Chicago Mayor Puts Brakes on ‘Super Station’ Project for Now

By Steve Stanek

After spending $213 million, the City of Chicago has decided to suspend indefinitely construction of an underground “super station” for express train service to and from the city’s major airports and downtown. Mayor Richard M. Daley (D) announced he would pull the plug on further construction in June, blaming outdated track-switching technology as the reason. The project was far behind schedule and over budget. To build the station as originally planned, total spending would be about $320 million, more than $100 million over budget, according to city officials. Skeptics say the estimate of an additional $100 million may be

Supreme Court Affirms Free Speech for Employers

By Scott Dilley and Sonya Jones

Employers across the nation now have confirmation of their constitutional right to free speech as the U.S. Supreme Court has struck down a California law that hampered employers’ ability to speak out about union organizing efforts in the workplace. The 7-2 decision in Chamber of Commerce v. Brown, issued in June, overturned a Ninth Circuit Court of Appeals ruling. On behalf of affected California employer.

Florida Voters May Decide on ‘Tax Swap’ Plan

By Krystle Russin

Floridians might have the option this November to vote to cut property taxes by raising other taxes, depending on the outcome of a lawsuit that has been filed to block the referendum. Amendment 5, the Property Tax Swap

Pitts. Citizens Launch a New Tax Rebellion

By Steve Stanek

Hundreds of citizens of Pittsburgh and surrounding Allegheny County, Pennsylvania have launched a campaign they call “Whiskey Rebellion II” to place on the November ballot a referendum to remove a 10 percent tax on alcoholic drinks.
In March 2008, 500 hundred scientists, engineers, and scholars from the U.S. and around the world converged on New York City to discuss the science and economics of global climate change. Presenters at this unprecedented conference suggest the modern warming is moderate and partly or even mostly a natural recovery from the Little Ice Age; that the consequences of moderate warming are positive for humanity and wildlife; that predictions of future warming are wildly unreliable; and that the costs of trying to “stop global warming” exceed hypothetical benefits by a factor of 10 or more.

And the entire conference is now available online!

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University of Virginia

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U.S. Supreme Court to Consider Union Political Funds Collection

By Michael Reitz

Taxpayers across the nation will soon know whether states can prohibit local school boards from collecting political contributions for teacher unions, as the U.S. Supreme Court is reviewing such matters in a case from Idaho.

In 2003, the Idaho Legislature passed the Voluntary Contributions Act, which banned the collection of political contributions through government payroll systems throughout the state. Nothing in the law prohibits unions members from contributing to candidates by choice, and nothing in it prohibits unions from engaging in politics.

Policy experts view the law favorably. Noted Ben DeGrow, an education analyst with the Independence Institute, “Governments should be focused on performing vital services for taxpayers, not labor-management laws,” he said.

The unions claim the law burdens their free speech rights by forcing them to divert money toward fundraising and administration. The burden of collecting money, they say, reduces the funds available for political contributions.

Burden Shared By All

Legal analysts familiar with First Amendment issues disagree with the unions’ claim. “The unions’ so-called ‘burden’ of political fundraising is shared by all political entities and candidates,” said Jonathan Bechtle, legal counsel for the Evergreen Freedom Foundation. “Nothing in the First Amendment forces local governments to act as a union’s political fundraiser.”

The Evergreen Freedom Foundation, joined by the Independence Institute and American Legislative Exchange Council, filed an amicus curiae brief with the Supreme Court in support of the Idaho law.

“We argued that the Ninth Circuit’s decision broke from well-established case law,” Bechtle said. He noted unions are the beneficiaries of significant privileges, but there is no constitutional obligation requiring a state to bargain with a union. Accordingly, states have adopted numerous restrictions on unions’ monopoly bargaining status.

State Appealed, Lost

The State of Idaho appealed the ruling to the Ninth Circuit Court of Appeals, which in October 2007 affirmed the lower court decision.

“The unique nature of the state’s intervention therefore strongly suggests that the state’s purpose here is exactly that against which the First Amendment protects—the denial of payroll deductions for the purpose of stifling political speech,” concluded the Ninth Circuit.

The case is now before the U.S. Supreme Court.

“Governments should be focused on performing vital services for taxpayers, not on acting as a bill collector for private groups—especially groups that are lobbying officials and funding political candidates.”

Ben DeGrow (right)

INDEPENDENCE INSTITUTE

BEN DEGROW (right)

EDUCATION ANALYST

INDEPENDENCE INSTITUTE

Tell Me What You Think!

Write to me at:

Steve Stanek
Managing Editor
Budget & Tax News
The Heartland Institute
19 South LaSalle Street #903
Chicago, Illinois 60603

Or drop me an email: stanek@heartland.org

Michael Reitz (mreitz@effwa.org) is general counsel of the Evergreen Freedom Foundation, a think tank in Olympia, Washington.
Florida
Continued from page 1
Amendment, would reduce property taxes 25 percent. Other taxes would increase, including a rise in the state sales tax from 6 percent to 7 percent. Critics, including some advocates of lower property taxes, say the tax swap would end up being a huge tax increase.

On July 3 a coalition of Florida organizations—including the Institute of Certified Public Accountants and the Florida Farm Bureau Federation—filed a lawsuit to prevent Amendment 5 from appearing on the ballot.

“The main problem, when you do all the math, is there’s a tax increase. There’s an $11 billion mandate, and only $7 billion in tax relief,” said state Sen. Mike Haridopolos (R-Melbourne), the Florida Senate’s lead opponent of the amendment. “That’s a $4 billion tax increase; plus the business community has no idea what this would be like in two years.”

Reform Commission Wanted It
Amendment 5 follows recommendations by the Florida Taxation and Budget Reform Commission (TBRC), which meets every 20 years. Robert Sanchez, policy director at the Florida-based James Madison Institute, is familiar with Amendment 5 because one of the institute’s board members served on the committee.

He said critics of Amendment 5 make a valid point when they note the legislature already has the authority to shift school funding from local property taxes to state sources such as the sales tax. Having Amendment 5’s mandate “chiseled in stone” in the state constitution would deny future legislators the flexibility they may need to address changing situations, Sanchez said.

Sanchez also noted the reason for high property taxes is simple—local governments are spending too much. Amendment 5 would not address the spending problem, and it would muddy the state’s tax system, Sanchez says.

“Sound tax policy is characterized by simplicity and stability, typically found when there is a broad tax base and low tax rates,” Sanchez said. “Amendment 5, though perhaps a well-intentioned effort to address voters’ concerns over high property taxes, seems unlikely to advance those principles.

“If it led to the taxing of ‘services,’ such as those generally found in home-building, for instance, the result would be additional complexity [to avoid the pyramid effect of taxing taxes],” Sanchez explained.

Spending Presents ‘Fatal Flaw’

Barry Poulson, head of the Fiscal Discipline Project at the University of Colorado, also opposes Amendment 5 and agrees control of government spending is essential.

“The fatal flaw in Florida taxes is unconstrained growth in expenditures, particularly at the local level,” Poulson said. “Local officials still don’t get it. The Jacksonville Journey [an anti-crime initiative in Jacksonville, Florida] proposes $250 million in increased property taxes to fund increased spending for crime prevention. Jacksonville already has the 13th highest property tax burden among major U.S. cities.

“It is this failure on the part of elected officials to rein in increased taxes and spending that has led the Americans for Prosperity Foundation to support a Taxpayer Protection Amendment that would impose limits on the growth in taxes and spending,” Poulson continued.

The Taxpayer Protection Amendment nearly got on the ballot through the TBRC, Poulson said. Supporters are now working to enact it through voter initiative.

Realtors Want Amendment

Amendment 5’s most ardent supporters may be members of the Florida Association of Realtors.

Trey Price, an association lobbyist, said, “Schools will still be funded in Florida—and held harmless—under Amendment 5. This is simply a different and fairer way of funding our school system. ... Currently, property owners pay a disproportionate share, compared to renters, for our schools. Also, property owners who pay for private school must also pay this tax for public schools.”

Price said, “Florida’s sales tax system is riddled with over $23 billion in loopholes, and those exemptions should be reexamined for legitimacy. Amendment 5 will force the legislature to look at those exemptions, such as ostrich feed, luxury skyboxes, and others, to see if they still stand up to real scrutiny.” He said the state could raise more money by increasing the tax on cigarettes and collecting sales taxes on purchases made over the Internet.

“The main problem, when you do all the math, is there’s a tax increase. There’s an $11 billion mandate, and only $7 billion in tax relief. That’s a $4 billion tax increase; plus the business community has no idea what this would be like in two years.”

MIKE HARIDOPOLOS
STATE SENATOR
MELBOURNE, FLORIDA

Property Taxes Precede Vote
Sanchez predicted Amendment 5 will lose if it ends up on the ballot.

“Given Amendment 5’s many uncertainties and other perceived flaws, and given the impressive array of opponents from all across the political spectrum, it is doubtful that Amendment 5 will receive the 60 percent of the vote now required to pass a constitutional amendment—even though most Florida voters still smarting from high property taxes amid falling property values will be receiving their property tax bills for the coming year just a few weeks prior to election day,” Sanchez said.

Krystle Russin (krystle@purepolitics.com) writes from Austin, Texas.
Port of Seattle Spends to Defend Itself

More than $1 million paid to lawyers to refute audit, resist criminal probe

By Amber Gunn

The Port of Seattle's legal bills have topped $1 million for three law firms hired in response to its recent performance audit and the launch of a criminal investigation by the U.S. Department of Justice.

The audit, released in December 2007, found the port wasted nearly $100 million in taxpayer dollars and violated numerous state laws on projects from January 2004 through March 2007.

The audit’s findings revealed “no controls were in place to deter, prevent, or detect bribery, kickbacks, illegal gratuity, or bid-rigging schemes.” In addition, auditors found the port frequently circumvents competitive bidding requirements and fails to enforce basic contract provisions, “resulting in delays, extra costs, and an inability to defend against claims.”

No Firings or Discipline

So far, no port employees have been fired or disciplined as a result of the audit findings. No criminal charges have been filed in the matter.

As of press time, attorneys from the Seattle law firm Danielson Harrigan Leyh & Tollefson had billed $663,175.35 to the Port of Seattle since being hired in January. The second firm, Yarmuth Wilson Calfo, billed $318,893.49 in the same period. Both firms specialize in white-collar criminal defense.

The third firm, McKay Chadwell, headed by former U.S. attorney Mike McKay, has billed $143,047.21, which includes subcontracted services performed by forensic investigators.

The combined legal bills total $1,125,116.05. Invoices were provided by the port in response to a public records request by the Evergreen Freedom Foundation (EFF), a private, nonprofit, public policy research organization in Washington state.

Flimsy Invoice Details

Based on documents EFF has received, it appears the port signed off on more than half-a-million dollars in attorney fees despite having little documentation of what work those attorneys performed.

“[I]t appears the port is paying attorneys up to $500 per hour to conduct information technology work, thus rendering all documents subject to attorney-client privilege. They’re attempting to cast a wide legal net that the public can’t get through.”

MIKE REITZ
GENERAL COUNSEL
EVERGREEN FREEDOM FOUNDATION

The billings in question are in the form of one-page summaries instead of standard, itemized attorney invoices. The port did not respond to requests for comment on the unusual invoices.

Other aspects of the port’s arrangement with the three firms are drawing the wrath of government watchdog groups, who believe the port’s excessive legal protection is a strategy to exempt relevant documents from public disclosure.

‘Wide Legal Net’

“Based on the agreement for the scope of work that these firms are performing, it appears the port is paying attorneys up to $500 per hour to conduct information technology work, thus rendering all documents subject to attorney-client privilege. They’re attempting to cast a wide legal net that the public can’t get through,” said Mike Reitz, EFF general counsel.

The port recently commissioned its own audit at a cost of $365,000 to refute the independent auditor’s findings. The port’s audit found “no significant deficiencies nor material weaknesses,” in sharp contrast to the state audit.

Government watchdogs view the port’s behavior as especially distressing in light of its authority to collect taxes and fees without taxpayers’ permission. The 2008 property tax levy for the port will cost property owners $75.8 million.

Unusual Property Tax

EFF President Bob Williams points out the Port of Seattle is the only major port on the West Coast that uses property tax levies as part of its revenue stream. The ports of San Francisco, Portland, and Los Angeles do not.

“Despite the public’s broken trust, an FBI investigation, and a flunked performance audit, the port still has the authority to tax King County residents without voter approval,” Williams noted.

Several bills were introduced in the state legislature this session to repeal the port’s taxing authority, but none passed.

Subject to Contracting Laws

During the most recent legislative session, state Rep. Ross Hunter (D-Bellevue) cosponsored a successful bill making the Port of Seattle subject to the same basic public contracting laws that all other Washington state agencies must observe, such as rules regarding competitive bidding, transparency, and the like.

“There has been a culture at the Port of Seattle that eschews transparency and public accountability,” Hunter said. “I am hopeful that the new management, both at the top and on the Port Commission, will improve the port’s attitude towards both.

“If this fails to improve the situation, perhaps the federal investigation will be more pointed in achieving attitude adjustment,” Hunter said.

Amber Gunn (agunn@effwa.org) is director of the Economic Policy Center at the Evergreen Freedom Foundation in Olympia, Washington.

TEN PRINCIPLES of STATE FISCAL POLICY

1. Above all else: Keep taxes low
2. Don’t penalize earnings and investment
3. Avoid “sin” taxes
4. Create a transparent and accountable budget
5. Privatize public services
6. Avoid corporate welfare
7. Cap taxes and expenditures
8. Fund students, not schools
9. Reform Medicaid programs
10. Protect state employees from politics

From Ten Principles of State Fiscal Policy, The Heartland Institute, 2006.
http://www.heartland.org/Article.cfm?artId=19354

To order copies, please call 312/377-4000 or email think@heartland.org.
The drink tax and a $2 a day tax on car rentals were imposed January 1 by Allegheny County officials. County Chief Executive Dan Onorato pushed for the taxes, which he estimated would bring in $40 million for the local port authority, which runs the mass transit system for Pittsburgh and surrounding areas. The drink tax alone was expected to generate $30 million in revenue.

The most vocal opposition is coming from bar and restaurant owners who must charge the drink tax and customers who must pay it, said Cris Hoel, general counsel for Friends Against Counterproductive Taxation (FACT), an organization made up largely of hospitality industry business owners who say they are being hurt by the tax.

“The folks who enacted this tax never considered the economic impact.... These tax remittances are gained at a terrible cost and in some cases a counterproductive cost.”

CRIS HOEL
GENERAL COUNSEL
FRIENDS AGAINST COUNTERPRODUCTIVE TAXATION

‘Impact Never Considered’
“The folks who enacted this tax never considered the economic impact,” said Hoel. “If restaurants could have collect-ed an additional 10 percent on drinks without losing business, they would have done it. This tax is diminishing business about 5 percent. These tax remittances are gained at a terrible cost and in some cases a counterproductive cost.”

Hoel said he has represented hospitality industry businesses for more than 20 years, and in the 1990s he was chairman of the American Bar Association’s Committee on Alcohol Beverage Practices.

County spokesman Kevin Evanto said the county would have to raise property taxes. A lot of people viewed the drink tax as something they can choose to pay.”

Hoel said FACT expects to collect about twice the 24,000 signatures needed to get the measure on the ballot.

“The Allegheny County experience is a useful example of how citizens can respond when government goes too far,” Hoel said. “It’s fitting this is occurring in Western Pennsylvania, which fought the Whiskey Rebellion of 1794. The tax opposed by the whiskey rebels lasted a few more years and was repealed.”

Steve Stanek (stanek@heartland.org) is a research fellow at The Heartland Institute and managing editor of Budget & Tax News.
Online Retailers Sue Over N.Y. Internet Sales Tax

By Aleks Karnick

Two major online retailers are suing New York state over a law requiring online businesses to pay sales tax on all purchases by customers in the state.

Amazon.com filed suit last May, contending the New York state budget, signed by Gov. David Paterson (D), is unconstitutional. Two months later Overstock.com sued the state on similar grounds.

The companies say the so-called “Amazon Tax” unfairly targets some companies, violating the equal protection clause of the U.S. Constitution and contradicting a 1992 Supreme Court ruling in Quill Corp. v. North Dakota.

Law Skirts Court Ruling

The change clearly is unconstitutional, says Kristina Rasmussen, director of government affairs for the National Taxpayers Union.

“In 1992 the Supreme Court ruled that ‘remote sellers’—at that time, mail-order firms—didn’t have to collect taxes on purchases made by inhabitants of states where the businesses had no ‘bricks-and-mortar’ establishments,” Rasmussen noted.

“This change is constitutional,” countered Jeffrey Gordon, a press officer in Paterson’s division of budget. “New York enacted a requirement that Amazon and others begin collecting sales tax on the basis of Amazon having established a presence in New York State by using in-state affiliates that are encouraging sales through Amazon by linking to its site.”

New Definition of ‘Presence’

Neither Amazon nor Overstock has bricks-and-mortar establishments in the state of New York. Under the Quill decision, that exempts them from having to pay the New York state sales tax.

The Amazon Tax attempts to circumvent the decision by requiring online retailers to pay sales tax if any Web site linking to Amazon has thousands of such affiliates across the country.

Before enactment of the Amazon Tax, individual New Yorkers were responsible for reporting online purchases to pay the state sales tax. Few have actually reported such purchases or paid taxes on them.

The new state law aims to collect taxes directly from online retailers instead of from individual purchasers. Gordon said doing so levels the tax advantage when consumers bought through Amazon to escape paying the tax, Gordon said.

“In reality,” Gordon explained, “all consumers are liable for purchases they make online and should be remitting tax for purchases they make in other states. There is a line on the New York State tax form for taxpayers to declare the tax on purchases they make for which they have not paid tax.”

Taxation Without Representation

Rasmussen says the new tax law doesn’t withstand constitutional scrutiny.

“Collecting more taxes from individuals who live outside a given jurisdiction, such as tourists and online purchasers, is attractive to some politicians because they can pile on the taxes without suffering local wrath on Election Day,” said Rasmussen.

“Audacious tax grabs like this one have a decent record of being thrown out by the courts, thanks to the lawsuits brought by injured taxpayers and businesses.”

KRISTINA RASMUSSEN
DIRECTOR OF GOVERNMENT AFFAIRS
NATIONAL TAXPAYERS UNION

“As clever as New York may think it’s being,” Rasmussen continued, “other states should be wary about following in lockstep. Audacious tax grabs like this one have a decent record of being thrown out by the courts, thanks to the lawsuits brought by injured taxpayers and businesses.”

Overstock declined to comment, saying only the firm was “confident” in its position opposing the new law.

Aleks Karnick (akarnick@umail.iu.edu) writes from Indianapolis.

TAX BITES

Taxes on Car Rentals

Take a Toll on Local Residents

The taxpayer-advocacy group Americans for Tax Reform (ATR) has estimated average prices and taxes imposed on 13 popular targets for multiple layers of hidden taxes. “Sin” taxes, telecommunications taxes, and taxes on tourists are included in the analysis.

While most of these goods and services are subject to specific excise taxes and other charges, the tax “bite” also includes the cost of sales taxes, corporate income taxes, payroll taxes, property taxes, capital gains taxes, unemployment insurance taxes, worker’s compensation taxes, and other payments businesses must make to federal, state, and local governments.

Here is the ATR “Tax Bites” analysis of car rentals.

Estimated Average Cost: $52.71/rental
Estimated Tax Bite Percentage: 60.6 percent
Estimated Tax Bite Per Unit: $31.94

As part of the trend toward exporting state and local tax burdens, car rental taxes are increasingly popular with lawmakers who would prefer not to tax more heavily their voting constituents.

Although studies have shown more than half of car rentals are by local consumers, the notion that taxing rental cars means taxing tourists is pervasive on the state and local level. The number of car rental excise taxes has nearly doubled in the past decade, with such taxes in 99 localities in 42 states and Washington, DC.

Local excise taxes and other charges imposed by states and municipalities now add 26 percent, or $13.70, to the average $52.71 rental car bill. And this doesn’t constitute the full tax burden included in the cost of renting a car. Taking into account federal and state income taxes, federal payroll taxes, sales taxes, unemployment insurance taxes, worker’s compensation taxes, business license taxes and fees, utility taxes, local property taxes, and local income taxes, the total tax bite rises to 60.6 percent of the bill.

“[R]egardless of whether you are a tourist or a resident, renting that car for $52.71 will cost you $31.94 in taxes and fees.”

All told, regardless of whether you are a tourist or a resident, renting that car for $52.71 will cost you $31.94 in taxes and fees.
Texas Treats Phone Use Like a ‘Sin’

Taxes will remain high even after cuts

By Bill Peacock

Texas lawmakers have been studying the state’s telecom taxes, which rank among the highest in the nation, and have begun lowering the tax burden on telephone users.

The state’s telecom tax structure and broadband deployment were the subjects of a recent hearing of the Texas House of Representatives Committee on Regulated Industries.

Texas consumers who buy electronics or yard equipment pay a combined state and local sales tax rate of 8.25 percent. For cars, it’s 6.25 percent. Only mixed beverages (14 percent) and cigarettes (35.6 percent) are in the range of telecom taxes. Taxes and fees for local telephone service total almost 29 percent, putting telephone use in Texas in the “sin tax” category.

Fees Coming Down

Since 2007, the legislature has eliminated the $210 million-a-year Telecommunications Infrastructure Fund fee, and the Texas Public Utility Commission has cut the Universal Service Fund fee by $144 million a year.

When fully phased in over four years, those two cuts will reduce the telephone tax rate by about 2.25 percentage points, saving the average consumer $1.12 per month. Even then, the state’s telecom taxes, including cable and wireless, will remain well above the national average and far above the state average for other goods and services.

Testimony at the House committee hearing centered on the sales tax and the municipal franchise fee on voice and video services that use the public right of way.

‘Pyramiding’ a Problem

Telecommunications industry representatives expressed particular concern about the application of the sales tax to purchases of equipment used to provide service to consumers.

“To the extent that you tax the network elements, and the products that we produce are then subject to the same tax, you have tax pyramiding,” said Diane Barlow, an attorney with Casey, Gentz & Magness. “So the true cost of the tax to the consumer is hidden.”

Barlow said other industries’ manufacturing costs are not subject to pyramiding. Regarding the best approach for expanding broadband deployment, Barlow said the industry would prefer eliminating the tax instead of being given subsidies.

During the hearing state Rep. Joe Crabb (R-Kingwood) questioned whether a change in the application of the sales tax was necessary.

“The industry is growing rapidly—phenomenal growth,” said Crabb. “And then I hear everybody saying that this tax is bad. But I don’t know how that is hurting the consumers because they are lining up to get these things. Normally we think about taxes hurting because people won’t buy things because of taxes.”

Fees Piling Up

Municipal franchise fees also were discussed at the hearing.

Local telephone tax rates in Texas total about 11.32 percent on the average bill. The three largest local taxes are the franchise fee, the 911 tax, and the local sales tax. Of these, the franchise fee is by far the largest. Local franchise fees can even top the state sales tax as the largest single tax on consumers’ tax bills, going as high as 6.35 percent.

Franchise fees are payment for the use of public right of way, though most of the revenue generated from franchise fees is not used to manage or maintain the right of way. Instead, most of it goes straight into a city’s general revenue fund.

The numbers are impressive. Dallas will collect about $31 million in telephone franchise fees in the current fiscal year. The city also collects fees from cable, electric, and gas companies, so its total franchise fee revenue should reach about $125 million this year.

Houston will take even more, collecting $45 million in telephone fees, $99 million in electric fees, and $37 million in gas and other fees, for a total of $184 million.

Nonetheless, Clarence West, an attorney representing the Texas Coalition of Cities for Franchise Utilities, testified, “Payments to cities have gone down quite a bit. Wireless is a growth industry, and it has hit cities particularly hard.”

Fee Reductions Benefit Consumers

Texas Public Policy Foundation analysts believe a significant reduction in telecom franchise fees could lead to more video, voice, and data services being delivered to the home. A reduction in electricity franchise fees also might lead to competition in the transmission or distribution of electricity.

A franchise fee reduction could be accomplished, foundation analysts suggest, by phasing in a new fee structure based on the marginal costs cities incur for managing the right of way over a few years. That would give cities time to adjust their budgets to account for the lower fees.

“Taxes and fees for local telephone service total almost 29 percent, putting telephone use in Texas in the ‘sin tax’ category.”

State Rep. Phil King (R-Weatherford) who chairs the Regulated Industries Committee, said, “It does look like anecdotally there appears to be a problem.”

King says he isn’t sure about the solution, and he isn’t certain cities should wind up losing revenue.

“I think we’d like to see a dialogue get started on this to make sure that we’ve got things allocated properly in our tax structure,” said King. “I don’t think anyone is thinking about anything other than a hold-harmless, revenue-neutral setting for the cities.”

Bill Peacock (bpeacock@texaspolicy.com) is vice president of administration and director of the Center for Economic Freedom at the Texas Public Policy Foundation.

Fees Bringing in More than Enough

Research by the Texas Public Policy Foundation, a nonprofit, free-market research institute based in Austin, shows Texas consumers in the state’s 10 largest cities have paid more than $4 billion in franchise fees for various private-sector services over the past 10 years.

Telephone, cable, electric, gas, and other franchise fees could be cut as much as $500 million per year and still leave more than enough money for management and maintenance of the public right of way by cities, the foundation’s research has found.

In addition to franchise fees, companies pay for the use of the right of way in various other ways that can rival the expense of franchise fees. These are charges and expenses related directly to the costs of operating in the right of way, such as pole attachment fees, make-ready engineering and construction costs, and permitting fees and expenses.

Cities claim franchise fees are not taxes, but rental payments for the use of public property by private companies that must be a value-based fee to maximize revenue on behalf of the public.

Those fees are passed straight through to consumers, however. Thus members of the public are paying rent to cities they live in for the use of public right of way.

— Bill Peacock
Budget Transparency Problems Are Identified in 50-State Survey

By Sheila Weinberg

Transparency is critical in each state’s budget process, because that process is the principal vehicle through which state legislators and governors allocate resources collected from businesses and individuals.

With that in mind, the nonpartisan, nonprofit Institute for Truth in Accounting is surveying state governments’ deficits and balanced budget requirements. As a part of this research, funded by the Searle Freedom Trust, the institute is studying all states’ budget processes and the results reported on their financial statements.

The institute’s survey of the 50 states will determine which states, if any, are showing leadership in transparency and accountability to their citizens. In our work on the study so far, common problems already have been identified.

Reporting Problems

After a state’s fiscal year ends, the state comptroller or treasurer issues the Comprehensive Annual Financial Report (CAFR), a type of report card on the accuracy of the previous year’s estimates of revenues and expenses. The institute’s research notes two key problems with the current budgeting and accounting systems.

First, the same accounting rules are not being used for budget calculations as for financial reporting. Second, CAFRs are not being issued in time for legislators or governors to review the results meaningfully before planning the next year’s budget.

Regarding the first problem, when states calculate their budgeted revenues and expenses, they are using “modified” “cash basis” accounting. Only current cash inflows and outflows are included in cash basis accounting. Therefore, budget calculations do not include liabilities incurred in the fiscal year that will be paid in future years.

“The nonpartisan, nonprofit Institute for Truth in Accounting is surveying state governments’ deficits and balanced budget requirements.”

The institute’s experience in Illinois shows “modified” seems to mean elected officials can change the amounts in almost any manner they want so they can claim a “balanced” budget. Another troubling trend the institute identified in Illinois is the lack of accounting for hundreds of millions of dollars of pension and other retirement benefit funding that were due but not paid in the previous fiscal year.

Budgets vs. Reports

The lack of consistency between budget calculations and financial reporting results means the budget numbers have no bearing or relevance to the CAFR numbers. For legislators, this seems to work out well: All they have to focus on is expected cash flow in the coming fiscal year, and they can ignore amounts that will be paid in future years.

Unfortunately for taxpayers, this creates a growing problem of having to pay for guaranteed liabilities that loom larger every day they are not adequately addressed. Public accountability is nearly impossible because there is no way for citizens or legislators to compare what was budgeted to what was actually spent.

California, Illinois Among Worst

Two states, California and Illinois, illustrate the scale of the problem. California’s budget calculations included no estimate of revenues. Only estimated expenses are noted. Reviewing the FY07 CAFR, we found a net deficit (operating loss) of $1.083 billion.

True transparency and accountability begin with a budget process that gives taxpayers a clear and concise report of where their money is proposed to be spent. California hasn’t even begun to move toward such an approach.

The Illinois budget includes both anticipated revenues and expenditures, but each audit of that budget shows an ever-expanding hole between what was budgeted and what actually transpired during that fiscal year. In FY07, Illinois’ CAFR reported an accumulated net deficit of more than $20 billion. Nevertheless, the legislature and governor are not close to bringing about meaningful change in the current procedures.

This year’s budget process in Illinois shows signs of being as cantankerous as last year’s, when frustrated legislators were kept in the state capital until mid-August. When Gov. Rod Blagojevich (D) claimed in August 2007 the legislature was not working for a truly balanced budget, the state comptroller weighed in by pointing out the past four budgets the governor had signed were not balanced.

Illinois consistently ranks among the worst in providing its citizens a transparent budget process that actually tries to match the budgeted needs with reality. Until elected officials keep spending in line with realistic revenue projections, the state’s budget hole will only get deeper.

Promise in Vermont

The institute has found some promising results in Vermont, which is showing how to budget with both transparency and accountability.

Vermont is carrying a positive net operating balance, and its budget tracks its CAFR comparatively well. Informed with such information, Vermont taxpayers, legislators, and media have a truer depiction of the state’s financial condition and therefore can participate more meaningfully in planning for the next fiscal year and beyond.

Shelia Weinberg (info@truthinaccounting.org) is founder and CEO of the Institute for Truth in Accounting, a nonpartisan public interest group based in Northbrook, Illinois that encourages private and public entities to produce financial reports that are comprehensive, comprehensible, and transparent.

INTERNET INFO

The Institute for Truth in Accounting expects to publish its 50-state survey of state government deficits and balanced budget requirements shortly. Until then, more information on the institute’s activities is at http://www.truthinaccounting.org and http://www.truthin2008.org.
Cook County President Gets Earful from Angry Citizens

By Steve Stanek

Hundreds of residents of Cook County, Illinois gave County Board President Todd Stroger (D) an earful over a 1 percentage point sales tax increase that is forcing county shoppers to pay the highest sales tax burdens in the nation.

Groans and derisive laughter greeted comments by Stroger and his staff as they defended the tax increase at a meeting at a local college in Palatine in June. Applause greeted many people who spoke against the county’s tax-grabbing, high-spending ways.

The county’s tax increase took effect July 1 and followed a regional transportation sales tax hike that took effect April 1. The combined sales tax increases total about $1 billion a year for Cook County shoppers and those in five neighboring counties.

Tax Tops 10 Percent

Cook County and Chicago have by far the highest total sales tax burdens in the state. Many communities in Cook County now have a 10 percent sales tax, three percentage points more than businesses in many communities outside Cook County are required to charge.

In Chicago, the general retail sales tax is now 10.25 percent. In addition, a special tax district in downtown Chicago pushes the sales tax in that area to 11.25 percent. The tax burdens include state, county, municipal, and transportation authority sales taxes.

“Once you hit that big round number, 10 percent, it gets a lot of attention. Now customers are thinking about the sales tax. It turns their eyes toward other venues to shop.”

PETE GILL
ILLINOIS RETAIL MERCHANTS ASSOCIATION

In Other Words

“Day after day, Cook County Board members who voted to raise the sales tax awaken to more headaches that will keep their dereliction of duty right where it belongs: in the forefront of furious voters’ minds.

“Last week Fitch Ratings, an influential national firm, changed its outlook for some $3 billion in Cook County debt from ‘stable’ to ‘negative.’ That could portend a downgrading of the county’s bond rating, which would raise taxpayers’ cost to service that debt. Here’s a key Fitch sentence: ‘With the highest sales tax rate in the nation, the county faces political and economic pressure to provide tax relief for county residents.’ …

“Like the shot across Cook County’s sinking bow from the folks at Fitch Ratings, the effort to lower the sales tax will keep the 5 million-plus citizens of Cook County focused on the county’s runway spending and studied inefficiency.

“This powerful issue, these furious citizens, will not go away.”

House Editorial
Chicago Tribune
July 7, 2008
Illinois Is Playing a Dangerous Game with its Broken Annual Budget Process

By Sheila Weinberg

For the second year in a row the Illinois state government started its fiscal year, which began July 1, without an approved budget. Legislators passed a 2009 budget by the May 31, 2008 deadline, but the governor refused to sign it.

Lawmakers acknowledged the budget was about $2 billion out of whack, and on July 9 Gov. Rod Blagojevich (D) vetoed $1.4 billion in spending.

About one week later the governor called lawmakers back to boost taxes or fees to stave off the cuts. Instead, House members restored $480 million in spending Blagojevich had cut. Senators took no action, so the cuts remain. So does the budget imbalance.

Unfortunately, the budget game the state’s politicians are playing is far from harmless.

Ted Hampton, a Moody’s bond rating agency assistant vice president, recently issued a press statement saying a state agency assistant vice president, recently told him, “We cannot bond rated the state of Illinois. We would be making a call that will pay them 50 percent of their bond ratings, cost taxpayers higher interest payments, and make it more difficult to place state bonds, he added.

Comptroller’s Warning

In a letter to Illinois Senate President Emil Jones (D-Chicago), state Comptroller Dan Hynes (D) noted the delay in enacting a budget “affects the issuance of tens of millions of dollars each and every day to state vendors and payees” and warned this could have a “grave impact” on entities that provide health care, social services, and transportation.

During last year’s extended budget process, Blagojevich repeatedly called legislators into special sessions that he sometimes did not attend. Legislators in both major political parties were infuriated by being stuck in Springfield while the governor jetted back and forth to Chicago at taxpayer expense.

The governor finally signed the 2008 spending plan on August 23, 2007, more than two-and-a-half months into the fiscal year.

Legislators’ Anger

The legislators’ anger grew when the governor then used vetoes to amend the budget and redirect more than $470 million to expanded health care programs. Lawmakers were especially upset by $183 million taken from projects spearheaded by individual members for their districts.

Nearly all that money came from projects supported by outspoken opponents of the governor. Projects supported by the governor’s political allies went largely untouched.

Democrat and Republican lawmakers alike have said they do not trust the governor. Such feelings have made the 2009 budget process almost impossible.

House Speaker Michael Madigan (D-Chicago) and other legislative leaders have at times refused to be in the same room with the governor. When they do meet, other legislators, news reporters, and the public are kept out.

Leaders’ “Cloak of Secrecy”

State Rep. Jack Franks (D-Woodstock), one of Blagojevich’s harshest critics in the General Assembly, said he is frustrated by the “cloak of secrecy” surrounding the budget negotiations. He said he believes “budget negotiation should be done on the House floor after 5 o’clock and open to the public and the media.”

Franks complained, “I have in my possession a budget that is out of balance, out of whack, by [approximately] $2 billion.”

Franks also said the House had passed “reasonable” appropriation bills, but the Senate and governor crafted their own “bloated budget” that the House would not approve.

Replay of Previous Year

This year Blagojevich has admonished the state House for not adopting two “new revenue sources”—$330 million the governor wants to transfer from special-purpose funds, and $400 million that would be freed up through a refinancing of the state’s pension debt.

Calling transfers from special-purpose funds “revenue” is like believing you make money when you transfer funds from your college savings account to your checking account. And counting as “revenue” funds generated by issuing state government bonds is essentially recording loan proceeds as revenues.

For more than 20 years Illinois governors and legislators from both political parties have been playing games with the state’s balanced budget requirement. Those tricks include recording loan proceeds as revenues, delaying payments on bills the state receives, and inadequately funding the state’s pension systems.

An analysis of the state’s financial statements, conducted by the Institute for Truth in Accounting, shows the state has a funding shortfall of nearly $70 billion—some $14,000 per Illinois household.

Sheila Weinberg (info@truthinaccounting.org) is founder and CEO of the Institute for Truth in Accounting, a nonpartisan public interest group based in Northbrook, Illinois that encourages private and public entities to produce financial reports that are comprehensive, comprehensible, and transparent.

Rhode Island Cuts Pensions for New Judges, Cops

By Steve Stanek

Rhode Island lawmakers have passed a nearly $7 billion budget that includes new pension eligibility rules and benefit cuts for judges and state police officers hired after January 1, 2009.

Troopers hired after that date will have to work 25 years instead of 20 years before qualifying for a pension that will pay them 50 percent of their final salary.

Judges hired after that date will see pension benefits cut from the current 100 percent of pay upon retirement at age 65 with 20 years of service (or 15 years of service if retiring at age 70) to 90 percent.

House Majority Leader Gordon Fox (D-Providence) told Providence Journal reporter Katherine Gregg after the budget passed in July, “The reforms in the judiciary and state police pension systems are consistent with the House leadership’s goal of long-term cost containment. There is a lot of pain that needs to be spread around and we believe that everyone should be doing their share to help resolve the budget crisis.”

The cost-containment measures follow reforms by Rhode Island lawmakers in 2005 to raise eligibility standards for state pensions for most other state workers with less than 10 years of experience.

Steve Stanek (stanek@heartland.org) is a research fellow at The Heartland Institute and managing editor of Budget & Tax News.
Chicago

Continued from page 1

low, noting the city has repeatedly underestimated costs on major projects ranging from football stadium renovations to park construction.

The setback comes as no surprise to the many transportation experts and Chicago political observers who predicted the express train service would never come to fruition.

Train Service Exists

“I couldn’t believe it when it was passed by the City Council [in 2005], and I see a lot of questionable stuff here,” said Ben Joravsky, a reporter for the Chicago Reader newspaper who has spent years covering the city’s economic development projects. “Is replication of services that already exist and would work well if the city would invest in upkeep and maintenance of the Orange and Blue Lines [which already provide train service to Midway and O’Hare Airports] necessary?

“I couldn’t get answers from downtown boosters and city officials about why this is needed,” Joravsky said. “One booster did tell me he envisioned a scene where a businessman has a layover at O’Hare, zips into downtown, sees a play, and zips back out to the airport.

“I’m thinking This is unreal. We already have this service. It takes maybe 15 minutes more than it would take with the express train.’ How much money are we willing to invest to shave 15 minutes off that ride? No one asks. Why? Because it’s the mayor’s pet idea,” Joravsky said. Apparently not even Daley was willing to spend unlimited amounts to see his express train idea succeed, at least in the near future.

At a public appearance in downtown Chicago, Daley told reporters he informed Chicago Transit Authority (CTA) officials, “You can’t build a station without changing the technology. I told them they had to stop. ... It’s not going to be fit for the technology of this century. That’s one of the reasons we held it up.”

““You can’t build a station without changing the technology. I told them they had to stop. ... It’s not going to be fit for the technology of this century. That’s one of the reasons we held it up.”

RICHARD M. DALEY
MAYOR - CHICAGO

Idea Still Alive

“Held it up” is a key phrase. Other comments by Daley and recent actions by the CTA board indicate the idea is not dead. Daley told reporters he expects to have the service running by 2016, when Chicago hopes to host the Olympics.

Though the CTA board has voted to suspend station construction indefinitely, it has nonetheless agreed to spend another $45.6 million to lay concrete for the station and connector tunnel. Further construction would be needed to finish the station.

One project booster is Rich Harnish, founder of the Transit Riders’ Alliance in Chicago, who said, “The city needs an express connection between O’Hare and Midway and downtown.” He defended the effort by saying, “If this were a highway project, stuff like this would get swept under the rug. Most cities in the world that consider themselves to be global competitors already have such connections or are building one. Moscow just opened theirs. We can no longer afford trillions of dollars of subsidies to highway users. We need to expand passenger train service to Chicago and get express service to the airports.”

Not Needed for Development

The station is located on what is known as Block 37, a 2.7-acre parcel in the heart of the city’s Loop business district. About 20 years ago the city took over the block and flattened buildings there for new development that is only now being built.

Joravsky said the block’s developer told him he did not need the super station for his mixed-use development.

“This was entirely the city’s idea,” Joravsky said. He also noted the city apparently had not thought through whether the express trains would run on existing CTA tracks or new ones on land the city probably would need to seize through eminent domain.

“Don’t you think the city would have figured that out before spending all this money on the station?” Joravsky said. “My fear is this will be emblematic of how we operate the Olympics, if we get it. It’s a situation where somebody should have stepped in and said ‘no.’ It’s illustrative of a lot of the problems you get when you have a one-man empire.”

Too Many Assumptions

Joseph Schwieterman, a transportation and urban planning professor at DePaul University in Chicago, publicly expressed doubts about the project from the beginning.

“When plans get this complicated it’s a warning sign that things could go awry,” Schwieterman said. “The project requires many assumptions. If any one is wrong, it could jeopardize the investment.”

Schwieterman said the city did not have a funding plan for the whole project before embarking on phase one, another serious blunder.

Priorities Questioned

The service “would need to operate with scientific precision, which requires a big change in the CTA’s culture and capital programs,” Schwieterman said. “A train runs five minutes late, the whole system gets bottled up.

“Committing to such enormous investment in a downtown station raises questions about the city’s spending priorities,” Schwieterman added. “The station is but a small component of the project’s appeal to a typical traveler. It’s discouraging so much has been spent on a complex station design when that station contributes relatively little to the overall passenger experience.”

Steve Stanek (stanek@heartland.org) is a research fellow at The Heartland Institute and managing editor of Budget & Tax News.
Wisconsin Dams Neglected, Deteriorating as State Has Diverted Repair Funding

By Brian Farley

Heavy flooding in Wisconsin this spring and summer has drawn many a wary eye to the condition of the state’s approximately 3,800 dams—and to the state’s neglect of funding for a program to repair or remove them.

On June 11 Wisconsin Gov. Jim Doyle (D) issued Executive Order #258 ordering the Wisconsin Department of Natural Resources (DNR) to “inspect any dam, including those located on private property, to ensure the security of persons and property.” Thus far those inspections have turned up 324 failed dams and 18 with significant damage.

Beyond public safety, there is another concern regarding these dams: Who will pay for their repair or removal?

Empty Coffers

In 2007 the American Society of Civil Engineers gave Wisconsin dams a grade of C minus, stating, “Dams are not being inspected as required and repair grants have been curtailed due to lack of funding.” This year’s flooding has exacerbated the problem.

Lack of funding is most conspicuous in the state’s Dam Maintenance, Repair, Modification, and Removal Grant, established by the legislature in 1989. The grant allows municipalities and public inland lake districts to apply for funds for dam maintenance, repair, modification, abandonment, and removal.

Since 1991, 90 projects have been completed through the grant, depleting the allocated $11.85 million. Since 2001, the grant has gone essentially unfunded. Its future remains uncertain.

“Funding decisions are made by the legislature and the governor,” said Meg Galloway, chief of the state DNR’s Dams and Floodplain Management Section. “The statutory authorization for the [grant] fund is still in place, but very little funding is available at this time.”

The governor will submit a biennial budget bill for 2009-2011 to the state legislature in February. Each state agency must submit its budget proposals for consideration by the governor this fall. DNR is developing draft proposals, but those won’t be final until endorsed by the Natural Resources Board in September, Galloway said.

Multibillion-Dollar Deficits

The grant fund has been allowed to run dry because it has not been a spending priority, said Dan Johnson, spokesman for Wisconsin state Sen. Neal Kezdie (R-Elkhorn).

“More than likely, multibillion-dollar [state] budget deficits over the last seven years have contributed to that,” said Johnson.

“My best guess would be that given Wisconsin’s increasingly tight budget situation, some legislators felt the money could be put to better use elsewhere,” added state Sen. Lena Taylor (D-Milwaukee).

State Rep. Leah Vukmir (R-Wauwatosa) agreed. “If I were to make a guess, the funding was reduced because of budget constraints, and it wasn’t a priority for our interim Republican governor in 2001, Scott McCallum, and our current governor [Democrat Jim Doyle] shares that same view,” said Vukmir.

“Republicans controlled the legislative budget process, so it is clearly a bipartisan issue, although the Joint Finance Committee relies on the executive budget for establishing funding levels,” Vukmir noted.

Spending Diversions

State Sen. Dale Schultz (R-Richland Center) believes this is an example of Wisconsin government draining away from its core functions and shirking its responsibility to infrastructure, similar to its handling of the state’s transportation trust fund.

“That fund was created with a single purpose in mind—building and maintaining transportation systems,” Schultz said.

“But to fill budget holes, well over $1 billion has been diverted from that fund during the past three budget cycles and redirected to other purposes.”

“He’s right,” said state Rep. Steve Vieckert (R-Appleton). “Everyone says there’s no money. That’s not true. We have a $50 billion budget. We just have to better prioritize how we spend it.”

State Sen. Glenn Grothman (R-West Bend) suggests there might be other considerations behind legislators’ reluctance to fund the dam maintenance and removal grant.

“Our DNR is one of the most environmentally extreme in the country,” said Grothman. “My experience is they exaggerate safety risks associated with dams because they want to tear them all down.”

“Everyone says there’s no money. That’s not true. We have a $50 billion budget. We just have to better prioritize how we spend it.”

WEST BEND, WISCONSIN

Many Dam Removals Unnecessary, Pressed by Activists

The Wisconsin Department of Natural Resources (DNR) has identified dams as one of the biggest threats to Wisconsin’s biodiversity, according to the River Alliance of Wisconsin, an advocacy group for the protection of rivers.

The group also notes Wisconsin leads the nation in dam removal. The alliance says dam removal makes good economic sense, typically costing three to five times less than repair.

“Not all dams serve their original purpose,” said Meg Galloway, chief of the Wisconsin DNR’s Dams and Floodplain Management Section. “Some could probably be removed, and many have been.”

“I think the DNR is downright dishonest about dam safety. They try to force dam owners to make improvements and spend too much money so they can justify calling for removal. They’re very quick to condemn dams.”

GLENN GROTHMAN (right)
STATE SENATOR
WEST BEND, WISCONSIN

WEST BEND, WISCONSIN

100 Dams Removed

About 100 dams have been removed since 1967, when the DNR was given regulatory control of Wisconsin dams. Most of those have been removed since 1990.

“The decision whether to remove a dam rests with the owner and usually the surrounding community,” Galloway said.

But State Sen. Glenn Grothman (R-West Bend) believes the DNR sometimes uses its authority to override dam owners and communities and enforce an environmentalist agenda.

“Many dams don’t serve their original purpose, but they’re still there because people in the surrounding communities like them,” said Grothman. “They like the aesthetics they provide, the fishing, the boating.

“I think the DNR is downright dishonest about dam safety,” Grothman said. “They try to force dam owners to make improvements and spend too much money so they can justify calling for removal. They’re very quick to condemn dams.”

— Brian Farley

Owners’ Responsibility

According to Wisconsin law, maintaining dam safety is the responsibility of the owner. Dam ownership in the state breaks down as follows: 9 percent state, 17 percent municipalities, 14 percent other ownership arrangements, and almost 60 percent former companies or private individuals.

The federal government has jurisdiction over just 5 percent of the dams in the state, nearly 200. But as the state, municipalities, and private owners fail to fund maintenance of their dams, the federal government is where they are likely to turn for assistance.

In August 2007 the U.S. House of Representatives passed HR 3224, the Dam Rehabilitation and Repair Act. The bill authorizes more than $200 million over five years for the Federal Emergency Management Agency (FEMA) to make grants to states to repair or remove structurally deficient dams.

In October 2007 the bill was referred to the Senate Committee on Environment and Public Works, where it has seen no movement since.

Steve Vieckert
STATE REPRESENTATIVE
APPLETON, WISCONSIN

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Brien Farley (brien.farley@gmail.com) writes from Genesee, Wisconsin.
Optimal, ‘Right’ Size of Government Provides New Political Paradigm

By Lewis K. Uhler and Richard Vedder

A growing body of research shows there is an "optimal" size beyond which government becomes a drain on a nation’s economy. And government in the United States—local, state, and federal combined—has already grown far beyond that optimal size.

As the presidential debate on government priorities begins to take shape, it presents a great opportunity to call attention to the proper size, role, and functions of government.

A few of the issues driving such a debate include:

- Sen. Barack Obama’s call for universal health care and a range of other government programs with trillion-dollar price tags and explosive government growth.
- Congressional Democrats’ refusal to make the Bush tax cuts permanent, threatening to institute the largest tax increase—and government growth—in history.
- “Cap and trade” energy emissions control legislation that contemplates massive new taxes and spending and huge increases in government’s share of gross domestic product (GDP). The result could be a body blow to U.S. economic growth.
- The imminent retirement of 78 million Baby Boomers whose demands on Social Security, Medicare, Medicaid, and other government programs will bankrupt America unless U.S. economic growth can be increased rapidly and massively.

High Ground Available

Republicans, who have long argued for controlling the size of government but have nonetheless allowed it to expand enormously in recent years, can now stake out the high ground in pursuit of the limited government goal, as Sen. Tom Coburn (R-OK) has urged.

Their map to that high ground lies in a body of research on the optimal, “right” size of government. The research creates an objective standard and moral imperative for limiting government. It posits that excessive government stunts national economic growth and impoverishes the people.

“[A] body of research on the optimal, ‘right’ size of government ... creates an objective standard and moral imperative for limiting government.”

Government Too Big

Economist Gerald Scully, who has written on “optimal” government for years, has shown that at approximately 35 percent of GDP, governments at all levels in the United States are far beyond the 23 percent of GDP he has identified as optimal. Here are the key elements of Scully’s analysis:

- Beyond the optimal level of spending, government becomes a net drain on the economy. Up to that level, every dollar spent by government provides more than a dollar’s worth of economic growth. Beyond the optimal level, every additional dollar in spending costs more than a dollar in economic growth. At today’s spending level, the next dollar in taxation costs the nation $2.75 in lost economic growth, economists estimate.
- Total government spending in 1948 was at about the optimal 23 percent, but it has grown to 35 percent since then. During that time the average annual compound growth rate of the economy was 3.5 percent. If government had not increased its share of GDP, the annual growth rate of GDP would have been 5.8 percent per year. This would have resulted in $37 trillion more real GDP by 2004. The average American family would be three times wealthier as a result.
- Low-income—or other—Americans would not have needed to “sacrifice” government largesse to achieve this result. At the 23 percent spending level and comparable tax rates, government at all levels would have collected $61.9 trillion more in taxes, enough to have funded all spending programs without public debt.
- Going forward, if spending were reduced to 23 percent of GDP and tax rates systematically reduced to maximize growth, by 2030 real GDP would be double what we anticipate under current spending/taxing plans.

Thesis Confirmed Again

The idea of an optimal size of government received additional confirmation in a recent study by British economist Keith Marsden.

In “Big, Not Better?” issued in April of this year by the Centre for Policy Studies, Marsden compared tax revenue and economic growth in 10 relatively low-tax-and-spending industrialized countries with high-tax and economic growth in 10 relatively high-tax-and-spending industrialized countries.

In all categories of economic benefits, as well as “social progress” (employment rates and family discretionary income), the nations that have downsized government have outpaced those that have stuck to their old, high tax-and-spend ways.

Questions Remain

While those who have theorized about and studied the size of government in the United States agree that we are far beyond optimal, unanswered questions abound. Here are some of them:

- Do some functions performed by government have a greater return on the investment of public dollars than others? Is there a ranking system?
- What effect do non-fiscal/spending functions of government—regulation, government planning, etc.—have on the determination of optimal size of government?
- What role do certain special interests ("rent-seekers") have in driving government growth beyond the optimal level, and how can they be neutralized? These rent-seeking special interests include government employees and public employee unions; lobbyists; special-interest spenders (farm lobby, defense contractors, etc.); and special-interest “advocates” for the poor and others.
- To what extent has excessive government “crowded out” private action in reducing societal problems, and what are the relative costs of public and private responses?
- How should the core (optimal) functions of government be allocated among the federal, state, and local governments, and how should the allocation decisions be made?

Transition Necessary

While pursuing answers to these ques-
Bottled Water Tax Brings Only a Trickle of Revenue

By Steve Stanek

Chicago city officials predicted a big flow of revenue from the nation’s first tax on bottled water, but the tax so far has been just a trickle, forcing Mayor Richard M. Daley (D) to order millions of dollars in budget cuts.

The 5 cents a bottle tax took effect in January of this year. City officials projected it would bring in $10.5 million in 2008, but after five months the city had collected barely $2 million. At that rate the tax will bring in well less than half of what the city’s revenue forecasters predicted.

“[Chicago] officials predicted [the bottled water tax] would bring in $10.5 million in 2008, but after five months the city had collected barely $2 million. At that rate the tax will bring in well less than half of what the city’s revenue forecasters predicted.”

The bottled water tax is one of several functions of government, entitlement programs such as Medicare, food stamps, Supplemental Security Income disabled, etc., through finite block grants to the states. Also, we should institute, at all levels of government, constitutional spending controls designed to implement and secure the optimal plan and goals and help achieve them.

It Can Be Done

It is by no means utopian to pursue policies and strategies designed to restore government to its optimal size. Rep. Paul Ryan (R-WI), ranking member of the House Budget Committee, has demonstrated one way to do it in his Roadmap for America’s Future, a proposal to control the nation’s soaring entitlement program burden. (See “Wisconsin Congressman Proposes New ‘Roadmap’ on Entitlements,” Budget & Tax News, August 2008.)

His conclusion matches ours. To avoid doing this is to invite a fiscal train-wreck that will deny our children and grandchildren the America we have enjoyed.

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No Surprise

“We’re not surprised,” said Tim Bramlet, executive director of the Illinois Beverage Association. “We did anticipate there would be a dropoff in purchases of bottled water in Chicago.”

They did indeed. In an interview for the March 2008 issue of Budget & Tax News, Bramlet said, “Store owners can go to the suburbs and don’t have to put up with this. It’s another burden to collect and pay the tax, not to mention it will discourage sales of bottled water in the city. And that will probably reduce sales of other items that people buy with water. Anyone who lives near the boundary of the city can easily go outside the city and save money.” (See “Nation’s First Bottled Water Tax Hits Chicagoland,” Budget & Tax News, March 1, 2008.)

On January 4 the International Bottled Water Association (IBWA) filed a lawsuit in Cook County Circuit Court to overturn the tax. Other plaintiffs include the Illinois Retail Merchants Association (IRMA), Illinois Food Retailers Association, and American Beverage Association.

Big Increase

At 5 cents a bottle, the tax adds $1.20 to the cost of a case of water, which had averaged about $4 in Chicago.

“When people are used to paying $4 a case and suddenly the price goes to $5.20, they respond,” Bramlet said. “Where they might have bought two cases, now they’ll buy one. Or they’ll buy outside the city. The city ignored this. They just put their head in the sand.”

Officials at the Illinois Retail Merchants Association had likewise predicted Chicago’s bottled water tax would fall short of the city’s revenue projections.

Interviewed for this story, IRMA spokesperson Pete Gill said, “Chicago is not going to receive the revenue they expect from the bottled water tax. Stores will sell single bottles of water downtown to people who are thirsty right then, but a lot of people won’t buy their cases of water in the city.

“The highest sales tax in the nation, one of the highest cigarette taxes, the bottled water tax. ... They are giving people a shopping cart full of reasons to go elsewhere,” Gill said.

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New South Dakota Measure Favors Railroads Over Private Property Rights

By John W. Skorburg

Railroads operating in South Dakota will have an easier time seizing private property under state Senate Bill 174, which became law July 1.

A special session called by Gov. Tim Kaine (D-Va.) to raise taxes and fees for transportation ended in July with no tax hikes.

In a meeting with reporters, Kaine complained, “Some of these [lawmakers] are really in a hole because they have been obstructionists, and the voters aren’t happy with that.”

Delegate Bob Marshall (R-Manassas) said he was happy with the outcome.

“Thankfully, there were no tax or service fee increases imposed on Virginians in the recent transportation session called by Governor Kaine,” said Marshall, who successfully opposed moves by some fellow Republicans to increase taxes and fees in the Northern Virginia and Hampton Roads areas.

Business, Energy, Farm Coalition

A coalition of energy companies, farm organizations, and other business groups had backed Thune’s proposed earmark, which would have funded a project to rebuild 600 miles of track and add 260 new miles of track reaching low-sulfur coal mines in the Powder River Basin of Wyoming.

Many members of the earmark coalition, including the South Dakota Farm Bureau (SDFB), also backed SB 174.

“SDFB supports the upgrading of the DM&E railroad system. We have fallen behind in our state due to lack of infrastructure additions. Farmers, ranchers, and energy companies need this to compete,” said Michael Held, CEO of the South Dakota Farm Bureau, about the new law.

“Sen. John Thune failed to earmark a $2.3 billion federal loan for a railroad in his home state, but a South Dakota state law will help the railroad take private property for new track.

At the same time,” Held continued, “we respect private property laws in our state, too. Even after the enactment of SB 174, railroads still have the highest standards to meet when using eminent domain.”

‘Quick-Take’ Provisions

That’s not true, an opponent of Thune’s earmark said. With a state budget that’s roughly doubled in 10 years, to get that’s roughly doubled in 10 years, to say there is no more money for transportation is ludicrous,” Culling said. “We’d like to see them reprioritize spending. We’d also like to see an audit of VDOT [Virginia Department of Transportation] and other transportation-related entities.

Ron Utt of The Heritage Foundation recently did a study that noted there are more than a dozen agencies with some sort of transportation authority in Virginia,” Culling continued. “That’s a lot of overhead and unnecessary taxpayer dollars.”

With a state budget that’s roughly doubled in 10 years, to say there is no more money for transportation is ludicrous,” Culling said. “We’d like to see them reprioritize spending. We’d also like to see an audit of VDOT [Virginia Department of Transportation] and other transportation-related entities.

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

Potential Response

SB 174 was cosponsored by state Rep. H. Paul Dennert (D-Columbia) and state Sen. Tom Hansen (R-Huron).

“This is a good law for the bulk transportation system in South Dakota,” said Hansen. “It’s good even for those who want their property rights protected.”

Property rights advocates disagree strongly and are marshaling forces to revoke the law.

Staben and other members of the Private Property Protection Coalition (P3) had hoped to place on the November ballot a measure to revoke the law through a statewide referendum. But a late start gave them too little time to collect enough signatures to get the measure on the ballot, she said.

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

Virginia Special Session Ends With No Tax Hikes

By Steve Stanek

Virginia taxpayers have won another round in their fight to hold down transportation-related taxes.

In a meeting with reporters, Kaine complained, “Some of these [lawmakers] are really in a hole because they have been obstructionists, and the voters aren’t happy with that.”

Delegate Bob Marshall (R-Manassas) said he was happy with the outcome.

“Thankfully, there were no tax or service fee increases imposed on Virginians in the recent transportation session called by Governor Kaine,” said Marshall, who successfully opposed moves by some fellow Republicans to increase taxes and fees in the Northern Virginia and Hampton Roads areas.

Court Killed Earlier Increases

Kaine called the special session to replace hundreds of millions of dollars in taxes and fees the Virginia Supreme Court struck down earlier this year. The taxes and fees had been imposed by unelected “transportation authorities” state lawmakers created in 2007. The court ruled the legislature “may not delegate its taxing power to a non-elected body.”


Joshua Culling, state government affairs manager at the National Taxpayers Union in Alexandria, said Virginia has plenty of money for transportation.

“With a state budget that’s roughly doubled in 10 years, to say there is no more money for transportation is ludicrous,” Culling said. “We’d like to see them reprioritize spending. We’d also like to see an audit of VDOT [Virginia Department of Transportation] and other transportation-related entities.

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Steve Stanek (stanek@heartland.org) is a research fellow at The Heartland Institute and managing editor of Budget & Tax News.
Congress Opt for Farm Bill Pork Rather than Reform

By Kristina Rasmussen

After repeated delays, unexpected clerical missteps, and two presidential vetoes, the 2007 Farm Bill became law in June. The previous Farm Bill was passed in 2002.

Reforming federal agricultural policies has long been a goal of fiscal conservatives, and policy experts had hoped record-high commodity prices would provide room for significant reductions in Depression-era price support programs. U.S. Department of Agriculture (USDA) officials and taxpayer groups seized the opportunity and in 2005 began to lay the groundwork for change.

However, Congressional Democrats, joined by many Republicans, plowed down the seedlings of reform and passed a Farm Bill that perpetuates wasteful crop subsidies and doles out funds to interests that have little or nothing to do with agricultural production.

President George W. Bush vetoed the first Farm Bill to come out of Congress this year. That veto was overridden, but the version he had been sent by House and Senate clerks was missing a section devoted to trade and foreign aid. That mistake threw the bill into question, and the Democratic leadership rushed a “Round Two” version through Congress.

Bush issued another veto, but it, too, was overridden. Ninety-nine House and 35 Senate Republicans voted with Democrats to override the veto.

Enormous Handouts

The new Farm Bill mandates spending roughly $290 billion over five years. Some critics have pointed to budgetary gimmicks that hide an extra $10 billion in outlays.

“The new Farm Bill mandates spending roughly $290 billion over five years. Some critics have pointed to budgetary gimmicks that hide an extra $10 billion in outlays.”

More Questionable Spending

The missing section of the first bill contained so much questionable spending that 26 taxpayer groups sent a letter to Congress on June 2 expressing their strong reservations. The provisions included $200 million for corporations to market their products abroad and a $60 million contribution to a doomsday “seed bank” in Norway.

The letter asked members of Congress to “demonstrate a small semblance of fiscal responsibility [by voting] against Title III should it come to the floor for consideration.”

One small bright spot for fiscal conservatives during final negotiations was the removal from an earlier version of the bill of a $4 billion tax hike on manufacturers.

Rejected Reforms

Committee and floor attempts to overhaul the Farm Bill were largely rejected. A comprehensive alternative offered by Rep. Ron Kind (D-WI) and Rep. Jeff Flake (R-AZ) would have reduced the deficit by $2 billion over five years and by $10 billion over 10 years.

While the Kind-Flake plan would have reapportioned some spending among programs whose merits have been questioned, many taxpayer groups supported it because of genuine savings dedicated to taxpayers and the gradual removal of subsidies.

The bill was defeated by a vote of 309 to 117, and a similar Senate plan sponsored by Sen. Frank Lautenberg (D-NJ) and Sen. Richard Lugar (R-IN) went down 37 to 58.

Fiscal conservatives were pleased to note the president’s strong stance against the bloated measure, especially because his support of a swollen 2002 package didn’t follow the path set by the more market-oriented 1996 “Freedom to Farm” Bill.

Persuasive Money

Political commentators noted a yes vote for the Farm Bill was a vote with House Speaker Nancy Pelosi (D-CA), who was eager to reach out to rural voters in an election year. So far in 2008, agribusiness has donated nearly $31 million to Congressional candidates, with 43 percent going to Democrats. In 2006 and 2004, respectively, 31 percent and 29 percent of agribusiness contributions went to Democrats.

The House Republican Caucus was split, with House Minority Leader John Boehner (R-OH) spearheading opposition to the Farm Bill. House Minority Whip Roy Blunt (R-MO) was on the other side of the fight, supporting the bill.

Many of the Republicans who supported the measure admitted specific provisions meant to aid their state or district ultimately tipped the scales. The Farm Bill has often been cited as a textbook example of the “iron triangle” where outside interests, committees of jurisdiction, and bureaucrats combine to push legislation with “something for everyone.”

“If a public backlash against wasteful federal spending occurs at the polls this fall, it’s possible future national farm policies will be more fiscally responsible.”

Possible Backlash

It is unclear whether that “bring home the bacon” mentality will help carry candidates through the 2008 election.

Soon after the Farm Bill clerical bungle, California state Sen. Tom McClintock (R-Thousand Oaks) defeated former Congressman Doug Ose in the Republican primary for an open congressional seat in an agricultural district by a 54-49 margin, in part due to McClintock’s public rejection of pork-laden legislation.

Taxpayers will carry a doubly heavy burden under the new Farm Bill—once via their taxes and again through higher food and fuel prices. If a public backlash against wasteful federal spending occurs at the polls this fall, it’s possible future national farm policies will be more fiscally responsible.

Kristina Rasmussen (krasmussen@ntu.org) is director of government affairs for the National Taxpayers Union.
Employers, the U.S. Chamber of Commerce filed suit in 2002, contending federal law preempts California from regulating speech about union activities.

At issue was whether Assembly Bill 1889, passed in 2000, could prohibit employers who receive more than $10,000 in state grant funds each year from using that money to “assist, promote, or deter union organizing.” The measure silenced employers from participating in unionization debates, while allowing employees and union organizers unfettered speech.

The National Labor Relations Act (NLRA) affords workers the right to organize and bargain collectively and prohibits employers from interfering with or coercing employees in the exercise of those rights. Because Congress explicitly regulates some activities under NLRA, the Court has historically presumed legislative silence on other activities implies congressional intent not to regulate those activities. Such is the case with advocacy for and against union organizing, the Court determined.

Intent to Allow Ideas
Justice John Paul Stevens, writing for the majority, explained that even though NLRA contains no express provisions regarding states’ abilities to regulate labor relations, the Court has previously denied states’ authority to do so.

Because NLRA regulates coercive speech related to union activities, the absence of any regulation for non-coercive speech shows clear congressional intent to allow an open marketplace for ideas between and among workers, employers, management, and the union, the Court found.

Congress, therefore, has struck “a balance of protection, prohibition, and laissez-faire in respect to union organization, collective bargaining, and labor disputes,” Stevens said, quoting a previous decision as precedent.

States do not have the authority to frustrate the intent of Congress, the [U.S. Supreme] Court noted. Thus the California law was incorrect because it regulated within ‘a zone protected and reserved for market freedom.’”

States’ Rights Curtailed
While the ruling is a victory for employer free speech, some observers saw it as another strike against states’ rights. Wall Street Journal reporters Jess Bravin and Kris Maher described it as “another blow to state autonomy” because federal law trumped a state regulation.

Unions expressed hope that state laws could be modified to address the concerns stated in the majority opinion. Since the Court struck down a state law on the basis of federal preemption, unions in the meantime will focus on passing the Employee Free Choice Act.

That proposed federal law, one of organized labor’s highest priorities, would allow private-sector workers to unionize without the need for secret ballot elections. It has already passed the U.S. House but is stalled in the Senate.

Don Brunell, president of the Association of Washington Business, believes the Court’s decision “has clearly put an end” to recent efforts in Washington state to pass regulations on employer speech that are even broader in scope than the California law.

“In striking down the California employer gag rule,” Brunell said, “the U.S. Supreme Court’s message is clear: Employees have a right to receive information opposing unionization.”

Some Restrictions Already OK
Justices Stephen Breyer and Ruth Bader Ginsburg dissented, claiming AB 1889 would not “weaken or undercut any such congressional policy because Congress itself has enacted three statutes that ... do precisely the same thing.” Federal law uses language nearly identical to the California language to restrict recipients of federal funds under HeadStart, the Workforce Investment Act, and the National Community Service Act.

But the similarities in language between the state and federal statutes did not sway the majority. Congress has an interest in creating nationwide uniformity in the marketplace. If a state is allowed to fashion its own language—even if the verbiage is similar to federal wording—the state has improperly preempted the role of Congress, the Court ruled.

“States do not have the authority to frustrate the intent of Congress, the [U.S. Supreme] Court noted. Thus the California law was incorrect because it regulated within ‘a zone protected and reserved for market freedom.’”

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Researcher Says ‘Raucous Showdown’ with Government Unions Is Ahead

By Mary F. Crean

To guarantee continued delivery of public services at a reasonable cost, local, state, and federal lawmakers will soon be forced to stand up to government employee unions, according to a new study by Lewis M. Andrews, Ph.D., executive director of the Connecticut-based Yankee Institute for Public Policy.

In “The Coming Showdown with Public Labor,” released in June, Andrews suggests politicians “privately know” they will have to allow more competition in public education, rely on “cost-conscious insurance companies to manage government-funded health care,” and provide for “privatization of many other government services.”

Andrews cites New Zealand, which in 1984 initiated sweeping privatization of national and regional services to forestall government bankruptcy. The number of government workers in transportation was reduced from 5,600 to 53, in forest services from 17,000 to 17, and in the national Ministry of Works from 28,000 to 1—all with no loss of service or safety to the public.

“In New Zealand, ... [the] number of government workers in transportation was reduced from 5,600 to 53, in forest services from 17,000 to 17, and in the national Ministry of Works from 28,000 to 1—all with no loss of service or safety to the public.”

Workers Get 50 Percent More

The major roadblock to such savings in the United States is resistance from public employee unions, which have become accustomed to extracting generous benefits from politicians without having to give much in return, Andrews’s study notes. State government workers collect nearly 50 percent more in total compensation than the average private-sector employee.

Taxpayers pay 128 percent more for health care benefits for government employees than private employers do, and 162 percent more for retirement benefits. Some state and local governments are beginning to tackle the problem.

In Houston, after pension changes in 2001 allowed some city workers to retire in their 40s, voters took advantage of a clause in the Texas constitution allowing towns and cities to opt out of pension agreements. In Oregon, a federal appellate court in 2006 affirmed the state could stop paying a guaranteed 8 percent a year return to pensioners with individual accounts.

In Rhode Island, where state workers’ pensions take an unusually long time to vest, the legislature in 2005 eliminated planned pensions for all employees with fewer than 10 years of service—about 11,300 people.

San Diego Faces Bankruptcy

Andrews also cites the case of San Diego, which is now facing bankruptcy. In response, the citizens elected a Republican mayor who refused to impose new taxes and instead pushed for laws to require voter approval for any pension benefit increases and to allow private-sector landscapers, mechanics, and contractors to bid for municipal business.

Noting the growing number of municipalities and states challenged by long-standing, burdensome labor agreements, New York Times reporter Mary Williams Walsh recently observed, “financially troubled San Diego is the highest-profile example, but a handful of states, cities, and smaller government bodies have also found ways to scale back existing promises, and even shrink some current payments.”

Unions Dig In

Public unions continue to dig in their heels, however. “Labor officials,” said Andrews, “just don’t get it.”

Larry Dorman, spokesman for the American Federation of State, County, and Municipal Employees Council 4, the largest AFL-CIO union in Connecticut, dismissed the Yankee Institute study, saying, “I think that organization’s hatred of unions and workers clouds its ability to offer any constructive ideas for improving the economy and helping the middle class.”

Similarly, Leo V. Canty, vice president of the American Federation of Teachers Connecticut, called the report “baseless information, conjecture based on nothing we can perceive as anything factual or in the realm of fact.”

“Unions must stop blocking government labor reforms and should begin to partner with governments and taxpayers to help make public work more efficient and innovative.”

SCOTT DILLEY
LABOR POLICY ANALYST
EVERGREEN FREEDOM FOUNDATION

Researchers Cite Reality

But many national research organizations agree public labor unions will inevitably have to face economic reality. With enormous debts looming at all levels of government—federal, state, and local—taxpayers simply cannot afford to pay the escalating labor costs the unions have negotiated.

David Y. Denholm, president of the Public Service Research Foundation, said, “Yankee’s study is a long-overdue look at the inevitable confrontation between the public’s interest in being able to control the size, cost, and quality of government services and the public-sector unions that have become rich and powerful at the public’s expense.”

“Unions must stop blocking government labor reforms and should begin to partner with governments and taxpayers to help make public work more efficient and innovative,” said Scott Dilley, labor policy analyst at the Evergreen Freedom Foundation in Washington. “Such collaborative efforts may establish more flexibility, worker freedom, and free-market reforms in public-sector labor.”

“Although politicians are afraid to discuss it,” Andrews noted, “most know that a raucous showdown between government workers and taxpayers is but a few years away—and that economics dictates only the taxpayers can win.”

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INTERNET INFO

Make a Difference is both a compelling memoir and convincing proof that we now know important answers to help solve America’s poverty problem—without spending any more of the taxpayers’ money.

Author Gary MacDougal spent years working in Illinois inner cities and rural communities—talking with “ladies in the backyard,” befriending community leaders, and working with local organizations in his quest to find solutions that have long eluded academic researchers and politicians. As chairman of the Governor’s Task Force on Human Services Reform, MacDougal was the catalyst for the complete overhaul of the state’s welfare system, which included the largest reorganization of state government since 1900.

Eight years after MacDougal’s suggestions were implemented, Illinois now stands well ahead of California, New York, and other big-city states, with a spectacular 86 percent reduction in the welfare rolls since reform implementation in 1996, second only to Wyoming among all fifty states. The welfare rolls in Chicago’s Cook County have been reduced an amazing 85 percent, with studies showing that most who left the rolls are working, and at pay above minimum wage.

MacDougal’s extraordinary journey shows the way for the rest of the nation and proves there are ways we can all help provide a ladder of opportunity for those in poverty. We each can Make a Difference in the ongoing effort to end America’s poverty problem.