’ budget reports and those that don’t.

“Crowds Out” Private Coverage

Supporters often claim Medicaid “picks up the slack” when the number of Americans with private health coverage declines. In reality, Medicaid crowds out private coverage.

As states expand their Medicaid programs to cover more benefits for more people, employers of low-income workers often drop the coverage they previously offered. In addition, many low-income workers decline coverage offered through their workplace and opt for Medicaid instead, which is virtually free to them at the point of service.

More than a dozen studies show Medicaid eligibility expansions reduce the number of low-income Americans with private coverage. In some cases, increases in Medicaid enrollment are completely offset by the reductions in private coverage.

Encourages Dependence

A corollary to the crowding out is dependence: Allowing 50 million Americans to use federal Medicaid funds for a few broad purposes, capping utilization, increasing co-payments—merely tinker around the edges of this massive program.

Real Medicaid reform would mimic 1996’s successful welfare reform law. Congress should let states set their own rules for eligibility and benefits; freeze federal payments at the 2006 amount and block-grant them to the states instead of matching all state spending dollar-for-dollar; and give states the flexibility to use federal Medicaid funds for a few broad goals, such as targeting assistance to the truly needy, reducing dependency, reducing crowding-out of charitable care, and promoting competitive markets for private coverage.

Michael F. Cannon (mcannon@cato.org) is director of health policy studies at the Cato Institute and a writer whose articles have appeared in major news publications around the country. He is the author of Healthy Competition: What’s Holding Back Health Care and How to Free It (Cato, 2005).


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on Medicaid wrongly encourages states to milk the Medicaid system, and low reimbursement rates mean that doctors might have the incentive to add unnecessary medical tests just to stay profitable,” said Indiana state Rep. David Frizzell (R-Indianapolis), who is working with his state’s Medicaid officials to develop a “cash and counseling” waiver for certain Medicaid beneficiaries.

“Perhaps the most important element of Medicaid reform is that beneficiaries have a stake in their own health care spending. It makes sense from a budgetary standpoint, and it also empowers individuals,” Frizzell said.

Budgets, Patient Health Linked
Health policy experts agree Medicaid’s budget and patient health outcomes are inextricably linked.

“We tend to think about money. And states have gone down this road before, with cutting Medicaid reimbursements and limiting access to prescription drugs,” said Nina Owharenko, senior health policy analyst for The Heritage Foundation. “States should recognize that Medicaid reform should not just be about budgetary concerns. They need to focus on how an unsustainable program will affect the health of their citizens. It’s not about slashing and burning. It’s about preserving the program for the most vulnerable citizens.”

Trying Consumer-Directed Approaches
Several states are experimenting with a consumer-directed approach—allowing Medicaid beneficiaries to own a fixed amount to pay for a benefit plan of their choice, or to opt out of Medicaid and purchase health insurance through an employer.

Florida will be the first state to implement such reforms in two test counties in June, as its “Empowered Care” waiver was approved by the federal Centers for Medicare & Medicaid Services (CMS) and the Florida legislature last fall.

Under the plan, insurance companies will compete in a “Medicaid marketplace” and offer varying benefit packages, that specialize in certain health needs. The plan also will allow beneficiaries to opt out of Medicaid and purchase health insurance through their employer, and to earn extra money in “enhanced benefit accounts” by participating in healthy practices.

“Medicaid spending consumes, on average, roughly 25 percent of states’ budgets. This figure continues to grow, and will grow unabated unless states reform their Medicaid programs.”

MICHAEL KEEGAN
DIRECTOR, TAX AND FISCAL POLICY TASK FORCE
AMERICAN LEGISLATIVE EXCHANGE COUNCIL

Lawmakers are hopeful the program will serve both Medicaid beneficiaries and taxpayers well.

Patient empowerment, marketplace competition, access to quality care, and cost stability are worthy goals that Florida and every state should strive for in reforming Medicaid,” said Florida state Rep. Gayle Harrell (R-Port St. Lucie), a key legislative player in her state’s Medicaid reform effort.

SC Starts ‘Healthy Connections’
South Carolina is moving forward with its “Healthy Connections” Medicaid reform plan, but without prior CMS approval. In February, Gov. Mark Sanford (R) announced his plan could proceed due to a provision in the federal Deficit Reduction Act (DRA).

The Healthy Connections plan allows Medicaid beneficiaries to own a “personal health account” to directly pay for medical expenses, join a managed care plan, or buy employer-sponsored insurance.

South Carolina also is applying to be part of a 10-state pilot program to test the use of health savings accounts by Medicaid beneficiaries, under another DRA provision.

“Policymakers and the people of South Carolina should be encouraged that Governor Sanford is trying new things with reforming Medicaid,” said Owharenko. “With [the new provisions] in the Deficit Reduction Act, he’s looking at any opportunity he has to move reform forward.”

Oklahoma Considers Competition
At press time, the Oklahoma Senate was considering House Bill 2842, which would authorize the Oklahoma Health Care Authority—the state agency charged with administering Medicaid—to submit a CMS waiver allowing personal health accounts for Medicaid beneficiaries and eliminating costly mandated benefits from the Medicaid program.

Oklahoma state Rep. Kris Steele (R-Shawnee), the bill’s sponsor, said he’s “cautiously optimistic” the bill will pass the Senate and survive Gov. Brad Henry’s (D) veto pen.

“This reform plan is the future of Medicaid,” Steele said. “Introducing competition into the system will change the bureaucracy of Medicaid and, in the process, change lives,” added Steele.

Idaho OKs Health Accounts
Idaho’s Medicaid reform bill—House Bill 663—was signed by Gov. Dirk Kempthorne (R) in March. The plan authorizes a CMS waiver to establish personal health accounts for all Medicaid beneficiaries, with differing beneficiary groups receiving different care packages based on their health needs. Supporters say the bill will encourage healthy lifestyles and the responsible use of medical care.

There are [Medicaid beneficiaries] who use the emergency room as a health clinic because it’s more convenient. This is costly, and it wastes precious resources that need to be used for real emergencies,” said Idaho state Rep. Robert Ring (R-Caldwell), a retired physician and supporter of the bill. “But with personal health accounts, you eliminate the one-size-fits-all mandate from the federal government and instill personal responsibility.”

Ring said Idaho has received informal assurances from CMS that the state’s waiver would be approved.

“I’m proud of what we’ve done: preserving the Medicaid safety net and changing the way we do business,” Ring said.

Reforms ‘Overdue’
J. P. Wieske, director of state affairs for the Council for Affordable Health Insurance, a research and advocacy organization of insurance carriers, said Medicaid reform is overdue.

“We are in a doom and gloom situation. Costs are rising, patients are not getting healthier, and the government is creating a dependency and paternalism that doesn’t help the Medicaid population,” Wieske said. “They deserve to have quality health care. They deserve to make their own choices. They don’t deserve getting squeezed out of the system.”

Christie Raniszewski Herrera (christie@alec.org) is director of the Health and Human Services Task Force at the American Legislative Exchange Council in Washington, D.C.

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Mixed Reviews for Reform

Critics of market-based Medicaid reform claim the plans are “untested” and would result in higher costs and worse health outcomes.

“These plans make many false assumptions about Medicaid. The biggest one is that private coverage is less expensive, when Medicaid is cheaper,” said Judith Solomon, senior fellow at the Center on Budget and Policy Priorities, a frequent critic of market-based Medicaid reform.

“This may potentially harm beneficiaries who are subject to defined contributions that may or may not meet their needs, especially for the disabled,” Solomon added.

Doubters Offer No Alternative
Solomon is equally skeptical of claims that Medicaid would fare better under private-sector management. “I’ve talked with lawmakers in Idaho and Oklahoma, and the people in statehouses actually believe that the private sector can do things better, but they don’t have any evidence of that,” she said.

When asked about her organization’s Medicaid reform plan, Solomon replied, “That’s a fair question. We don’t really have a comprehensive plan for reform. We have been working on analyzing what’s out there, like better managing chronic illness. But we don’t yet have a comprehensive answer to this.”

Analysts Cite Reform Benefits
Insurance industry analysts refute Solomon’s claim that there is no evidence of private-sector advantages.

“Private insurers have a lot of experience in dealing with people with different health needs, whereas the government is just a claims processor,” said J. P. Wieske, director of state affairs for the Council for Affordable Health Insurance, a research and advocacy organization of insurance carriers.

“It is also helpful for the patient, because private insurance will help remove the stigma or the perception of a stigma of people on public assistance,” said Wieske. “Removing that may encourage people to seek treatment more, which will improve health outcomes.”

— Christie Raniszewski Herrera

Tell Me What You Think!

Write to me at:
Budget & Tax News
Steve Stanek
Managing Editor
The Heartland Institute
19 South LaSalle Street #9903
Chicago, Illinois 60603

Or drop me an email: stanek@heartland.org
Despite Unpaid Bills, Illinois Medicaid Takes on New Costs

Governor accused of ignoring unpaid bills

By Steve Stanek

Illinois’ Medicaid program owes $1.5 billion in late payments to pharmacists, doctors, nursing homes, and others, yet in July the state will begin using Medicaid to offer subsidized health insurance to every child in the state, regardless of family income or legal residency. The “All Kids” program will offer subsidized health insurance to all children in the state up to age 19.

The situation is drawing complaints from medical professionals and lawmakers concerned about a Medicaid burden that continues to grow, even as the state delays payments and holds down reimbursement rates.

‘Disenfranchising Poor People’

“Our governor has sold out other health care providers to have his All Kids program,” said state Rep. Jack Franks (D-Woodstock). “He wrote in the law that the All Kids providers would be paid in 30 days. People who have been carrying water for Medicaid for years by accepting late payments and low payments, he cast aside. The governor’s position is disenfranchising poor people, because he’s making it so difficult for our pharmacies and health care providers and nursing homes to serve them.”

Gov. Rod Blagojevich (D) pushed the All Kids program through the General Assembly during last fall’s six-day veto session. The vote was largely along party lines; Democrats control the governorship and both houses of the General Assembly.

Franks said the Blagojevich administration “keeps pushing back the payment cycle and using that to balance the budget. That means when you start the next budget, you’re behind even more, which isn’t honest and may not be legal. The other issue is reimbursement rates. The state requires people who are getting underpaid to, in effect, give the state interest-free loans. That is bad business and politics.”

Spokespersons for the governor did not return calls for comment.

Both Parties’ Lawmakers Worried

Franks’ complaints demonstrate growing bipartisan dismay with the Blagojevich administration’s spending practices, said state Sen. Pamela Althoff, a Republican whose district includes Franks’ House district. She noted Franks and the governor are both Democrats, and pointed out that Democratic Party leaders shut Republicans out of this year’s budget process and still missed their April deadline for a budget.

“This is not a partisan issue,” Althoff said. “There are concerns about Medicaid and other spending programs all over the General Assembly. I have never seen such blatant spending with no revenue source to back it up, as we have with this administration.”

Illinois’ Medicaid reimbursement rates to doctors have climbed about 11 percent over the past decade. Office expenses have climbed about 50 percent, said Dr. Peter Eupierre, president of the Illinois State Medical Society and an internist in the Chicago suburb of Melrose Park.

Failing to Pay Providers

“The main problem is reimbursement rates in Illinois are low,” Eupierre said. “And they are late with reimbursements, now about five to six months. Imagine a company trying to stay alive and having to wait six months for customers to pay. We frequently send in a bill, the state finds something to question, and it comes back six months later. So it becomes a year before you’re paid. Sometimes you don’t get paid at all.”

Because of increases in the costs of liability insurance, office staff salary and benefits, rent, and other operating expenses, “many physicians can’t afford to see Medicaid patients,” Eupierre said. “If I see three Medicaid patients and get $30 an hour, I’m getting $90 an hour. It easily costs me $300 an hour to be open. I’m losing $210 an hour. Many doctors in areas where Medicaid is the main population have a hard time staying open or have to see seven or eight patients an hour. I, as an internist, cannot see that many patients per hour.”

David Dring, spokesman for state Republican House Leader Tom Cross (R-Oswego), said it is especially irresponsible of the state to increase Medicaid eligibility through the All Kids program when it cannot afford current enrollment costs.

“Costs are skyrocketing even with eligibility staying the same,” Dring said.

Steve Stanek (stanek@heartland.org) is managing editor of Budget & Tax News.
NY Legislature Cuts Gov’s Medicaid Cost Reductions

Waste, fraud, abuse plague $45 billion system

By Devon M. Herrick

In his 2006/2007 Executive Budget, Gov. George Pataki (R) proposed to cut the cost of the state’s Medicaid program by about $1.3 billion. However, in its Legislative Budget Agreement of March 31, 2006, the legislature agreed to only about $700 million in savings. The legislature refused to accept Pataki’s cost-containment initiatives to stop automatic increases in hospital and nursing home rates. Lawmakers also rejected proposals to control the rising costs of prescription drugs. There is widespread agreement among policy analysts, however, that both elements of the Medicaid program are costly and fraught with waste.

The New York Medicaid program is the costliest in the nation, currently covering one in every five residents of the state—an estimated 4 million people.

At a cost of more than $45 billion per year, New York State spends about 43 percent more on Medicaid than Texas and Florida combined, despite having a total population only about half the size of the two states’ together.

Fraud Rampant

The problem that recently has received the most attention is fraud. The extent of Medicaid fraud in New York State was highlighted over the past year by extensive news coverage in The New York Times. Some of the more egregious cases cited by the newspaper include:
- A dentist working out of a small Brooklyn storefront who billed Medicaid for 991 procedures in one day.
- A school in Buffalo that received funds for referring 4,434 students to Medicaid-covered speech therapy without talking to the students or reviewing their records; and
- A physician who prescribed, over a three-year period, $11.5 million worth of a synthetic hormone popular with body-builders.

Officials disagree on the size of the problem. James Mehmet, a former chief state investigator of Medicaid fraud and abuse in New York City, told The New York Times last summer he estimated fraud consumed 10 percent of the state Medicaid budget. That is consistent with national estimates by the Government Accounting Office reported in 1997.

New York Attorney General Eliot Spitzer, by contrast, recently stated he believes fraud represents only about 2 percent of the state’s Medicaid budget.

“At a cost of more than $45 billion per year, New York State spends about 43 percent more on Medicaid than Texas and Florida combined, despite having a total population only about half the size of the two states’ together.”

Leaders Calling for Action

State leaders have been sounding the alarm about Medicaid fraud for some time. New York State Senate Majority Leader Dean G. Skelos (R-Rockville Centre) said, “14 months ago, I began raising the issue of Medicaid fraud and its importance to New York’s taxpayers.”

In 2005 Pataki signed an executive order creating a state Medicaid Inspector General (IG) to combat fraud. The New York Assembly and Senate are currently working on a compromise bill to create an Office of Medicaid IG by statute. The state Senate wants a much stronger Medicaid IG than the state Assembly wants.

According to Skelos, the Senate bill “is comprehensive reform that fights fraud at every stage of the billing process. The time for debate and delay is over. The Assembly needs to act.”

Others note waste and abuse of the system are an even larger problem than fraud. Mehmet says the use of medically unnecessary services and procedures that probably don’t rise to the criminal level siphons off an additional 20 to 30 percent of the Medicaid budget. An office of Medicaid IG would pursue fraud but not waste.

Problems Are Systemic

Fraud, waste, and abuse appear to be a byproduct of the way Medicaid providers are paid.

“The way Medicaid is designed, we were inviting fraud,” said Chemung County Executive Thomas Santulli. He said when health care is free at the point of service, enrollees have little incentive to scrutinize the services they receive (or are billed for on their behalf). Unscrupulous providers find unconcerned patients to be an easy mark for services they may not need.

Though the office of the attorney general is charged with fighting fraud in New York State, the office may not systematically analyze utilization trends that could indicate patterns of fraud until a case is referred by the Department of Health. And until recently, New York counties were not allowed to police the Medicaid providers within their borders, even though counties pay a significant portion of the costs.

In fall 2005, the New York State Department of Health allowed 12 counties to look for unusual patterns in Medicaid billings. After examining just a small portion of the bills, investigators in Rockland County discovered what appeared to be $13 million in questionable charges over less than two years.

Fraud is Distraction

Experts point out fraud is but one of many problems in New York’s Medicaid system.

“Legislators in both parties have latched on to the fraud issue chiefly as a means of freeing up money to spend on an already bloated program,” said Edmund J. McMahon, director of the Empire Center, a public policy institute that studies New York State finances. “Gov. Pataki’s proposed budget cuts have only scratched the surface of New York’s enormous Medicaid budget problem.”

Devon M. Herrick (devon.herrick@nepa.org) is a health economist and senior fellow at the National Center for Policy Analysis.

Medicaid Costs are Busting Budgets, Say North Carolina County Officials

By Chad Adams

Counties across North Carolina are experiencing budget problems because of high and increasing Medicaid costs. According to the North Carolina Association of Commissioners, the state requires the counties to pay 15 percent of the state portion of Medicaid, currently about $460 million.

That unfunded mandate from the state legislature has taken a terrible toll on county budgets. In Columbus County, there are more people on Medicaid than are working. In Bertie and Hertford Counties, the mandate consumes upwards of 20 percent of the county budget. In Scotland County, the increases in Medicaid last year would have required a 6 cent increase in the property tax rate. With the county’s citizens already saddled with the highest property tax rate in the state ($1.10 per $100 valuation), the county commissioners decided to cut law enforcement positions in lieu of a tax increase.

Poorest Hurt Most

“This policy adversely affects the poorest counties in North Carolina,” said Bertie County Manager Zee Lamb. “The intent in 1971, when this was enacted, was not...
“This policy adversely affects the poorest counties in North Carolina. The intent in 1971, when this was enacted, was not to hurt low-wealth counties. Thirty-five years later it is hurting our ability to educate our kids.”

ZEE LAMB
MANAGER
BERTIE COUNTY, NORTH CAROLINA

Clark Jenkins
State Senator
Edgcombe, North Carolina

to hurt low-wealth counties. Thirty-five years later it is hurting our ability to educate our kids.

Juxtaposing two counties in the state speaks volumes about the financial impact of the Medicaid policy.

Robeson County, in the southeastern part of the state, has no major metropolitan areas and no coastal property. Medicaid eats up 14 percent of its general fund, and 44 percent of the county’s residents are Medicaid-eligible.

To the north and east, Carteret County, which has coastal property where many second homes are located, spends less than 5 percent of its general fund on Medicaid.

Such differences are prevalent across the state.

Spending Rose 63 Percent

Medicaid spending has far outpaced inflation and population in North Carolina, increasing more than 63 percent in the past five years. Forty-eight counties spend more on their local share of Medicaid than on public school construction.

Solutions proposed thus far have nothing to do with slowing down costs or decreasing enrollments, but are primarily focused on shifting the burden back to the state.

Early this year, state Sen. Tony Rand (D-Cumberland) proposed the state take over the county share of Medicaid in exchange for the counties turning over their share of sales tax money.

That would have stopped the bleeding but would have been a money loser for the counties, taking more than $1 billion in revenue away from the counties and giving the state a net windfall in excess of $550 million. The proposal would have allowed the counties to enact a new 1 cent sales tax increase to replace the lost revenue. The net result would have been another $1 billion in taxes on the citizens—and no cost containment efforts by the state.

‘Robin Hood’ Plan Quashed

Rand’s proposal received mixed reviews as it went before the Commissioners’ Association. Rural counties liked the prospect, as their Medicaid expenses far outpace their sales tax revenue, while more urban counties had far more revenue from sales tax than they had Medicaid expenses.

Edgcombe County Commission Chairman Charlie Harrell summarized the rural county position in the Rocky Mount Telegram on March 25: “It’s a no-brainer for us. This would be a huge step in improving conditions in Eastern North Carolina from a fiscal standpoint.”

State Sen. Clark Jenkins (D-Edgcombe) made the point in a much more dramatic fashion. “I subscribe to the Robin Hood theory, that the rich need to help the poor,” he said.

The proposal was approved by the Commissioners’ Association’s Budget and Finance Committee, but the Human Resources Steering Committee voted against it. That committee did vote to support the proposal if more opportunities for the counties to raise other taxes and fees were added to the deal.

County Officials Sound Off on Medicaid

“It’s kind of crazy that we don’t have a Medicaid cap in place. Property values are fairly low, but our tax rate makes it very difficult to compete from an economic development standpoint. Something needs to be done! Our increase in Medicaid last year alone was 6 cents from a property tax standpoint.”

Scotland County Manager John Crumpton

Medicaid there totals $3.7 million, 10 percent of the local budget

“I would certainly like to see some relief, wherever that would come from. Since we’re the only state [that treats counties in this way], we should fix this problem.”

Columbus County Manager Jim Varner

Eleven percent of Columbus County’s budget goes to Medicaid

“The difference between counties just makes the case that Medicaid should be handled by the state as it is in every other state in the union. As this has developed over the years, the state is very selfish in their own revenues to the detriment of the counties. It’s almost scandalous.”

Carteret County Manager John Langdon

About $3 million of the county’s $65 million budget is for Medicaid

“We have 44 percent of our county residents that are eligible. What it boils down to is that we don’t have money to provide for building new schools. The sales tax money goes to small projects or existing school capital issues. We have no money for parks or sheriff’s vehicles.”

Robeson County Manager Ken Windley

Medicaid takes up $13 million, 14 percent of the county’s general fund

“D-Cumberland) proposed the state take
Terrorists

Continued from page 1

The indictment says the smuggling operation evaded “tens of millions in state cigarette taxes” and funneled illegal proceeds to the terrorist organization. Most of the smuggled cigarettes were sold in Michigan and New York, sometimes with counterfeit tax stamps to make it appear the proper state taxes had been paid.

The group would buy low-tax cigarettes in North Carolina and untaxed cigarettes at the Cattaraugus Indian Reservation in New York and bring them into Michigan and New York State, which have high cigarette taxes, according to the indictment. New York State’s tax is $1.50 a pack. Michigan’s is $2 a pack, at press time fourth-highest in the country. The smugglers would then resell the cigarettes at market price, resulting in illegal profits that were steered to Hezbollah, according to the U.S. Attorney’s office.

Other Items Pirated

The majority of the smuggling involved cigarettes, the enterprise also sold phony Viagra, Zig-Zag cigarette papers, and stolen toilet paper and baby formula, according to the indictment.

More than a half-dozen federal, state, and local law enforcement and regulatory agencies were involved in the investigation, including the U.S. Attorney’s office for the Eastern District of Michigan, the Federal Bureau of Investigation, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).

“A mult imillion-dollar smuggling operation based in Michigan allegedly helped fund the Hezbollah terrorist organization (also known as Hezbollah), according to a federal indictment of 19 men that was announced March 29.”

Operation Spanned Continents

Susan Plochinski, a spokesperson for U.S. Attorney Stephen J. Murphy, said the United States does not have an extradition treaty with Lebanon, where several key figures in the smuggling operation are believed to be living. She could not say whether more indictments or arrests are expected. She said the investigation is continuing.

The indictment announced March 29 alleges Imad Hammoud, along with his partner, Hassan Makki, ran a multimillion-dollar-a-year smuggling operation based in the Dearborn area between 1996 and 2002. Makki pleaded guilty in 2003 in federal district court in Detroit to racketeering and providing material support to Hezbollah.

Some of the cigarettes were supplied to the organization by Mohammad Hammoud, who in 2002 was convicted of several crimes in federal district court in Charlotte, North Carolina. The crimes included racketeering and providing material support to Hezbollah.

Makki and Mohammad Hammoud are in prison for their criminal convictions. They were not charged in the indictment announced March 29 but were identified as unindicted co-conspirators.

Michael D. LaFai le (lafai le@macinac. org) is director of fiscal policy at the Mackinac Center for Public Policy in Midland, Michigan.

Cigarette Trafficking Grows as Taxes Climb

By Steve Stanek

A cigarette tax in many states has climbed, so has the illicit cigarette trade. The Bureau of Alcohol, Tobacco, Firearms, and Explosives made 35 arrests for tobacco trafficking in 2003 and 162 such arrests in 2005, according to Philip Awe, chief of the alcohol and tobacco enforcement branch.

Awe attributes the sharp rise in cigarette trafficking arrests to an increase in illegal activity and improved investigation methods. A major factor in the rise in illegal activity, he said, may be higher cigarette taxes. As taxes climb, the profit potential of smuggling grows.

Awe is from Michigan and recalls that in 1993 or 1994 the state raised its cigarette tax from 25 cents to 75 cents a pack.

Criminal Enterprises Move In

“When that happened we had mom and pop smugglers going to North Carolina, Kentucky—the low-tax states—and bringing cigarettes back to Michigan. They were taking minivans and loading them up,” Awe said. “Michigan and other states have limits on how much people can bring back into the state, and Michigan started enforcing it. They have their own tobacco tax unit within the state police, and they were able to address that part of the problem.”

“Then Michigan started [requiring tax stamps] on their cigarettes. That whittled out the mom and pop smuggler, but it brought in criminal enterprises dealing in contraband cigarettes,” Awe said.

He could not estimate how much product is sold illegally but said it must total billions of dollars.

“Contraband cigarettes are a worldwide problem. We’re talking billions of dollars,” Awe said. He said contraband cigarettes include counterfeit products as well as legitimately made cigarettes that are smuggled to avoid taxes.

“There are counterfeit cigarettes being made from tobacco fields in foreign countries and packaged as U.S. product or European product,” Awe said. “The counterfeiters ship those cigarettes into the United States through various ports and distribute to them to criminal organizations. The really bad thing with counterfeit cigarettes is there are no standards with their manufacture. They could be laced with anything.”

Steve Stanek (stanek@heartland.org) is managing editor of Budget & Tax News.

This sheet is one of hundreds, each representing thousands of counterfeit tax stamps, obtained during a raid conducted in the Dearborn, Michigan area.
Telecom
Continued from page 1

efficacy of the process through greater competition and availability of the latest video technologies.” He added, “With this reform, we could be first in the nation and one of the top destinations for telecommunications investment.”

The new law streamlines the state’s regulations governing entrance into video programming—or cable television, as it’s more commonly known. The law’s most prominent feature allows video service providers to acquire just one statewide “franchise,” or license, that allows them to offer video programming anywhere in the state.

“With this reform, we could be first in the nation and one of the top destinations for telecommunications investment.”
BRANDT HERSHEYMAN
STATE SENATOR
WHEATFIELD, INDIANA

Local Franchising Costly

Before the reforms, video service providers in Indiana had to negotiate a franchise for each locality before offering television service to that area. As part of those agreements, municipalities required video service providers to pay a “franchise fee”—a tax of up to 5 percent of gross revenues—donate PEG (public, educational, and governmental) access channels, and provide a host of other miscellaneous “public services.” There are hundreds of franchise areas in Indiana.

Telephone companies have enthusiastically supported laws abolishing local video franchises. According to Walter McCormick, CEO of USTelecom, local franchise laws hinder phone companies from offering video service efficiently.

“Technology has also made it possible for voice providers to offer video,” McCormick said on March 30 in testimony before the U.S. House Energy and Commerce Subcommittee on Telecommunications and the Internet. “But an archaic governmental system that was meant for a time when technologies were segregated, rather than converged, is a barrier to competitive entry into video.”

Cable Defends Franchises

The cable television industry, which has lobbied against video service deregulation, insists meaningful competition can exist even with local franchise laws intact. Kyle McSlarrow, president of the National Cable and Telecommunications Association, testified to Congress, “The telephone companies have had a decade to enter the video market.” He cites several instances in which municipalities quickly granted telephone companies video franchises, and he concluded, “the existing franchise process is not a barrier to entry.”

“Focus on the debate between cable and phone misses the point,” said Wayne Brough, vice president for research and chief economist at FreedomWorks. “Franchise regulations arose during an era when cable television providers were viewed as a ‘natural monopoly’ in the video service market. They were in response to concerns that cable companies would abuse their monopoly status to harm consumers.

“But with robust competition from satellite and telephone companies,” Brough continued, “it doesn’t make sense to treat every television provider as a monopolist. Local franchise laws have outlived their original purpose, and are significant barriers to competition.”

Consumers Will Save Millions

According to “The Economic Impact of Telecom Reform in Indiana 2006,” a study by the Digital Policy Institute at Ball State University, competition in television will “save existing Indiana cable subscribers between $131 million and $282 million annually while creating roughly 20,000 jobs.

Advocacy groups, however, remain concerned the new law does not include any “build-out requirements,” which force video providers to build networks to rural and low-income areas. Jeannine Kenney, a policy analyst for Consumers Union, contends, “without reasonable requirements that telephone companies build out their video services to all consumers within the community telephone companies will be free to redline middle- and low-income neighborhoods, denying competition to consumers who most need cable rate relief.”

Less than a month after the bill’s signing, AT&T announced an expansion of its video services to 33 rural Indiana towns. Brough said this is evidence build-out requirements are unnecessary.

“It doesn’t make economic sense for video providers to ignore a large portion of the market,” Brough said. “At the same time, build-out requirements may make the cost of entering the market prohibitive for smaller companies, hurting competition in the process.”

Reforms Catching on Elsewhere

Indiana is the second state to deregulate the video programming industry in such a comprehensive fashion. Last September, Texas passed similar statewide franchise reforms. As in Indiana, the debate was marked by acrimonious lobbying campaigns by cable, phone, and consumer groups on both sides of the political aisle.

After the Texas law went into effect, more than 120 new video franchises were granted. AT&T announced it would invest in $800 million worth of new broadband networks covering every town in its service area. In areas of the state with new competitors, rates dropped by as much as 25 percent.

This April, Kansas adopted video franchise reforms modeled after those in Indiana and Texas. The legislatures of Florida, Iowa, Michigan, and Missouri are currently considering similar deregulatory legislation.

Arpan Sura (asura@freedomworks.org) is a staff writer at FreedomWorks, a grassroots organization with more than 800,000 members nationwide.

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“The Economic Impact of Telecom Reform in Indiana 2006,” by the Digital Policy Institute at Ball State University, can be viewed at http://www.bsu.edu/digitalpolicy/media/pdf/theeconomicimpactoftelecom.pdf.


The congressional testimony of Kyle McSlarrow, president of the National Cable and Telecommunications Association, can be viewed at http://energycommerce.house.gov/108/Hearings/03032006hearing1823/McSlarrow.pdf.
Arizona Governor Proposes 23% Spending Hike
Budget goes from $1 billion surplus to deficit in one year

By Noah Clarke

E
er since state budgeters forecast a $1 billion surplus last fall, Arizona politicians have been debating how to use the money. Driven by a strong real estate market, population growth, and rising corporate profits, year-to-date revenue collections are up almost 20 percent over the prior fiscal year. And the money keeps pouring in.

Gov. Janet Napolitano (D) says the surplus offers an opportunity to “invest in Arizona.” Her fiscal 2007 budget would push state general fund spending over $10 billion for the first time, a 23 percent increase over fiscal year 2006.

The governor says her top priority is a $115 million all-day kindergarten program, which would require an additional $170 million in capital improvements in the coming five years. Should her proposal pass, more than 51 percent of the general fund would be spent on education. The proposed budget also includes $1.8 billion to be spent on health care, $143 million to increase state employee pay, and an estimated $100 million for security on the border with Mexico.

The state senate’s minority leader, Linda Aguirre (D-Phoenix), praised the governor’s proposal, saying, “now that Arizona is on the fiscal rebound, it’s great to see a budget proposal that invests in Arizona’s best resource, its citizens.” She added, “With the governor’s investments in education, health care, and border security, as well as her proposals for targeted tax relief, I think she has a great feel for what mainstream Arizona wants.”

Big Deficits Projected
The state’s Joint Legislative Budget Committee, however, projects the governor’s spending plan would lead to a $375 million budget deficit next year, growing to $755 million in 2008 and $832 million in 2009.

“Deficits are a function of overspending or a revenue collapse. The governor actually forecasts a revenue increase, and yet her budget still produces a $375 million shortfall,” said SteveVoeller, president of the Arizona Free Enterprise Club. “That’s just irresponsible.”

Spending, Tax Caps Proposed
The governor’s proposed budget has raised the ire of fiscal conservatives in the state legislature. Lawmakers have introduced several bills calling for the legislature to cap spending, cut taxes, and return at least part of the surplus to the taxpayers.

One bill would cut personal income tax rates 25 percent over five years and return more than $200 million in recently collected property taxes. Another would reduce Arizona’s personal and corporate income tax rates by 10 percent over two years. Rep. Laura Knaperek (R-Tempe), the bill’s sponsor, said the governor’s “tax cut proposals are minuscule and targeted to specific groups of people,” adding, “broad-based tax cuts are sound policy.”

Kyrsten Sinema (D-Phoenix), has a different view of what is sound policy, saying the proposed tax cuts are “shortsighted” and fail to address the state’s long-term needs.

Gov. Janet Napolitano

Call Spending ‘Investing’
Political observers note an interesting aspect of the surplus debate is the terminology being used. The governor and her supporters are using mainstream terms such as “investing”—part of an ongoing national trend among politicians to make government sound more businesslike and efficient.

Tom Patterson, chairman of the Phoenix-based Goldwater Institute, a free-market research organization, says it is better to talk things by their proper names.

“When government is involved, let’s call it what it is,” Patterson said. “It’s not investing. It’s spending.”

With the governor hoping to increase spending almost four times faster than population and inflation growth and three times faster than personal income growth, the burden on individual and corporate taxpayers will inevitably be heavier, opponents say.

Arizona Tax Burden Soaring
According to the U.S. Census Bureau, Arizona’s state tax burden in 2002 was $1,558 per person. In 2005 it was $1,853, a 19 percent increase in three years. That means less money to finance new companies, create new jobs, and increase wages.

The past two decades of fiscal policy in Arizona can be divided into two periods. From 1983 to 1991, taxes increased and, subsequently, Arizona’s per-capita income and earnings per employee fell below the national average. But from 1992 to 1996, former Gov. Fife Symington (R) cut taxes by $1.5 billion. During that period, job creation, population, and new business creation grew three times faster than the national average.

The trend continued until the recession that hit during the 2002 fiscal year.

Benita M. Dodd

Georgia Passes Strong Property Rights Protections
Citizens nationwide still angry over eminent domain ruling

By Benita M. Dodd

The state of Georgia has passed one of the nation’s strongest protections against eminent domain abuse by state and local government bodies. On April 4, Gov. Sonny Perdue (R) signed the Landowner’s Bill of Rights and Private Property Protection Act, which he had previously championed, and a proposed constitutional amendment that would allow only elected officials to use eminent domain and would “prohibit the contest-use of eminent domain except for public use as defined by general law.”

According to the Castle Coalition, a non-profit group that has been supporting states in the year since the U.S. Supreme Court’s Kelo ruling allowed governments to seize land from private owners and give it to other private entities, at least 47 state legislators have introduced, considered, or

“The Supreme Court ruling became a wake-up call to homeowners and landowners dozing during government’s mission creep.”

KELLY MCCUTCHEN

GEORGIA PUBLIC POLICY FOUNDATION

passed legislation aiming to curb the use of eminent domain and prevent governments from seizing private property for private development to increase tax revenue.

In addition, local governments across the nation have tightened up ordinances and approved non-binding resolutions, and some banks have refused to lend money to developers for private property seized by government. (See “Missouri Bank Refuses to Finance Eminent Domain Development Projects,” Budget & Tax News, April 2006, and “Bank Ends Loans to Developers Who Build on Land Seized by Government,” Budget & Tax News, March 2006.)

Georgia a Microcosm
Georgia is a microcosm of the eminent domain debate taking place among legislators, property owners, special interests, and many governments. The state had largely adhered to the intent and spirit of the Takings Clause of the Fifth Amendment of the U.S. Constitution as traditional, court-bred, but the Georgia Public Policy Foundation had warned the potential for eminent domain abuse loomed large because hundreds of authorities, agencies, local governments, and boards possessed eminent domain power.

Various groups have assailed the new Georgia law as too little, too much, or too late, depending on their positions on the power of government to seize private property for economic development.

Kelly McCutchen, executive vice president of the Georgia Public Policy Foundation, is optimistic about the aftermath of Kelo.

“In the end, the Georgia Legislature passed one of the strongest eminent domain reforms in the nation,” said McCutchen. “The Supreme Court ruling became a wake-up call to homeowners and landowners dozing during government’s mission creep. But there’s still work ahead, and Georgians have to stay alert to protect property rights.”

Benita M. Dodd (benitadodd@gppf.org) is vice president of the Georgia Public Policy Foundation.
State of the Unions

A review of union news, labor reform, and research findings

By Ryan Bedford

With the immigration debate raging across the nation, unions are mobilizing to exploit the immigrants’ cause for political gain. Faced with an unprecedented decline in membership and political clout, unions have abandoned their traditional opposition to low-wage, migrant workers and have embraced mass immigration and amnesty for illegal immigrants. Union officials hope the charged political issue will resuscitate their own political machine and gain them another cash cow.

In “Member-Hungry Unions Place Hope in Mass Immigration,” the Capital Research Center describes the new dynamic.

“The driving force behind Change to Win [a group of unions that broke away from the AFL-CIO last year] is SEIU [Service Employees International Union] president Andrew Stern, who believes in labor and business ‘stand-by’ ‘shoulder to shoulder’ on immigration, fighting for more of it,” the report states. “AFL-CIO president John Sweeney, Stern’s former boss and mentor at SEIU, is also an immigration enthusiast, though he expresses his enthusiasm in language couched in classic Leftism.”

The report warns that unions organize this new workforce at their own peril.

“Labor’s strategy to ratchet up immigration indefinitely is self-defeating. Unions may acquire additional members and dues collections, but they will get a bumper crop of workers who are less skilled, educated and English-fluent than the overall labor force. These workers are replaceable. And replaceable workers, in whatever industry, are in no position to press demands, unless they engage in Justice for Janitors-style sturm und drang,” author Carl P. Horowitz wrote.


Paycheck Protection

The James Madison Institute’s latest Backgrounder, “A Paycheck Protection Primer for Florida,” explores the benefits of laws requiring labor unions to obtain members’ annual, written consent before spending their dues on politics.


Unions Push ‘Fair Share Health Care’

A publication by the National Legal and Policy Center, “Unions Find a More Potent Weapon,” discusses how the recent Fair Share Health Care fad is part of a broader movement by Big Labor to push its agenda. Union officials have found “corporate campaigning,” which pressures companies “in every conceivable way,” more effective than traditional strikes or protests.

Opponents of Maryland’s Fair Share Health Care bill correctly noted it was intended as just a first step toward mandatory health care in the private sector. Shortly after passing the bill targeting Wal-Mart, the Maryland legislature took up another bill aimed at smaller businesses.

The ultimate economic effects of the policy are still unclear, but the Employment Policy Institute concluded the policy in New York could cost companies up to $6,000 per employee each year, as reported in the organization’s publication, “The ‘Fair Share for Health Care Act’ and New York’s Labor Market.”


WA Court Quashes Workers’ Rights

In March, the Washington State Supreme Court delivered what many analysts are calling a terrible blow against the rights of workers in Washington state. In a decision involving the state and the Washington Education Association, the court struck down statutory protections for teachers barring the use of union dues for political purposes without the dues payers’ permission.

In doing so, the court disregarded the union’s admission it had intentionally spent nonmember dues on politics without permission, a violation of state law.

Washington Attorney General Rob McKenna said he will appeal the case to the U.S. Supreme Court.


Pensions, Health Raising Worries

Public employee pensions and benefits have become a hot topic over the past year and will become even more controversial as people begin to realize the burden politicians are placing on taxpayers through huge pension obligations.

A report by the Yankee Institute, “America’s Second Civil War: The Public Employment Complex vs. Taxpayers,” says the root cause of many of today’s contentious policy debates is the trillions of dollars in future wages and benefits that have been pledged to government employees at all levels.

A good example is in Pennsylvania, where the Commonwealth Foundation concludes the state is heading toward a crisis in funding retirement benefits for lawmakers, judges, teachers, and other state employees.

A report by The Heritage Foundation, “The Other 71 Million,” notes retirement insecurity looms for millions of American workers. For most, Social Security will not be enough.

“MSAs Increase Freedom and Choice,” from the Mackinac Center for Public Policy, argues Medical Savings Accounts (MSAs) offer tremendous promise for reining in rising health care costs and giving individuals more freedom and choice. Numerous studies indicate 3 million Americans are enrolled in MSAs, triple the number of just 10 months ago.


Where Does Your State Stand?

UnionStats.com has posted on its Web site state-by-state union membership numbers for 2005. The Public Service Research Foundation used the numbers to update its tables listing union membership and union density for private and public unions nationwide.

Sources: Union Membership and Coverage Database from the CPS (Documentation), http://www.unionstats.com; Public Interest Research Foundation, http://www.psr.org/index.jsp

Ryan Bedford (rbedford@effwa.org) is a labor analyst with the Evergreen Freedom Foundation in Olympia, Washington.
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